

Annexure - A
CAT- 82
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

INDEX - SHEET

CAUSE TITLE C.A No 46/1988 (L) OF 190

Name of the Parties C. L. Ambedkar

Versus

Union of India & others

Part A, B and C

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Original
13/02/92

cell. H. J. Singh
25/02/92

Chaitan Singh
25/02/92

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 96 of 1980

APPLICANT (s) C. I. Ambekar

RESPONDENT(s) U. O. S. S.

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	Yes
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	(Only 2 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 (B D 2406753)
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Yes
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes (By Adroesky)

CA 98

OP 91/88

Re: Sonu Sood

A3

5.10.88 H. R. C. motion 12

Shri M. A. Siddiqui is present
for applicant.
The case may be put up
before a Division Bench on 24.10.88

SS/11/88
SS/11/88
SS/11/88

12/11/88

24.10.88

Hon. R. S. Mishra, AM

Sh. M. A. Siddiqui is present
for applicant.
The case may be put up
before a Division Bench on 28.10.88
for consideration.

h

24.10.88

Hon. D. S. Mishra, AM
Hon. C. S. Sharma, JM

None is present for the applicant.
The case is adjourned to 24.11.1988
for submission.

12/

Am

22.11.88

Hon. D. S. Mishra - AM
Hon. C. S. Sharma - JM

Shri M. A. Siddiqui for the
applicant is present. Shri V. K. Chaudhary
for the State is present. Shri Siddiqui
has refused to answer for
the respondent. It is ordered that the
detailed reply within three
weeks. File 22/12/00 for
hearing.

h

Am

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCULAR ADMINISTRATIVE NO.

No./T.A. No. 96 1988

Applicant(s)

Versus

Respondent(s)

Date

Orders

25/1/89

Hon. D.S. Mishra, J.M.

Hon. G. S. Sharma, J.M.

On the request of the learned
counsel for the applicant Sh. M.A.
Fridolign the case is adjourned
to 29-3-89.

J.M.

J.M.

29/3/89

Hon' Mr. D.S. Mishra, A.M.

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

Shri V. K. Chaudhary learned counsel for the
respondents is present. The applicant files
rejoinder today. On the request received
on behalf of the learned counsel for the
applicant, the case is adjourned to 24-4-89
for final hearing.

J.M.

A.M.

(sns)

Dinesh

J. M.

such as: productivity

Am

AF

3/12-90

case not resumed. Adj. to
8.2.91 for hearing.

E 130

8.2.91 -

Hon Mr Justice R. Halk VC
Hon Mr K. Chetty AM

case not resumed. case
is adjourned to 9.4.91

9.4.91.

No sitting adj to 11.7.91 B.C.

11.7.91

No sitting adj to 23.9.91
J

23.9.91

No sitting adj to 13.11.91
J

13.11.91.

No sitting adj to 13.12.91.

13.12.91 -

~~No sitting adj to 13.12.91.~~

13.12.91

Honbl. Mr. Justice B.C. Swagata VC
Honbl. Mr. A.B. Gault AM

Arguments heard. Judgment
reserved.

2

J
AM


VC

28.1.92

Honbl. Mr Justice B.C. Swagata VC
Honbl. Mr A.B. Gault AM

Judgment pronounced today

2

J
AM


VC

A/C

CENTRAL ADMINISTRATIVE TRIBUNAL, CHHATTISGARH AT BILASPUR.

...

Registration C.A.T. No. 96 of 1988

C.L. Ambedkar Applicant.

Versus

Union of India
and others 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.)

By means of this application, the applicant who attained the age of 50 years has challenged the order of compulsory retirement dated 22.7.1988. The applicant is holding the promotional post of District Officer of Police in effect from September, 1985 entered in the service of Government in the year 1955 as 'Koti Moharir' where he earned certain intervening promotions before becoming District Officer. The applicant who is member of Scheduled Caste Community get adverse remarks in 8 years upto 1970 but thereafter he did not get any adverse remarks whereupon his C.O.R.s are said to be colourless and merely just adequate. Between 1959 and 1970 he was reduced for a period of one year in 1963, increment was with-held for one year in 1968 and debarred in 1970.

2. The applicant completed 30 years of qualifying service in 1986 in which year, he was given selection grade and promoted. The order of compulsory retirement has been challenged on the grounds that the same is not passed by competent authority, is result of non-application of mind and is as a matter of result of vindictiveness and promotion on the post of respondent no. 3 viz. Deputy Commissioner

Pa

- 2 -

Commissioner who felt small because of cancellation of order of transfer passed by him even then his name was not included in the transfer list received from the competent authority. In this connection, it has been stated that although applicant's transfer order could only be passed by respondent no. 2 or with his concurrence yet respondent no. 3 passed an order transferring him to Ghazipur. The absence of concurrence of respondent no. 3 without which no transfer order could have been passed revealed when the wife of applicant approached Minister and Narcotics Commissioner for recalling the transfer order and that even his name was not included in the transfer list which was in the office of respondent no. 2 viz Narcotics Commissioner, but the respondent no. 2 even then relieved him on 29.4.1988 as per advice of Finance Ministry. The applicant, thereafter, gave his joining report in the office of respondent no. 3 which was returned and the applicant made representation in the matter and in the meantime, he was served with order of compulsory retirement dated 22.7.1988 on 2.7.1988. The respondents in their reply have denied any correlation between transfer order and the order of compulsory retirement and have stated in fact his transfer order was passed by Narcotics Commissioner transferring him on administrative ground and the same was passed after the recommendation by review committee for retiring him had already been made and after getting orders on it. The transfer orders were issued after obtaining concurrence of Narcotics Commissioner. He having been transferred to Ghazipur he was allowed to join at Lucknow and his original papers were returned.

3. It has been denied that central government is the appointing authority and that according to the provisions contained in Government of India, Ministry of Home Affairs

department of Revenue and Insurance Department (No. 11116/3-71-AD-V dated 19.1.1972). The Narcotics Commissioner is the appointing authority of Group-B officers. The applicant has not challenged this statement as well as the place that retirement order was passed by independent authority fails.

4. According to the respondents, the work and conduct of the applicant is not up to the mark as he has earned adverse entries and has also been penalised for indiscipline on a competent received members of his party. It was prima-facie found that he had extorted Rs. 17,000/- as bribe gratification from one individual while conducting search of his house. The matter was referred to vigilance. In addition viz recording of false verification certificate committed by him, action was being contemplated. The same reflected serious doubts about his integrity. The applicant having completed 30 years of qualifying service, the review committee reviewed his case and recommended that he shall be retired under Rule 48C of CCS (Pension Rules) 1972 in public interest.

5. On behalf of the applicant, it was contended that the retirement of the applicant was against the direction issued by Government of India vide O.A. No. 217/-/16/77-2A dated 5.2.1978 in as much the applicant's case was not reviewed before he completed 30 years of qualifying service and thereafter no such decision had been taken the employee concerned could not have been retired and further before retiring him, he could be considered for reversion to lower post from which he was promoted which too was not done. The O.A. issued by the Ministry of Personnel requires consideration of 1 year's record only and or if promoted to higher post then record thereafter

- 4 -

is to be seen if ineffectiveness is the ground for premature retirement. Further premature retirement is not to be resorted to for retiring a Government servant on specific acts of misconduct as a substitute for formal disciplinary proceedings. The applicant's utility has always been certified he could not have been retired on the alleged acts of doubtful integrity pointed by him and were yet to be investigated or yet to find place in his C.M. In the last two years, the column regarding integrity in his ACR are blank.

6. On behalf of the applicant, it was contended that the average entry in two or three years and his assessment of work on that basis could not be taken to mean that he has lost his utility and as such he is wood and as such it would not be in public interest to exercise of powers under fundamental Rule 15(j) for retiring him before attaining the age of superannuation. It was further contended that an alleged instance casting doubt on his integrity could not have been used for retiring him unless he had an opportunity to meet the same which also required consideration, particularly, in view of fact that there was nothing adverse regarding integrity in C.Ms. In this connection, reference to the case of A.M. Saxena and others Vs. Chief Commissioner (1955), 6 A.T.C.. 320. In the said case, it was held that any conclusion that an employee is corrupt, dishonest, inefficient or of doubtful integrity has necessarily to be arrived from reliable material like confidential reports. In that case, the applicants' competency report was set aside as it was based on certain complaints and nothing adverse was available in C.Ms. Further in the said case, there was entry by review officer regarding conduct of the

reference to two cases. A reference was also made to the case of A.K. Chatak Vs. Union of India and others, 1990, A.I.C., 423. In that case unverified reports regarding employee's doubtful integrity were relied on. It was held that unless employee is given opportunity of representation, such reports can not be basis of compulsory retirement. In the said case also, there was nothing on record and the screening committee noticed that there was no adverse report in the confidential report, but arrived at the conclusion regarding doubtful integrity on account of two facts viz the manner in which he handled important search and seizure cases and the other was financing of purchase of flat is allotted to him by Delhi Development Authority. The Tribunal held that these two factors attribute dishonesty on his part and cast a stigma and there was no report by screening committee that material was not sufficient for conducting criminal prosecution against him. The Tribunal was of the view that where the material relied on by the authorities indicates specific acts of mis-conduct as in that case such material would not be relevant material for the purpose of invoking the power under fundamental rule 16(g) and invoking of power in such circumstances would lead to colourable exercise of power. In the other case, on which has been placed reliance/ by the applicant is the case of V.K. Jain Vs. Union of India and others 1990 (14), A.I.C., 423. The report of screening committee contained instances which framed specific acts of mis-conduct and held that the reason for resorting to compulsory retirement instead of disciplinary action should have been stated and in the absence of reasons, the reliance on such material

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AIS

from non-application of mind. In the instant case, these adverse remarks regarding reputation were contained in A.C.Rs. but were not communicated to him and he was thus, deprived of right to make a representation against it till then. It was contended that the cases referred to above were based on Supreme Court's decisions which were taken into account and the instant is also similar to those cases and as such the order of retirement is manifestly bad and can not be sustained.

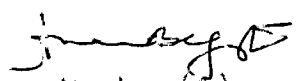
7. In the case of *R.L. Duttal vs. Union of India* and another (1971)2, 30 Cr. 11, it was observed that it may well be that in spite of the work of the appellant being satisfactory, as he claimed it was, there may have been other relevant factors, such as the history of the appellant's entire service and confidential reports through out the period of the service upon which the appropriate authority may still decide to order appellant's retirement under Fundamental Rule 56(c).

8. In the case of *Union of India vs. M.L. Madhok and others*, A.I.R. 1960, 30 Cr. 133, it was observed that it will indeed be difficult to not impute to an officer evidence that a particular officer is dishonest, but those who have had the opportunity to know the performance of the said officer in close quarters and in a position to know the nature and character of his work, his performance but also of the reputation which he enjoys at the time, in the said case, it was observed, that the learned counsel for Madhok submitted that if a retirement order is passed on materials which are not reliable in as much as there is no adverse remarks against him who have a spotless career through out his service, it could have been made in the confidential reports.

should have been communicated to him under the Act. This argument, in our opinion, appears to be based on a serious misconception. In the first place under the various rules on the subject, it is not every entry or remarks that has to be communicated to the officers concerned. The Superior Officer may make certain remarks while assessing the work and conduct of the sub-ordinate officers based on his personal supervision or contact. Some of these remarks may be purely innocuous or may be connected with general reputation of honesty or integrity that a particular officer enjoys, yet in another case the reference to such remarks may find place in any of the case relied on by the applicant viz Jayanti Kumar Sinha Vs. Union of India (1965) 1 SCR 500 para-1, it was held that the entries based on general assessment need not be communicated. In that case, entries were mainly based on general assessment of the performance years back he was communicated general disapproval of his method of working. The post held was responsible only and poor performance could not be tolerated. The compulsory retirement did not involve any stigma or implication of misbehaviour or incapacity.

9. In the instant case before us, the work of the applicant in recent years was colourless. There were reports of his being a person of doubtful integrity but there was no such remarks which could be communicated in respect of one instance creating doubt as to his integrity his version was taken. The instances referred to by the respondents were yet to be investigated and such were neither ripe for instituting any criminal proceedings or disciplinary action. In screening the case after taking into consideration the overall assessment.

which was based on materials and considering his reputation on integrity which too was not without any material behind its back found it a fit case for retiring him compulsorily with reasons for it. The Government also agreed with it. As such it could not be said that there was no material ~~for~~ for passing the order of compulsory retirement ^{or let} of the order ~~subject~~ ^{to} the order of non-application of mind or that retirement order was not in public interest. The order, thus being in accordance with fundamental rule-16(g), therefore, the application deserves to be dismissed. Parties to pay their own costs.


Member (A)


Vice-Chairman

Dated: 28 .01.1992

4 (n.s.)

AIS
Expt 28/5/60

In the Central Administrative Staff, Ministry of
Interior, London, England.

Application for the position of
Inspector of Prisons, London, England.

Dear Sir,

I am pleased to hear that you are applying for the position of
Inspector of Prisons, London, England.

The Director of Prisons, London, England, has received your application and is considering it.

Yours faithfully,

1. Description of documents page no.
.....
2. Enclosures:
- (a) True copy of order (in English) dated 28-5-60 requiring the applicant to appear for interview. - 15
 - (b) True copy of order (in English) dated 28-5-60 promoting the applicant to the position of Inspector of Prisons. - 16-17
 - (c) True copy of order (in English) dated 28-5-60 promoting the applicant to the position of Inspector of Prisons. - 18-19
 - (d) True copy of order (in English) dated 28-5-60 promoting the applicant to the position of Inspector of Prisons. - 20
 - (e) True copy of order (in English) dated 28-5-60 promoting the applicant to the position of Inspector of Prisons. - 21
 - (f) True copy of order (in English) dated 28-5-60 promoting the applicant to the position of Inspector of Prisons. - 22
 - (g) True copy of order (in English) dated 28-5-60 promoting the applicant to the position of Inspector of Prisons. - 23
 - (h) True copy of order (in English) dated 28-5-60 promoting the applicant to the position of Inspector of Prisons. - 24
3. ...

For use of the applicant
Signature
Inspector

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

Application under Section 14 of the
Administrative Tribunal Act, 1985.

CA 96/010(L-)
B.L.M.

Shri Lal Ambekar, aged about 50
years, son of Late Shri Shriji Nishu
Ambekar, District Officer,
resident of 552/150, Moh. Koli,
Aliganj, Lucknow.

..... Applicant

vs

1. Union of India through the Secretary,
Minister, of Finance, Department of
Revenue, Office of General Bureau of
Narcotics Department, New Delhi.
2. The Narcotics Commissioner of India,
19, The Mall, Morar, New Delhi-6 (G.P.O.)
3. Deputy Narcotics Commissioner, Central
Bureau, B-57, Sector '11', Okhla, New
Delhi.
4. Opposite-parties

DETAILS OF APPLICATION:

1. Particulars of the applicant:

(i) Name of the applicant

Shri Lal Ambekar

(ii) Name of the father

Late Shri Shriji Nishu Ambekar

...../

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(iii) Age of the applicant

Date of birth 30-6-1938 (about 50 years)

(iv) Designation and particulars of office

(name and station) in which employed or was last employed before ceasing to be in service.

District Opium Officer in the office of Deputy Narcotics Commissioner Central Bureau of Narcotics, B-57 Sector-1, Aliganj, Lucknow.

(v) Office Address

B-57, Sector-1, Aliganj, Lucknow.

(vi) Address for service of notice

532/ha/1600, Benhdi Tola, Aliganj, Lucknow.

2. Particulars of the respondents:

(i) Name of the respondents

(1) Union of India through the Secretary Ministry of Finance, Department of Revenue, Office of Central Bureau of Narcotics Department, New Delhi.

(2) The Narcotics Commissioner of India, 19, The Mall, New Delhi-110001 (N.P.).

(3) Deputy Narcotics Commissioner, Central Bureau of Narcotics, B-57, Sector-1, Aliganj, Lucknow.

(ii) Name of Father/Husband.

Nil

(iii) Age of the respondent

Nil

(iv) Designation and particulars of office

(name and station, in which employed.

as mentioned in claim no. 2(i) above.

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(v) Office Address

As mentioned in column no. 2(i) above.

(vi) Address for service of notices.

As mentioned in column no. 2(ii) above.

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

The application is against the following order:-

- (i) Order no. F.No. 7/2/Compl/27/1987
- (ii) Dated 2nd July, 1988
- (iii) Passed by: Director, Commissioner of India,
Gadchiroli (M.S.).
- (iv) Subject in brief:

By the impugned order the applicant has been directed to be recruited compulsorily with effect from 21-7-1988.

4. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the order against which he seeks redressal is within the jurisdiction of the Tribunal.

5. Limitation:

The applicant further declared that the application is filed within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. Facts of the case:

The facts of the case are as follows:-

(1) That the applicant is a citizen of *India* and is Indian national by birth.

(2) That the applicant is a member of Scheduled Caste *Lowly Kshatriya* community.

(3) That the applicant passed his High School examination from the Board of High School and later wrote Admission, 1955, cleared in 1956 and thereafter entered in the service of opposite-party no. 1 with effect from 22-12-56 initially on the post of Lathi Balastrir which was subsequently designated as sub-Inspector Central Bureau of Investigation.

(4) That the applicant worked on the aforesaid post from the date of joining i.e. 22-12-56 sincerely and honestly.

(5) That the applicant was promoted to the post of Inspector (Ordinary Grade, with effect from 26-10-71 by order of opposite-party no. 2 and the applicant worked on the said post from 1971 onwards till 1976 when he was given the post of sub-inspector of opposite-party no. 1 dated 19-11-76 and since then he has been working in the said grade.

- (1) That the applicant was promoted to the post of District Officer vide order dated 8-9-85 in the scale of Rs. 600-1200 and the applicant joined on his promoted post and has been working on the said promoted post.
- (2) That the order of promotion of the applicant was although passed by opposite-party no.2 but as the appointing authority is Central Government and as such only the order was passed in pursuance of the decision taken by the Central Government and it was communicated to the applicant vide order of opposite-party no.2.
- (3) That the work and conduct of the applicant has always been satisfactory and to the memory of the applicant atleast from 1971 no adverse entry has ever been communicated to the applicant.
- (4) That even otherwise there has never been any disciplinary proceedings or complaint against the applicant since 1971 onwards. Instead the work of the applicant has been praised by his superior officers and he has also been given commendation of remarks.
- (5) That the applicant has reached the age of 50 years but he possesses a good sound physique, his health is quite all right and he is competent enough to discharge

Sub - 32.

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6.

all sorts of duties assigned to him and he is also competent enough and physically fit to carry on any exercise.

(K) That as already stated above the applicant is a member of Scheduled Caste belonging to Chamar community and per chance opposite-party no.3 who is immediate officer of the applicant possess himself to be a man of cosmopolitan thinking and expressed hatredness towards the applicant and he wanted anyway to implicate the applicant but the work and conduct of the applicant being quite satisfactory nothing could be done by him.

(L) That as per rules even the transfer order of the District Opium Officer ought to be passed by opposite-party no.2 or with the concurrence of the opposite-party no.2 and opposite-party no.3 has no say in the matter but opposite-party no.3 on account of his personal feelings towards the applicant and any way to see him away passed the order transferring the applicant from Lucknow to Ghazipur on the post of (Superintendent Executive) vide order dated 29-4-88. In the said order in order to make the order effective and valid he mentioned that this order is issued with the concurrence of the Narcotics Commissioner.

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of India.

- (L) That the circumstances of the applicant as well as his family members were not such as to proceed for Ghazipur and the wife of the applicant approached the Finance Minister and the Narcotics Commissioner for obtaining the transfer order then it revealed from the office of opposite-party no. 2 that no concurrence has been made to the transfer of the applicant and the alleged order of transfer ~~was~~ passed by opposite-party no. 2 is absolutely illegal and without jurisdiction.
- (M) That the office of opposite-party no. 2 showed the list of annual transfers in which the persons whose transfers were earlier made under the concurrence of Narcotics Commissioner were also included and in the said list the name of the applicant does not find place and as such the applicant was advised to join and continue to work at Lucknow as no order of transfer having been passed by opposite-party no. 2.
- (O) That hereinafter it may be stated that the opposite-party no. 2 quite illegally in pursuance of his transfer order dated 29-1-80 and relieved the applicant from his post as per advice of the Finance Ministry and office of opposite-party
- .../-

no.2 the applicant submitted his joining report along with certificate of Dr. Govind Swaroop, on 18-7-88, in the Office of District Opium Officer, Lucknow, and the same was sent to opposite-party no.3 and the opposite-party no.3 directed to get the joining report returned to the applicant with the observation that the same has been refused and the applicant was returned the said papers along with a letter of the same date issued by the office of District Opium Officer dated 18-7-88 and then the applicant has sent his application along with all enclosures to opposite-party no.2 on 19-7-88 by means of registered post and the applicant also sent copies of the said application to the Secretary Central Bureau of Excise and Customs.

(F) That the applicant was waiting to get some reply about his joining and in the meantime he was served with the compulsory retirement order dated 22-7-88 on 23-7-88 at his residence. Here it may not be out of place to mention that three important officers viz, District Opium Officer, Lucknow, Deputy Officer Superintendent of Narcotics Commissioner's Office and Superintendent Protective Narcotics (Headquarters), Lucknow came at the residence of the applicant to serve the order.

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-C-

(G) That the applicant respectfully submits that the order of compulsory retirement dated 22-7-84 was not been passed by application of mind. Is a matter of fact the opposite-party no. 3 felt insulted when the applicant submitted his joining report at Lucknow pointing out that his name being not in the transfer list and the opposite-party no. 3 has committed a fraud in showing that the applicant has been transferred under the concurrence of Narcotics Commissioner. If the order of Compulsory retirement had been passed due to approach of opposite-party no. 3 who has prevailed upon opposite-party no. 2 and the opposite-party no. 2 has not applied his mind.

(H) That the applicant being quite fit and there being no complaint or disciplinary proceedings against him since 1971 onwards and not a single adverse entry has been communicated to the memory of the applicant atleast from 1971 and onwards and the applicant has been given selection grade in 1985 and thereafter having been promoted to the post of District Opium Officer in 1985 and there being nothing adverse against the applicant as District Opium Officer the order of compulsory retirement is a mere device to remove the

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applicant from the service on account of annoyance of opposite-party no. 3.

- (d) That the appointing authority for the post of District Census Officer is Central Government and as such order of compulsory retirement having been passed by opposite party no. 3 is also without jurisdiction.

7. Details of the remedies attempted:

By the impugned order, rights of the applicant have itself been put to an end and under relevant provisions no remedies are available and as such this application is being moved.

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

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

9. Reliefs sought:

- (A) In view of the facts stated above the applicant prays for the following reliefs:-

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- (i) The order of compulsory retirement dated 22-7-98 be quashed holding the same to be bad, void, illegal and impermissible and declaring the applicant to be continuing in service holding the post of District Opium Officer with the consequential benefits.
- (ii) Any other relief which this Hon'ble Tribunal deems fit and proper in the circumstances of the case be granted in favour of the applicant.
- (iii) Costs of this petition be awarded to the applicant.

REASONING OF THE TRIBUNAL

- (a) Because the order of compulsory retirement has not been passed by the appointing authority or by the competent authority.
- (b) Because the order of compulsory retirement has been passed on a matter of vindictiveness.
- (c) Because the order of compulsory retirement has been passed under the harassment and approaches of opposite-party No. 2.
- (d) Because the service record of the applicant is unblemished.
- (e) Because the applicant possesses good health and physique and he is perfect enough to discharge his duties.
- 

- (f) Because there was no screening of the record as provided under law for compulsory retirement.
- (g) Because the persons similarly situated to the applicant were not compulsorily retired and as such the impugned order is in violation of Articles 14 and 13 of the Constitution and the procedure for retiring a person compulsorily as required by law has not been adopted.
- (h) Because the order is not in accordance with the service rules applicable to the applicant.
- (i) Because an order of compulsory retirement is only to be passed after general scrutiny and screening who have completed qualifying service and that have not been done and the applicant has only been singled out.

10. Interim order, if any prayed for:

The operation and implementation of the order dated 22-7-88 retiring the applicant compulsorily be stayed and the applicant be directed to be posted at Lucknow or any place by the competent authority.

Sanjay K. J.
11. In the event of application being sent by registered post, it may be stated whether the

applicant desires to have oral hearing at the admission stage and if so, he shall attach a self-addressed post card/airmail letter at which intimation regarding the date of hearing could be sent to him.

Does notarise.

12. Particulars of Bank Draft/Postal order in respect of the application fees:

1. Name of the Bank on which drawn ✓

2. Bank Draft no. P

Or

1. Number of Indian Postal Order(s)

NR- 66783

2. Name of the issuing Post Office

High Wm Lucknow
Benoh

3. Date of issue of Postal Order(s)

20-7-88

4. Post Office at which payable

High Wm Lucknow
Benoh

13. List of Enclosures:

(A) True copy of order dated 22-7-88
retiring the applicant compulsorily.

(B) True copy of order dated 19-3-85
promoting the applicant as Inspector

~~(Temporary) Trade.~~

(C) True copy of order dated 3-8-88

A32

promoting the applicant as ~~Inspector~~
~~Selection Grade~~

It should be

(1) True copy of order dated 29-4-68
transferring the applicant from Lucknow
to Ghazipur as Superintendant (Executive)
in 'B' Grade Preventive and Intel. Igance
Cell, Govt. Prison & Mkt. Works Undertaking,
Ghazipur.

(2) True copy of joining report of the
applicant dated 15-7-68.

(3) True copy of the applicant's
application sent by him to Narcotics
Commissioner, the Jail, Govt. Prison
-5 (L.P.), dated 21-7-68.

Dated Lucknow

20.7.1968.

1. 07. 01

Shelly Lal

applicant

Shelly Lal

Prison Officer

I, the abovenamed applicant, do hereby verify
that the contents of para 1 to 6, except para 6 ^{and para 5}
of this application are true to my personal know-
ledge and those of para 6 ^{and para 5}
are believed by me to be true on the basis of
and that I have not suppressed any material fact.

Dated Lucknow

20.7.1968.

1. 07. 01

applicant

Shelly Lal

A33 15

In the Central Administrative Tribunal 1, Allahabad
Lucknow Bench, Lucknow.

BETWEEN

Chhote Lal Ambekar r Applicant

AND

The Narcotics Commissioner of India
and others Respondents

ENCLOSURE 1A

F.No.7/2/Conf1/87/1980

Government of India

Central Bureau of Narcotics

Office of the Narcotics Commissioner of India

19, The Mall, Varanasi, Gorakhpur-5 (P.P.)

Dated the 22-7-88

ORDER

WHEREAS the undersigned is of the opinion
that it is in the public interest to do so:

NOW, THEREFORE, in exercise of the powers
conferred under rule 4B of the Central Civil
Services (Pension) Rules, 1972 the undersigned
heroby retires Shri Chhote Lal Ambekar, District
Opium Officer, Lucknow, with immediate effect, he
having already completed 40 years of service on
21-11-1986. Shri Chhote Lal Ambekar shall be paid
a sum of equivalent to the amount of his pay plus
allowances for a period of three months calculated
at the same rate which he was drawing them immediately
before his retirement.

Sd/-D. Chakraborty
Narcotics Commissioner
Shri Chhote Lal Ambekar
Distt. Opium Officer,
Lucknow,

*Copy sent to original
authorities for their
info. 31.7.88*

134 16

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

ENCLOSURE 18:

Government of India.
Central Bureau of Narcotics.
Office of the Deputy Narcotics Commissioner, Neemuch (M.P.)
F.No. II (3)-13/Estt./82-3213 Dated the 19th March, 85

O R D E R

Shri Chhota Lr, Inspector (Primary Grade) is hereby appointed to officiate, until further orders as Inspector (Selection Grade) in the scale of Rs. 550-20-650-25-750 with immediate effect.

2. Shri Chhotelal should note that his aforesaid promotion is subject to the decisions of the courts in the following

- (1) Writ Petition No. 128/1984 Madhya Pradesh High Court Bench Lucknow. India and others.
- (2) Writ Petition No. 959/1984 Uttar Pradesh High Court Bench Lucknow. R.N. Yadav Vs. Union of India and others.
- (3) Writ Petition No. 228/1984 Madhya Pradesh High Court Bench Indore. Raj Kumar Mannan Vs. Union of India and others.
4. Writ Petition No. 6876/1984 Uttar Pradesh High Court Allahabad Bench. Surendra Nath Khars Vs. Union of India and others.
- (5) Writ Petition No. 6977/1984 Uttar Pradesh High Court Allahabad Bench. Kedar Nath Lal Vs. Union of India and others.

Sd/- S. Chandra
Deputy Narcotics Commissioner

-2-

Copy forwarded to the General Manager, Govt. Opium & Alk. Works Undertaking, Raemuch for information and necessary action.

Copy of Order sent for Shri Chhotelal, Inspector is enclosed which may please be delivered to him. Joining report of Shri Chhotelal as Inspector (Selection Grade) will be required in case he is on leave except casual leave on the date of issue of this order.

Copy forwarded for information to:-

1. The Asstt. Narcotics Commissioner, (Hqrs), 19, The Mall, Meer, Gwalior-6 with reference to his letter F.No.1 (21) Lett.1/64/384, dated the 28th February, 85.
2. The Deputy Narcotics Commissioner, Kota/Lucknow.
3. Shri Chhotelal, Inspector through the General Manager, Govt. Opium & Alk. Works Undertaking Raemuch.
4. Accounts/Conf. Branch DDC's (C), Raemuch.

Sd/-Jhaganji
Assistant Narcotics Commissioner,
Raemuch

*Everyone with the
refusal, all the
he have copy
21/5/85
31.7.11*

13
A36

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

ENCLOSURE 'C'

F.NO. 2(1) Estt. I, 85 of 162
Government of India
Central Bureau of Narcotics.

Officer of the Narcotics Commissioner of India.
19, The Mall, Meerut, India-474006 (N.P.)

Dated, the 5th September, 1985

ESTABLISHMENT ORDER NO. 23/1985

Shri Chhotelal, Inspector (SG) of this department, is hereby promoted on regular basis to officiate in the grade of District Opium Officer/ Superintendent (Executive) Group 'B' in the pay scale of Rs. 650-30-740-35-810-ED, 880-40-1000-EB, 40-1200 until further order against the vacancy available on retirement of Shri C.P. Adib on superannuation in the afternoon of 31-8-1985.

2. The seniority of Shri Chhotelal in the aforesaid grade of Group 'B' will be reckoned according to the usual drawn by the Group 'B' Departmental Promotion Committee.

3. The promotion of Shri Chhotelal is subject to the decisions of the Courts in the following writ Petitions:-

- | | | |
|-----|---|---|
| i) | Writ Petition No. 128/1984 Madhya Pradesh
Sankha Prasad vs. Union of High Court
India and others. | Bench Indore. |
| ii) | Writ Petition No. 959/1984
R.N. Yadav vs. Union
of India and others | Uttar Pradesh
High Court,
Bench, Lucknow. |

.....2/-

-2-

- | | | |
|------|--|--|
| iii) | Writ Petition no.228/1984
Raj Kumar Janon Vs. Union
of India and others. | Madhya Pradesh
High Court,
Bench Indore. |
| iv) | Writ Petition No.5976/1984
Surendra Nath Khare Vs. Union
of India and others. | Uttar Pradesh
High Court,
Bench Allahabad. |
| v) | Writ Petition No.5977/1984
Kodari Nath Lal Vs. Union of
India and others. | Uttar Pradesh
High Court,
Bench Allahabad. |
| vi) | Writ Petition no.425 of 1983
Udai Kumar Verma Vs. Union
of India and others. | Madhya Pradesh
High Court,
Bench Gwalior. |
| vii) | Writ Petition No.181/1985
C.L. Sunshera, Inspector
Vs. Union of India & others | Madhya Pradesh
High Court,
Bench Indore |

4. These order shall take effect from the date Shri Chhotay Lal assumes the charge of the ...

5. The place of posting of Shri Chhotay Lal .. intimated in due course.

S/-Illegible

(M.C.Sharma)

Director, Commission of India

Copy forwarded for information and necessary action to:-

1. The Secretary, Central Board of Excise and Customs, New Delhi.
2. The Chief Controller, Govt. Opium & Allahabad Factories, Gwalior.

.....3/-

41

H38

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

ENCLOSURE 101

F.No. II-3/1/CP/88/301

Government of India,
Central Bureau of Narcotics,
Office of the Dy. Narcotics Commissioner,
B-57, Sector 1A, Mahanagar,
Lucknow.

Dated 29th April, 1988.

Estt. Order no. 6/1988

Shri C.L. Ambekar, District Opium Officer,
Lucknow presently on deputation in the office of
the undersigned is hereby transferred and posted
as Superintendent (Executive) in 'B' Grade Preventive
and Intelligence Cell, Govt. Opium & Alk. Works
Undertaking, Ghazipur. This order is issued with the
concurrence of the Narcotics Commissioner of India,
Gwalior. Shri C.L. Ambekar should report to the
Manager, Govt. Opium & Alk. Works Undertaking,
Ghazipur forthwith.

Sd/-
(VINAY KUMAR)
DEPUTY NARCOTICS COMMISSIONER
LUCKNOW.

Shri C.L. Ambekar,
District Opium Officer,
Lucknow (on deputation to the
Dy. Narcotics Commissioner's Office).

*Comparison with the
original order to
be done with
M. J. E.
20/5/88*

22
Auo

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

ENCLOSURE 121

F.No. P.F. II Et(29)-1/87/324 dated 18-7-88

To

The Deputy Narcotics Commissioner,
Lucknow. (U.P.)
Pin. 223006.

Sir,

Respectfully I beg to report for duty forenoon today on 18th of July, 1988 after availing 25 days El. u.c. from 2-5-88 to 26-5-88 and 15 days Medical leave (connected leave) on medical ground u.c. from 27-5-88 to 10-6-88 thereafter 13-6-88 to 15-6-88 remained availing leave for your changing orders of transfer vide my factual clearance dated 6-5-88 and 25-6-88 and also availed permission leave on 30-4-88 & 1-5-88, 11-6-88 & 19-6-88 and 16-7-88 & 17-7-88 respectively.

Enclosed 2/C, F/C Two are.

Enclosed detailed report dated 18/19/7/88 in

Duplicates: Total 4 are.

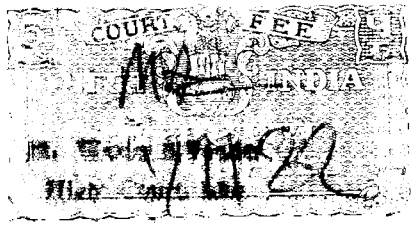
Yours faithfully,

.../G.L. Ambekar

18-8-1988

Dist. Opium Officer
Lucknow (U.P.)

*encl. with
original with
be sent copy
Affix
31.7.88*



A42

50

the Central Administrative Tribunal Allahabad.
Lucknow Bench Lucknow
न्यायालय श्रीमान्

Chhote Lal

वादी अपीलान्त/प्रार्थी/अभियुक्ता

The Narcotics Commissioner of India & others
... .. प्रतिवादी / रिस्पान्डेंट / विपक्षी / अभियुक्ता

व्यवहार विवरण

उपयुक्त व्यवहार में मैं / हम

Mushtaque Ahmad Siddiqui

प्रतिज्ञ/एडवोकेट

को व्यवहार की कार्यवाही, उत्तर प्रति-उत्तर निमित्त प्रारम्भिक न्यायालय से अन्तिम न्यायालय अपील तक बचकाय मेहनताना नियुक्त करके अधिकार देता हूँ। देते हैं कि एडवोकेट वकील महोदय मुझे / हम प्रतिज्ञ के पक्ष से जो कुछ कार्यवाही प्रश्न या उत्तर लिखित अथवा मौखिक करें या कोई प्रमाण-पत्र तथा दस्तावेज इत्यादि प्रस्तुत या प्रविष्ट करें या वापस लें या प्रतिलिपि पत्र लें या छपया चेक प्राप्त करें या मेरे/हमारे हस्ताक्षर की हुई संधि-पत्र प्रस्तुत करें या प्रमाणित करें विक्री-कर कार्यालय से 'सी' फार्म प्राप्त करें। अन्य एडवोकेट वकील की कार्यवाही तथा विवादार्थ स्वयं नियुक्त करें या प्रार्थना-पत्र दें या निगरानी या क्राम आब्जेक्शन या तजवीज सानी या वाजदायर या इजराय डिग्री अपने हस्ताक्षर दायर करें वह सब मुझे / हम प्रतिज्ञ के लिये हुए के समान होगा वह सब मुझको / हमको स्वीकार होगा उसका दायित्व प्रतिज्ञ के ऊपर होता।

न्यायालय
नं० मुकदमा
नाम करीबिन

अतः यह वकालतनामा लिख दिया कि प्रमाण रहे और अवसर पर काम आवे।

तिथि 20 मास 7 सन् 01

चिन्ह या हस्ताक्षर साक्षी साक्षी

स्वीकृत

एडवोकेट प्लीडर

... ..
... ..

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O. A. No. of 1988(L)

C.L. Ambedkar - ... Petitioner

Versus

Union of India & others .. Respondents

SHORT COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS
OPPOSING ADMISSION OF THE APPLICATION.

....

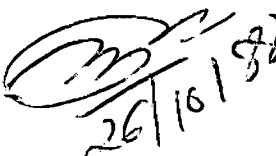
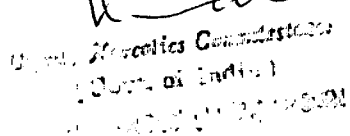
1988
AFFIDAVIT
100 IN
DISTT. C. P.

I, Vineet Kumar, aged about 36 years
Son of Shri R. B. Srivastava
at present posted as Deputy Narcotics Commissioner,
Government of India, Central Bureau of Narcotics,
at B-57, Sector-A, Mahanagar, Lucknow do hereby solemnly
affirm and state as under:

1. That the deponent is Respondent No.3 in the above noted application and he is also authorised to file this short counter affidavit on behalf of other respondents also.
2. That the deponent has read and understood the contents of the application filed by the applicant as well as the facts deposed to herein under in reply thereof :
3. That at this stage it is not necessary to give parawise reply to the application as the application moved by the applicant is liable to be rejected on the ground of alternate remedy.

4. That the petitioner was retired prematurely according to Fundamental Rules 56(j) and Rule 48 of CCS(Pension) Rules 1972. This case was reviewed by the duly constituted committee as per the procedure laid down by the Government of India for the purposes ascertaining whether or not the applicant is fit to continue to serve in Government of India. On the basis of the service records of the applicant, and recommendations of the Committee which reviewed his case it was decided by the Government of India to retire the applicant under Rule 48 of CCS(Pension) Rules 1972 in public interest. On receipt of Government of India decision based on the recommendations of the Committee the Narcotics Commissioner of India who is the competent Authority in the instant case has, therefore, issued orders retiring the applicant under Rule 48 of CCS (Pension) Rules 1972 in public interest after observing other formalities.

5. That the applicant has joined the department on 22.11.1956. However, his work and conduct was not upto the mark as his service records reflect that he was an indisciplined and inefficient officer. The adverse remarks have been communicated to the applicant on a number of occasions on the grounds of inefficiency and mis-


26/10/88


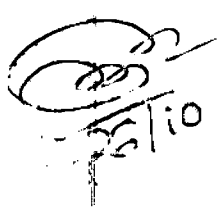
behaviour as under:-

1. Vide D.O.F. No.3/6/Conf1/57 dated 26.9.1957 for the period ending 30.6.1957.
2. D.O. F No.3/6/Conf1/59 dated 10.11.1959 for the period ending 30.6.1959.
3. D.O. F. No.3/7/Conf1/61/8302 dated 13.11.61 for the period ending 1961.
4. D.O. F. No.3/7/Conf1/62 dated 17.11.1962 for the period ending 30.6.1962.
5. D.O.F. No.3/5/Conf1/65/1428 dated 9.9.1965 for the period ending 30.6.1965.
6. D.O. F. No.3/5/Conf1/66 2017 dated 24.9.1966 for the year ending 30.6.1966.
7. D.O. F. No.3/5/Conf1/67/1635 dated 29.7.1967 for the year ending 30.6.1967.
8. Adverse remarks were also given to him in his 2 ACR for the period from 1.7.69 to 30.6.70.

Needless his CCRs after that are also colourless and just adequate mostly. Further, he has also been penalised on various occasions for indiscipline etc. viz-

Penalties in Disciplinary cases:

- (i) The applicant was awarded major penalty withholding his three increments for dereliction of duties and gross misde behaviour in 1959 vide Deputy Narcotics Commissioner, Ghazipur order No.C. o.II-O(3) -CA/58 dated 20.2.1959.
- (ii) The applicant's pay was reduced for a period of one year in 1963 vide Narcotics Commissioner, Gwalior order No.F No.2/16/Conf1/59-IV/720 dated 24.4.1963.
- (iii) The applicant's one ~~xxxxx~~ increment was withheld in 1966 for using postal service stamps for private correspondence vide Deputy Narcotics Commissioner, Ghazipur Order No.C-No.2/4/65-CF/5714 dated 28.6.1966.



Director (Compensation)
(Dept. of India)
11/11/1966

(iv) The applicant was 'Censured' for not performing his duties properly vide Deputy Narcotics Commissioner, Ghazipur order No.C No.II-(8)-10/69/Conf1/CL/P-II dated 30.9.1970.

6. That the work and conduct of the applicant was not upto the mark as he earned numerous adverse remarks in his annual confidential reports and was also penalised for indiscipline. On a complaint received against him and other members of his party, necessary inquiry was conducted and a prima-facie case has been established against him for extortion of Rs.17,000/- as illegal gratification from one Shri Ram Lal, S/o. Laxman resident of village Umaria, Tehsil Malhargarh, District Mandasaur (MP) while conducting search of his house on 2.3.1987 alongwith the preventive party threatening Shri Ram Lal that he would be arrested under the Narcotics Act and that his poppy licence would also be cancelled. The case has been referred to the Central Vigilance Commissioner for advice on further action. In addition, action is being contemplated against him in another case of irregularities committed by him recently while working as District Opium Officer, Lucknow which reflect serious doubts about his integrity.

In this case, he had recorded false verification certificates on Lambardars reports regarding damage to poppy crops which have been got inquired and a prima-facie case on the irregularities committed by him in this regard has been established.

[Signature]
26/10

[Signature]

Deputy Narcotics Commissioner
(Govt. of India)
JUGESHWAR (U.S.) 220001

7. That the contention of the applicant that his appointing authority is Central Government is not correct, as according to orders contained in Government of India, Ministry of Finance (Department of Revenue and Insurance) New Delhi's F.No.C.11016/6/71-Ad.V dated 19.1.1972, the Narcotics Commissioner is the appointing authority of Group 'B' Officers in Narcotics Department.

8. That the appointing authority of District Opium Officer is Narcotics Commissioner of India, Gwalior and not Central Government. The order of retirement of the applicant under Rule 48 of CCS(Pension) Rules, 1972 in the public interest was passed by the Narcotics Commissioner of India, Gwalior (Party No.2) and not Deputy Narcotics Commissioner, Lucknow (Op. party no.3). The Narcotics Commissioner of India is competent to issue retirement of a Government servant under Rule 48 of CCS(Pension) Rules 1972 in public interest.

9. That according to the instructions and procedure laid down in Govt of India, Ministry of Home Affairs Office Memorandum No.25013/14/77-Esstt(A) dated the 5th Jan 1978 a Government employee who has been served with the order of premature retirement may submit his representation to the Government of India against the order of his premature retirement.

That in view of the facts and circumstances

Commissioner

(Signature)

10.

stated above, the application filed by the applicant is not liable to be admitted for consideration and the same is liable to be dismissed on the ground of non-compliance of provisions contained in Section 20(i) of the Administrative Tribunal Act, 1985.


Deponent.
Deputy Commissioner
(Dist. of India)
LUCKNOW (U.P.) 226001

Lucknow,

Dated: 26 / 10 / 88
26 Sept 88

Verification.

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 2 are true to my personal knowledge, those of paragraphs 3 to 10 are believed by me to be true on the basis of records and information gathered and those of paragraphs 11 to 12 are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed so help me God.


Deponent.
(Dist. of India)
LUCKNOW (U.P.) 226001

Lucknow, 26 / 10 / 88
Dated 26 / 10 / 88

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

(VK Chaudhari)
Advocate, HC

Solemnly affirmed before me on 26 / 10 / 88
at 5-30 am/pm by the deponent who is identified by Shri Chaudhari, Advocate, High Court, Lucknow Bench.

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


Oath Commissioner.

26 / 10 / 88

filed to clerk

A49

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. 96 of 88(L)

C.L. Ambedkar

... Petitioner

Versus

Union of India & others

... Respondents.

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS
OPPOSING ADMISSION OF THE APPLICATION.

I, Vineet Kumar, aged about 36 years,
Son of Shri R.B. Srivastava at present posted as
Deputy Narcotics Commissioner, Government of India,
Central Bureau of Narcotics at B-57, Sector-A, Mahahagar,
Lucknow do hereby solemnly affirm and state as under:-

1. That the deponent is Respondent No.3 in the
above noted application and he is also authorised to file
this counter affidavit on behalf of other respondents also.

2. That the deponent has read and understood the
contents of the application filed by the applicant as
well as the facts deposed to herein under in-reply thereof:

BRIEF FACTS & PRELIMINARY OBSERVATIONS:

3. That it is pertinent to give brief history of
the case before giving parawise comments on the application
filed by the applicant, as detailed below:

(a) That it is submitted that according to

Para FR 56(j) and Rule 48 of CCS(Pension) Rules, 1972

the cases of Group 'B' Officers who have completed 30 years
service or 50 years of age are reviewed by the duly

AFFIDAVIT

HIGH COURT
ALLAHABAD

20-1-89

20-1-89

Narcotics Commissioner
(Govt. of India)

constituted committee periodically as per the procedure laid down by the Government of India in order to ascertain whether or not they are fit to continue in Government service. According to procedure laid down for review, the cases of the officers are first screened by the Committee and thereafter the recommendations of the Committees are sent to the Government of India alongwith entire service records for final decision. For this purpose, the entire service records of a Government servant are screened and not of a particular period or a case. If it is found that the integrity of a Govt. servant is doubtful or he is ineffective, the Government has ^{the} right to retire him under FR 56(j) ^{or} Rule 48 of CCS(Pension) Rules, 1972 in public interest as the case may be.

(b) That after completing 30 years service, the case of Shri Chhote Lal Ambedkar, the applicant was also reviewed along with other officers under ~~FR 56(j)~~ / Rule 48 of CCS(Pension) Rules 1972. On the basis of the service records of the applicant and recommendations of the Committee, which reviewed his case it was decided by the Government of India to retire the applicant under Rule 48 of CCS(Pension) Rules 1972 in public interest. On receipt of Government of India decision based on the recommendations of the Committee the Narcotics Commissioner of India who is the competent authority in the instant case has, ~~therefore~~, issued orders retiring the applicant under Rule 48 of CCS(Pension) Rules 1972 in public interest after observing other formalities.

(c) That according to the instructions and procedure laid down in Government of India, Ministry of Home Affairs Office Memorandum No.25013/14/77-Estt(A) dated the 5th

20-1-89
Deputy Narcotics Commissioner
(Govt. of India)
Narcotics Commission (M.P.) 22000

January 1978 a Government employee who has been served with the order of premature retirement may submit his representation to the Government of India against the order of his premature retirement.

(d) That after examination of the facts of the representation, if it is considered necessary, the representation is placed before the duly constituted appropriate committee for their consideration and recommendation. A final decision is taken by the Government of India after receipt of appropriate committee's recommendations on such representation.

(e) But in the instant case the applicant instead of submitting his representation to the Government of India has filed his application before this Hon'ble Tribunal against the order for his retirement under Rule 48 of CCS (Pension) Rules, 1972.

(f) That it is further submitted that the applicant has not availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Therefore, the application filed by the applicant before the Hon'ble Tribunal is ab-initio premature because the applicant had not availed of all the remedies available to him under the relevant service rules as to redressal of his grievances.

PARA-WISE COMMENTS:

4. That the contents of para 1 to 5 of the application need no reply except that the application is pre-mature as ^{all} the departmental remedies available have not been exhausted. Besides the information furnished by the applicant under Col.3 (particulars of the order against which application is made) is in itself misleading. The applicant was retired under Rule 48 of CCS (Pension) Rules, 1972 which is pre-mature retirement 'not' compulsory retirement' as made out by the applicant. Compulsory retirement can be ordered only as a measure of penalty under the CCS (CCA) Rules, 1965. Pre-mature retirement does not carry with it any stigma. Moreover, this is a reciprocal right whereby a Govt. servant also has the option to retire after giving 2 months' notice after he has completed 30 years qualifying service.

20/5/89
 (Govt. of India)
 Secretary (Pension)

252

-4-

5. That the contents of para 6(A) to 6(C) of the application are not relevant to the issue and as such need no reply.

6. That in reply to the contents of para 6(D) of the application, it is submitted that the applicant ~~has~~ joined the Department on 22.11.1956 is admitted. However, his work and conduct was not upto the mark as his service records reflect that he was an indisciplined and inefficient officer. The adverse remarks have been communicated to the applicant on a number of occasions on the grounds of inefficiency and mis-behaviour as detailed below:-

- (i) D.C.F. No.3/6/Conf/57 dated 26.2.57 for the period ending 30.6.1957.
- (ii) D.C.F. No.3/6/Conf/59 dated 10.11.1959 for the period ending 30.6.1959.
- (iii) D.C.F. No.3/7/Conf/61/1002 dated 13.11.61 for the period ending 1961.
- (iv) D.C.F. No.3/7/Conf/62/ dated 17.11.1962 for the year ending 30.6.1962.
- (v) D.C.F. No.3/6/Conf/63/2017 dated 24.2.1966 for the year ending 30.6.1966.
- (vi) D.C.F. No.3/6/Conf/64/2017 dated 24.2.1966 for the year ending 30.6.1966.

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Deputy Narcotics Commissioner
(Govt. of India)
ENCHOW (13.22300)

(vii) D.O. No. 2/5/Conf/47/1625 dated 29.7.1967 for the year ending 30.6.1967.

(viii) Adverse remarks were also given to the applicant in his DCR for the period from 1.7.69 to 30.6.70.

Besides his DCRs after that are also colourless and mostly just adequate. Further it is stated that the applicant has also been penalised on various occasions for indiscipline etc. viz. -
Qualities in Disciplinary cases:

(a) That the applicant was awarded major penalty withholding his three increments for dereliction of duties and gross misbehaviour in 1958 vide Deputy Narcotics Commissioner, Ghazipur's order G. No. IT-C(1)-C/4 dated 20.2.1959.

(b) That the applicant's pay was reduced for a period of one year in 1961 vide Narcotics Commissioner, Ghazipur order No. G. No. 2/16/Conf/47/720 dated 24.4.1967.

(c) That the applicant's increment was withheld in 1966 for using postal service stamps for private correspondence vide Deputy Narcotics Commissioner, Ghazipur's letter No. 2/4/65-23/5714 dated 20.6.1966.

(d) That the applicant was 'Censured' for not performing his duties properly vide Deputy Director, Narcotics Commissioner, Ghazipur's order G. No. IT-C(1)-12/

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 (Govt. of India)
 BUCKNOW (U.P.) 220004

AS4

/69/Conf1/CL/F-11 dated 30.2.1970.

That all the above listed documents were annexed to the short counter affidavit.

7. That the contents of para 6(F) & 6(G) of the application are not disputed except that the selection Grade is a non-functional one, which has nothing to do with promotion of the applicant.

8. That in reply to the contents of para 6(G) of the application it is submitted that the contention of the applicant that his appointing authority is Central Government is not correct, as according to orders contained in Govt. of India, Ministry of Finance (Department of Revenue and Insurance) New Delhi letter No.F.No.C.11016/4/71-12, dated 13.1.1972, the Narcotics Commissioner is the appointing authority of Group 1st Officers in Narcotics Department.

9. That in reply to para 6(H) & 6(I) of the application it is stated that ^{the} ~~the~~ work and conduct of the applicant was not upto the mark as he earned numerous adverse remarks in his Annual Confidential Reports and was also penalised for indiscipline. A complaint received against the applicant and others

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Deputy Narcotics Commissioner
(Govt. of India)
Narcotics (U.P.) 225001

ASS

members of his party, necessary inquiry was conducted and a prima-facie case has been established against the applicant for extortion of Rs. 17,000/- as illegal gratification from one Shri Ram Lal, s/o. Laxman, r/o. village Uraia, Tehsil Lalbargarh, District Jharsuguda (B.P.) while conducting search of his house on 2.7.1954 along with the preventive party threatening Shri Ram Lal that he would be arrested under the Narcotics Act and that his money licence would also be cancelled. The case has been referred to the Central Vigilance Commission for advice on further action. In addition action is being contemplated against the applicant in another case of irregularities committed by him recently while working as District Opium Officer, Lucknow which reflect serious doubts about the integrity of the applicant. In this case, the applicant recorded false verification certificates on Landholders records regarding damage to money crops which have been got inquired and a prima-facie case on the irregularities committed by him in this regard has been established.

10. That in reply to the certificate of no objection of the application, it is stated that as per the certificate of no objection in this regard the case of the applicant for completion of 20 years service was reviewed by the Government under Rule 49 of S.O. (Lodging) dated, 1972.

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Deputy Narcotics Commissioner
(Govt. of India)
F.A.O. No. 104/22/5001

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by the Government of India on the recommendations of the Committee that the applicant should be retired under Rule 48 of CCS(Pension Rules) 1972 in public interest. Physical fitness has got nothing to do with premature retirement under Rule 48 of CCS(Pension) Rules, 1972. Since the individual has not been retired on invalid pension, the issue of health and physical fitness are not relevant here.

11. That in reply to para 6(K) of the application it is submitted that the applicant was retired under Rule 48 of CCS(Pension) Rules, 1972 in public interest. The Deputy Narcotics Commissioner, Lucknow (No. 3) was not the member of the Committee which reviewed and recommended the case for pre-mature retirement of the applicant hence the allegations made in this para are baseless and false.

There is no provision in the rules as such for any special treatment towards Government servants belonging to Scheduled Castes or any other community as alleged by the applicant.

12. That in reply to the contents of para 6(L) of the application it is stated that the issue raised by the applicant is not relevant to the order of premature retirement challenged by him. Moreover, it is

submitted that the Deputy Director Narcotics Commissioner, Lucknow being the Controlling Officer of U.P. Unit of Narcotics Department had issued transfer orders of the applicant from Lucknow to Ghazipur on administrative grounds without any prejudice against the applicant. It is further submitted that the transfer orders of the applicant have no relevance in review case, which was reviewed by the committee much earlier than he was transferred from Lucknow.

13. That in reply to para 6(M) of the application it is submitted that there was nothing illegal in the transfer orders of the applicant which were issued by the Deputy Narcotics Commissioner, Lucknow after obtaining concurrence of the Narcotics Commissioner of India, Gwalior. In fact, the transfer orders of the applicant have no relevance with his case of premature retirement.

2-52
5-11-89
201-89
K. A.
Deputy Narcotics Commissioner
(U.P.)
11-11-89

14. That in reply to the contents of para 6(N) of the application, it is submitted that since the transfer orders of the applicant were issued separately by the Deputy Narcotics Commissioner, Lucknow after obtaining concurrence from his higher authorities and it was

-10-

necessary to include his name again in the annual transfer orders of other officers. Further, it has no relevance with his case of premature retirement.

15. That in reply to the contents of para 6(O) of the application, it is submitted that this is not relevant to the issue and that the applicant was transferred from Lucknow to Ghazipur and on hearing of his transfer he proceeded on leave without obtaining prior permission of the Deputy Narcotics Commissioner,

R But when he came to join his duties on 18.7.88 R
Lucknow for the period from 2.5.88 to 27.5.88, as

R N
District Crime Officer, Lucknow, he was told that since he had been transferred from Lucknow he can not be

allowed to join his duties at Lucknow. He was further

advised to join his duties at his new place of

posting at Ghazipur. In these circumstances, his

joining report at Lucknow was not accepted by

the Deputy Narcotics Commissioner, Lucknow. The

applicant was neither advised by the Ministry of Finance

(Department of Revenue) New Delhi nor by the office

of the Narcotics Commissioner, O. A. to join his

duties at Lucknow. The claim of the petitioner in this

regard is not based on facts, hence denied.

16. That in reply to the contents of para 6(O)

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LUCKNOW (U.P.) 226091

of the application that the order of pre-mature retirement was served to the applicant through the Deputy Office. ^(X) The applicant is trying to confuse the issue by terming his pre-mature retirement as compulsory retirement, which is one of the penalties prescribed under GOA(CA) Rules, 1972. The applicant was retired prematurely under Rule 43 of GOA(CA) Rules, which gives a reciprocal right to a Government servant to retire after 30 years of qualifying service.

~~Sumit of the Office of the Narcotics Commissioner, C~~
~~qualifier in the presence of Gazetted Officers of the~~
~~Narcotics Department at the Lucknow residence of the~~
~~applicant where he was found to be staying on leave~~ //

17. That in reply to the contents of para 6(A) & 6(B) of the application it is submitted that the case of the

applicant was reviewed under Rule 43 of GOA(CA) Rules, 1972 by the Screening Committee. The denoent

was not a member of the Screening committee, which reviewed and recommended the case of the applicant for his pre-mature retirement in public interest. In view of this fact, the contention of the applicant is baseless.

Deputy Narcotics Commissioner
 (Govt. of India)
 ENCL-100/1 (U.P.) 220001

20/7/2001

Moreover, applicant's case is not of 'compulsory' retirement but of pre-mature retirement. Besides, comments under para 6 may be referred to.

16. That in reply to the contents of para 6(7) of the application it is submitted that the appointing authority of District Chief Officer is Narcotics Commissioner of India, Delhi and not Central Government. The order of retirement of the applicant under Rule 48 of CCS (Pension) Rules, 1972 in the public interest was passed by the competent authority and not Deputy Narcotics Commissioner, Lucknow. The Narcotics Commissioner of India is competent to issue retirement order of a Government servant under Rule 48 of CCS (Pension) Rules, 1972 in the public interest, in the instant case.

17. As regards para 7 of the application, the appellant must first of all exhaust alternative remedy available to him by filing an appeal before Ministry.

18. That the contents of para 8 of the application are formal and need no comments.

19. That as far as the issue of delay is concerned

Deputy Narcotics Commissioner
(Govt. of India)
MUQ... (S.D.) 22-03-89

of cheque is concerned, the same appears to have occurred partly on technical objections made by the Bank and partly by the applicant himself. Instead of writing to the Narcotics Commissioner regarding dishonouring of his cheque, he could have straight away obtained above signature of the District Crime Officer, Lucknow on the concerned cheque for obtaining payment. As such the Department can not be held responsible for it. However, even if there is some delay in its encashment, the department is prepared to make good the said loss and as such there is no need for quashing the order on such a ground.

20. That the reliefs sought by the applicant is not tenable in the eyes of law. This is not a case of compulsory retirement but of pre-mature-retirements.

21. That in view of the facts and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs to the Respondents on the ground of non-compliance of provisions contained in Section 20(1) of Administrative Tribunal Act, 1985.

Lucknow,
Dated:

[Signature]
Deputy Narcotics Commissioner,
(Lucknow)
10/11/89

20-1-89

[Signature]
Deputy Secretary,
Narcotics
Lucknow

Verification.

I, the above named deponent do hereby
verify that the contents of paragraphs 1 & 2 are
true to my personal knowledge, those of paragraphs
3 to 15 ¹ are believed by me to be true
on the basis of records and informations gathered and
those of paragraphs 20 to 21 ¹ are also
believed by me to be true on the basis of legal advice.
No part of this affidavit is false and nothing material
has been concealed.

[Signature]

Deponent.

Chief Justice Commission

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Lucknow,

Dated: 20.1.89

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

(M. V. Shaudhari)

Advocate, High Court,
Court for the Respondents.

solemnly affirmed before me on

at 7.10

[Signature] 20.1.89
by the deponent who is

identified by Shri Shaudhari, Advocate, High Court,
Lucknow.

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

[Signature]

Oath Commissioner.

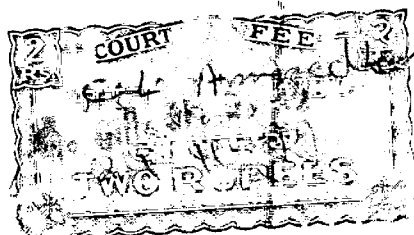
32

20.1.89

Ab's

Before the Central Administrative Tribunal
Direct Bench, Lucknow.

C. No. _____ of 1988(1)



1988
AFFIDAVIT
75 IM
DIST. COURT
U.P.

C.I. Ambedkar Petitioner

Versus

Union of India & others Respondents

Reinforcing Affidavit

I, Chhotay Lal Singh, aged about 51 years, son of late Shri Lal Singh, residing at 332, Ans/10, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is petitioner in the above noted petition and as such he is fully conversant with the facts of the case and the facts deposed to hereunder.

2. That the deponent has read and understood the contents of counter-affidavit of Shri Vinod Kumar and a specific reply to the same is given hereunder.

3. That in reply to a counter-affidavit of Shri Vinod Kumar it is stated that the deponent is

24/11/88

[Handwritten signature]

deponent of the said counter-affidavit being respondent no. 3 that it is not disputed but further averments that he is also authorised to file short-counter-affidavit on behalf of other respondents it is stated that to the knowledge of the deponent no such authority has been conferred on him and moreover if there is any authority copy of the said authority letter ought to be attached with the counter-affidavit because that is primary evidence and the primary evidence being there legally this counter-affidavit cannot be read on behalf of other respondents.

4. That in reply to para 2 of the counter-affidavit it stated that it requires no comment.

5. That in reply to para 3 of the counter-affidavit it is stated that the averments of para under reply are absolutely incorrect. There is no alternative remedy against the order of compulsory retirement and that the content of the said counter-affidavit has ^{not} stated as to under which provision of law any such alternative remedy is available under the Civil Service Classification and Control Rules and no such remedy is available also under Central Civil Service Pension Rules 1971 and as such the averment is absolutely vague and incorrect. It is further stated that as per provision of ~~section~~ sub-section (1) of section 40 the remedy of ~~which~~ representation is not an alternative remedy and hence over there is no absolute bar and ~~therefore~~ ~~therefore~~

By
22/11/24

AbS

challenge being absolutely illegal and without jurisdiction and not maintainable in any view of the matter.

6. That in reply to para 4 of the counter-affidavit it is stated that rule 35(j) of the Fundamental Rules is at all not applicable in the present case. However, Rule 35 of C.S.A. (Pension) Rules 1972 is being unjustly relied. It is further stated that the order of compulsory retirement has not been passed in the public interest but has been passed by way of expediency and the further averment that the order has been passed as per recommendation of the Committee and the decision of the Government of India is not set aside by the order of compulsory retirement nor any documentary evidence supporting the same has been filed. It is further stated that the Central Government has issued directions for passing orders of compulsory retirement vide No. 55021/14,77-1st(I) dated 15-1-78 and as per para 2 sub-clause (1) the case of an employee has to be reviewed six months before they attained the age of 45/50 years or complete 30 years service whichever occurs earlier and the Government having completed 30 years service on 21-11-97 and his case has not been examined at that time and if at that time he was not found to be unfit for retaining, presently no decision for compulsory retirement could be taken and in the said memorandum it has also been stated that a report

24/11/21

24/11/21

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can be considered for the later post and strictly by order of compulsory retirement had not to be issued. The order is absolutely in violation of sub-rule, which reads as under:

"Rules relating to pre-retire should not be used to retire a government servant on the ground of specific acts of misconduct as short-cut to initiating formal disciplinary proceedings"

and as per sub-rule (7) of this rule 5 once a decision has been taken at the time of completing his 30 years service or 50 years of age to retain him he would ordinarily continue in service till he attains the age of retirement and the impugned order has been passed by way of withdrawal.

7. That in para 1, to para 3 of the counter-affidavit it is stated that the events of para under really as stated are not correct. However, it is stated that the conduct of only 5 years has to be seen and once a remark is made all the adverse remarks on the promotion are washed off and the departmental rule is stated in the year 1978 in no circumstance the adverse remarks prior to 1985 could be taken into consideration. The averment that the department used service stamps for his personal use is absolutely incorrect.

8. That in para 4 to para 6 of the counter-affidavit it is stated that the deponent along with his subordinate staff conducted the enquiry

-3-

at the house of Shri K. S. D. although nothing was found there and the deponent was served with the office order dated 8-2-88 and the deponent has replied the said memorandum on 1-3-88 and thereafter he has not been communicated anything and the averments of para under reply as regards taking illegal gratification are not correct, and the further averment that action is contemplated against the deponent and his integrity is also doubtful. For these reasons order of compulsory retirement could not be passed. Copy of office memorandum dated 1-3-88 and reply to the same of the deponent are attached herewith as ~~Annexures-1 and 2~~ Annexures-1 and 2 to this affidavit. As per orders of the Dy. Narcotics Commissioner the deponent was asked to make survey of the area for opium done by Superintendent, District and the deponent did survey of village near and the deponent reported that 67 acre excess area was allowed to be cultivated and thereafter the same authority being the superior the deponent is being harassed. In this regard true copy of the letter of the deponent dated 22-3-87 with survey and measurement is attached herewith as ~~Annexure-3~~ Annexure-3 to this affidavit and the deponent having pointed out the mistakes of his superior he is being punished for the same. The averment that the deponent that the deponent recorded any false verification is absolutely incorrect and regarding that no proceedings have been taken.

That is reply to para 7 and 8 of

-5-

counter-affidavit it is stated that the averments of para under reply are argumentative and could be replied at the proper time.

10. That in reply to paragraph 9 of the counter-affidavit it is stated that the averments of the counter-affidavit and/or its reply having been pressed by the Government there could not have been any use of sending a representation and more so the remedy of sending representation would oust the jurisdiction of the Tribunal to undo the illegal having been done by the respondents against the petitioner.

11. That in reply to paragraph 10 of the counter-affidavit it is stated that as already stated there is no alternative remedy available and hence the petition deserves to be allowed. It is further stated that copies of this petition have been served on the learned counsel for the respondents which includes the Narcotics Commissioner and the Director of Intelligence in advance i.e. in August, 1967 and if the Government like to take any action regarding this it could send copy of the application for representation and press suitable orders.

Dated: Dec 1967.

Nov. 24 1967.

Verdict

1. The above is the verdict, as per the petition.

AG

that the contents of paragraph

1405

7, 9, 10

of this rejoinder-

affidavit are true to my own knowledge; and the

contents of paragraphs 6, 8, 10

are believed to be true on the basis of record and

those of paragraph

are also believed to be true on the basis of

legal advice. No part of it is false and nothing

material has been concealed; so help me God.

At Jackson
Nov. 26, 1939.

I identify the defendant who has
signed before me.

Clark C. ...
Attorney

2-11-40

Solemnly affirmed before me on

at 10:00 a.m./p.m. by Clerk C. C. ...

the defendant who is identified by ...

Clark C. ...

Clerk to ...

High Court, Jackson, Mich., Indiana.

I have satisfied myself by examining

the defendant that he understands the

contents of this affidavit which have

been read out and explained by

10:00 a.m. Clark C. ...
Attest: ...

Clark C. ...

Clark C. ...

Regd A D
1/1/88

F. No. 22/7/Conf1/87-324
Government of India
Central Bureau of Narcotics
Office of the Narcotics Commissioner of India
19, The Mall, Morar, Gwalior -474006 (M.P.)
* * * *

Dated, the 8/2/88

MEMORANDUM

It is alleged that Shri Chhote Lal Ambedkar while posted in the office of the Deputy Narcotics Commissioner, Neemuch as Superintendent(Ex.), searched the house on 2.3.87 of Shri Ram Lal S/o Laxmanji resident of village Umaria, Tehsil Malhargarh, District Mandsaur alongwith S/Shri B.L.Chaurasia, Sub-Inspector, Rameshwar, Shobhagmal Rathore, Keshar Singh, Mohan Verma, O.P.Awasthi, Sepoys and O.P.Kalosia, Driver, in the doubt of having illicit opium but no opium was found from the house of Shri Ram Lal. Shri Ram Lal was told that there is a complaint against him and was threatened that he will be arrested under Narcotic Drug Psychotropic Substances Act, 1985 and his licence for poppy cultivation would also be cancelled and on this pretext demanded Rs.30,000/- as illegal gratification to hush up the case. At last the matter was allegedly settled after accepting Rs.17,000/- from Shri Ram Lal. The demanded money was paid to Shri B.L.Chaurasia, Sub-Inspector wrapped in the towel in the presence of Shri Ambedkar by one Shri Kanwar Lal of village Suthi, who was present in the village Umaria on the day of incident viz. 2.3.1987.

2. Shri Chhote Lal Ambedkar is, therefore, directed to submit his explanation in this regard within ten days from the date of receipt of this Memorandum. It may please be noted that in case no explanation is received within stipulated period it will be presumed that the above charge is acceptable to him and he has nothing to say in his defence.

3. The Receipt of this Memorandum may be acknowledged.

(D.Chakraborty)
Narcotics Commissioner of India

✓ Shri Chhote Lal Ambedkar,
District Opium Officer,
Lucknow. (Through D & C Lucknow)

Copy alongwith copy meant for Shri Chhote Lal Ambedkar forwarded to the Deputy Narcotics Commissioner, Lucknow (U2P.) for information. It is requested that the copy meant for Shri Ambedkar may please be delivered to him under dated acknowledgement which may be sent to this office for record. The reply of Shri Ambedkar when received may also be transmitted to this office quickly.

2. Copy also forwarded to the Deputy Narcotics Commissioner Neemuch (M.P.) for information.

(D.Chakraborty)
Narcotics Commissioner of India

From 1900-1910 AD

REGISTERED A.D.

Dated :- 1.8.1938.

100-443889-100

Hon'ble Sir,

[illegible]

1. Therefore, please your honour to kindly exonerate me from this allegation of conspiring, as I am innocent of the above facts.

I will be most grateful for this success.

Dec 1-3 1941. 11

Copy to :—

[illegible]

Shelley and Ambecker
O.O.O., Lucknow.

AT?

Annex - No 3

To

The Dy. Narcotics Commissioner,
Neemuch.

Sir,

Subject: Test measurement report of village Palrhi of
Mandsaur I Division- Submission of- C/Reg.

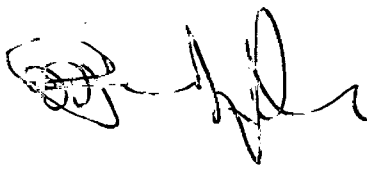
Kindly refer to the above noted subject and order of the competency authority dated 25.3.87, I visited the village on 27.3.87 and test measurement of 23 cultivators relevant to the complaint was done by me and details of that is enclosed herewith for further necessary action at your end.

Encl: Duplicate (2)

Yours faithfully,


(C. B. R. Ambedkar)
Superintendent (Ex.) Hqrs.
Rev. Wing, Neemuch.

Dated: 30.3.87



87
2617ⁿ

Copy of the ~~Test~~ Extract of test measurement Register done by Superintendent (Preventive) Hqrs. Prev Wing, Neemach under the orders of the Deputy Narcotics Commissioner, Neemach dated 25.3.1987 on a complaint of villagers of Village Paldi of Mandasaur I Division.

Name of the Cultivator: A ree allotted. Area measured by S.I.

S/Sh.		1	2	3	4	5	6	7	8
Name of the Cultivator		Area measured by S.I.		Area Test measured Length.		Breadth:		Total Area test measured.	
								Difference in area.	
1.	Mangt Lal S/O Nand Ram L.No.1(Mukhiya)	0.15	0.15	34	X 29	0	0.20	0.5	-
				48	X 20	0			
				18	X 4	0			
2.	Perwati Bai W/O Bhuvan L.No.3	0.15	0.13	30	X 28	0	0.17	0.4	-
				38	X 23	0			
3.	Onkar S/O Nanda L.No.4.	0.15	0.13	29	X 22	0	0.16	0.3	-
				36	X 26	0			
4.	Devil Lal S/O Raja Ram L.No.7	0.18	0.15	40	X 39	0	0.16	0.1	-
5.	Mohan Lal S/O Kesho Ram L.No.18	0.16	0.14	45	X 40	0	0.18	0.4	-
6.	Onkar Lal S/O Jai singh L.No.20	0.18	0.14	28	X 25	0	0.17	0.3	-
				52	X 26	0			
7.	Hem Singh S/O Kani Ram L.No.29	0.15	0.13	46	X 34	0	0.16	0.3	-
8.	Panna S/O Babru L.No.30	0.15	0.14	41	X 34	0	0.14	-	-
9.	Bhuvan Ram S/O Ganesh Ram L.No.31	0.15	0.15	48	X 33	0	0.16	0.1	-
10.	Man Singh S/O Sakhi Lal L.No.32	0.15	0.15	30	X 24	0	0.19	0.4	-
				40	X 29	0			

1. 2. 3. 4. 5. 6. 7. 8.

11. Mangi Lal S/O Sukh Lal L.No. 34	0.15	0.13	32	x	250	0.20	0.7
12. Bhawan Lal S/O Bheru Lal. L.No. 38	0.15	0.12	39	x	31	0.12	-
13. Radheshyam S/O Nathoo Lal L.No. 39	0.19	0.16	44	x	37	0.16	-
14. Anrit Ram S/O Bhawan Lal L.No. 40	0.18	0.17	48	x	43	0.21	0.4
15. Kashi Ram S/O Menu Ram L.No. 42	0.15	0.14	47	x	270	0.16	0.2
16. Kachan Bai W/O Bheru Lal L.No. 43	0.38	0.38	70	x	62	0.43	0.5
17. Mohan Singh S/O Bapulal L.No. 45	0.15	0.15	52	x	21	0.20	0.5
18. Mangi Lal S/O Kachru L.No. 46	0.15	0.15	54	x	29	0.16	0.1
19. Mangi Lal S/O Onkar L.No. 48	0.15	0.13	62	x	28	0.17	0.4
20. Mangi Lal S/O Ram Lal L.No. 50	0.13	0.11	51	x	25	0.13	0.2
21. Mangi Lal S/O Ratan Lal L.No. 60	0.15	0.14	64	x	27	0.17	0.3
22. Modi Ram S/O Ratan Lal L.No. 61	0.13	0.11	62	x	23	0.14	0.3

1	2	3	4	5	6	7	8
23. Sh. Panna Lal S/O Karu L.No. 1864	0.13	0.11	38 33	x x	23 15	0.14	0.3

23 Cultivators	03.76 Hect.	03.41 Hect.	-	-	04.08 Hect.	0.67 Acres	-
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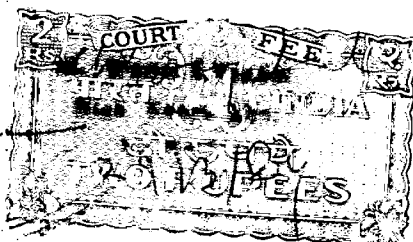
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Superintendent Executive
Hqrs. Prov. Wing, Neemuch

21/11/11

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DIST. COURT
4-9-89



Narcotics Commissioner of India
and others

..... Carbonate-particles

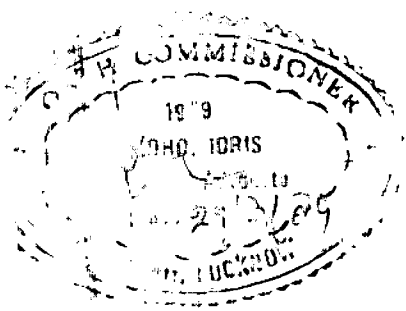
Minister-Affidavit

I, Chhotey Lal Chakkar, aged about 50 years
son of Shri Shriya Kishori Chakkar, resident of 1081/1/
167a, Mohd. Wala Ali, Lucknow, do hereby solemnly
affirm and state on oath as under:-

1. That the deponent is applicant in the above noted petition and as such he is fully conversant with the facts of the case and the facts deposed to hereunder.

2. That the deponent has read the contents of the counter-affidavit filed on behalf of the opposites, and undersigned the same and the reply to the same as given here below.

..... 2/ -



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-2-

3. That as a matter of fact the counter-affidavit has been filed to linger the matter. A short counter-affidavit was already filed against which the rejoinder was then filed by the deponent and again a short counter-affidavit is being filed on behalf of the deponent which may kindly be taken as rejoinder to this affidavit *alleged to be a rejoinder* *alleged to be a rejoinder*

4. That the deponent at the very outset submits that the order of retirement which has been said in the counter-affidavit to be pre-mature retirement is as a matter of fact compulsory retirement by whatever name it may be stated.

5. That the deponent submits that Shriat Sarkar Vith Mantralingam has issued office memorandum no. 23010/14/77-Int-... dated 8-2-78 and by the said office memorandum all the department acts have been directed to pass orders of pre-mature retirement *in conformity* with the direction laid down in the said memorandum and the said directions have been issued taking into account various pronouncements of the Hon'ble Supreme Court. The deponent respectfully submits that order of retirement of the deponent by whatever name it may be given the compulsory retirement or pre-mature retirement is against the directions contained in the said memorandum.

6. That it has been directed that powers are to be exercised fairly and impartially and it is with this object the guide lines have been provided.

...../-

7. That Part II clauses (1)²(ii) and (iii)³ are reproduced here below and it is submitted that the order of deponent's premature retirement is contradictory to these directions. As regards the integrity of the deponent that has been certified till the last entry and it has been never doubted.

"(1) The cases of Government servants covered by PR 48(j) or PR (i) or Rule 48 of the CCS (Pension) Rules 1972, or Cor 459(h) should be reviewed six months before they attain the age of 50/55 years or complete 30 years service/30 years of qualifying service, whichever occurs earlier.
(see schedule in Part II(i)).

(2) Committees shall be constituted in each Ministry/-Department/Office, as shown in Appendix II, to which all such cases shall be referred for recommendation as to whether the officer concerned should be retired from service in the public interest or whether he should be retained in service.

(3) The criteria to be followed by the Committees in making their recommendations should be as follows:

- (a) Government employees whose integrity is doubtful will be retired.
- (b) Government employees, who are found to be ineffective will also be retired. The basic consideration in identifying such employee should be the fitness/competence

of the employee to continue in the post which he is holding. If he is not found fit to continue in his present post, his fitness/ competence to continue in the lower post, from where he had been previously promoted, should be considered.

(c) While the entire service record of an officer should be considered at the time of review, no employee should ordinarily be retired on grounds of ineffectiveness if his service during the preceding 5 years, or where he has been promoted to a higher post during that years period, his service in the higher post, has been found satisfactory.

(d) No employee should ordinarily be retired on ground of ineffectiveness, if, any event, he could be retiring on superannuation within a period of one year from the date of consideration of his case.

29/3/89
8. That the deponent completed 30 years service on 21-11-86 and as such at that time his case would have been considered for retiring or retaining and once in 1986 he was found to be retained for the later period he could not be retired without being allowed to work for a further period of five years.

9. That the deponent was given selection grade with effect from 19-3-86 and he was promoted to the

post of District Opium Officer with effect from ^{1/1/1955} 5.9.55 and as such in no circumstance the record of the period earlier to this could be taken into account and viewed with this the order of pre-mature retirement is absolutely illegal and unjust.

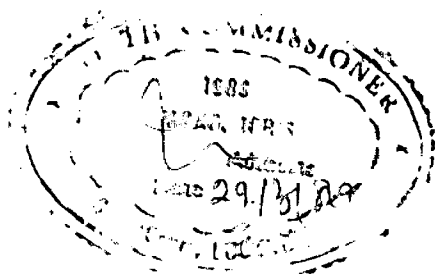
10. That the guide lines also provide that in case a particular employee is not found to be retained on his present post he shall be considered for the lower post from which he was promoted and the same having admittedly ~~been~~ not been done in the case of the deponent the order of pre-mature retirement is bad.

11. That para 5 of the said guide lines further says:-

"5. The rules relating to premature retirement should not be used:-

(a) to retire a government servant on grounds of specific acts of misconduct, as a short-cut to initiating formal disciplinary proceedings; or

(b) for reduction of surplus staff or as a measure effecting general economy without following the rules and instructions relating to retrenchment."



12. That the averments of counter-affidavit ^{to} show that the deponent has been retired with all false and fabricated non-existent act of misconduct

-6-

and the opposite-warti s knowingly that the alleged acts of misconduct are not existent as such why this method has been applied.

13. That clause (7) para 5 reads:-

"Once a decision has been taken by the appropriate authority to retain a government employee beyond the age of 50 years in the case of employees referred to in AR.06 (j)(i), or beyond the age of 55 years in the case of others or beyond the date of completion of 30 years service under AR 06 (i) or 30 years of qualifying service for pension under rule 48 of the C.B.S. (Pension) Rules, he could ordinarily continue in service till he attains the age of retirement."

Here it may be stated that the deponent after completing 30 years service in 1986 having been held to be retained in service and continued in no circumstance subsequently this decision could be taken.

14. That the deponent having been given selection grade and having been promoted in 1986 and having been found fit to be retained and continue in service ~~until~~ 1986 when he completed 30 years qualifying service that ~~had~~ retirement him thereafter^{his} at all not been stated and by averments of counter-affidavit it is pretty clear that the retirement has been resorted to as a matter of victimisation.

-7-

15. That the said directions also provide that in case a person is sought to be immediately retired along with the order of retirement a cheque or cash equivalent to three months pay and allowance has to be given to the person concerned. In the present case two officials came to serve the order as stated in the petition and the order is dated 22-7-88 which has been served on the deponent on 25-7-88 and as such the deponent ought to be given cash or cheque for his three months salary commencing from 26-7-88 and the cheque which was issued to the deponent was for a period of three months commencing from ~~21-7-88~~ 24-7-88 and purposely a defective cheque was issued which could be encashed after about one and half months and in these circumstances the order of premature retirement being not in conformity with the directions for compulsory retirement is absolutely illegal and unjust.

16. That the integrity of the deponent has not been withheld and physically the deponent is not said to be incompetent and now the only question for retiring the deponent remains is ineffectiveness. The deponent states that when a person is physically fit, in a position to discharge his function, and his physical fitness is not in any way disputed how he can be said to be ineffective and unless the integrity is doubtful or the person is ineffective the order of premature retirement cannot be issued.

.....2/-

because as per directions there are only two conditions for premature retirement i.e. integrity being doubtful and the person found to be ineffective. In the deponent's case the integrity has always been certified and physical fitness of the deponent has not been disputed.

17. That in the counter-affidavit in para 6 it has been stated that that all the documents of the accusation made in para 6 have been annexed with the short counter-affidavit. It is stated that the said averment is absolutely incorrect, no document has been annexed with the short counter-affidavit.

18. That in the counter-affidavit it has not been stated that what were the special circumstances and by which order any special committee was constituted for the deponent because in a normal course his case could not be reviewed again after 1986 because he after attaining 30 years of qualifying service would have been reviewed in 1986 and also given selection grade and promotion in 1986 and unless there is anything special in the subsequent period the deponent could not be compulsorily retired.

19. That it is further stated that the Government of India has issued instructions that the members of Scheduled Caste should not be harassed and their

cases should be considered liberally. A true copy of the letter is attached herewith as Annexure-11 to this rejoinder-affidavit.

20. That the delay in getting the payment of cheque has been attributed to the deponent. It is stated that the deponent went before ~~officer~~ *Shri L. S. P. [unclear]* ~~officer~~ for a number of times that a proper cheque may be issued to him and ~~that~~ ^{he} did not hear then the deponent under the forced circumstances wrote to the higher authorities. The deponent states that it was the responsibility of the officer issuing the cheque to see that the cheque is issued which could be encashed and ~~on~~ ^{on} this ~~amount~~ ^{ground} the order of premature retirement is liable to be quashed ~~and~~ ^{and} ~~the cheque should be paid within 3 months subsequent to date of retirement. The deponent was paid no salary after 30.6.88.~~ ^{the cheque was paid on 30.7.88.}

21. That the deponent further submits that the order of compulsory retirement itself being in violation of the rules and the office memorandum issued by the Bharat Sarkat and the Union of India and Narcotics Commissioner and copy having been submitted to them in case they wanted to consider the matter they could treat copy of the application itself to be representation and could recall the order and the order being dated 22-7-88 and having been done nothing till this date the application of the deponent deserves to be allowed.

22. That the objection raised on behalf of the

the opposite-parties that the deponent has not availed of the statutory remedies is incorrect. As a matter of fact there is no statutory remedy.

Dated: Lucknow

Deponent

29.3.1989.

Verification

I, the abovenamed deponent do hereby verify that the contents of paragraphs 16 & 21 of this rejoinder-affidavit are true to my own knowledge and those of paragraphs 22 are believed to be true on the basis of record and that of paragraphs are believed to be true on the basis of legal advice. No part of it is false and nothing material has been concealed; so help me God.

Dated: Lucknow

Deponent

29.3.1989.

I identify the deponent who has signed before me.

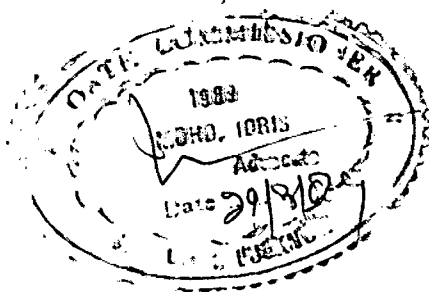
Clerk to
Shri M.A. Siddiqui, Advocate

Solemnly affirmed before me on 29/3/89
at a.m./p.m. by Shri.

the deponent who is identified by

Shri M. A. Siddiqui, Clerk to Shri M.A. Siddiqui, Advocate,
High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the contents of this affidavit which have been read out and explained by me.



10:25 a.m. 29/3/89
Shri M. A. Siddiqui, Clerk to Shri M.A. Siddiqui, Advocate,
High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the contents of this affidavit which have been read out and explained by me.
29/3/89
MOHD. IDRIS
Advocate
Coh. Commission
Lucknow

ASB

Before the Central Administrative Tribunal,
Lucknow Bench, Lucknow.

Original Application No. of 88

Chhotey Lal Ambekar Applicant
Versus

Narcotics Commissioner of India
and others Opposite-parties

Annexure-K1

No.36026/3/85- att.(10T)

Government of India/Charat Chaker
Ministry of Personnel & Training, Administrative
Reforms and Public Grievances and Pensions.
(Department of Personnel & Training/Kormik aur
Prashikshan Vibhag).

New Delhi, the 24th June, 1985.

ORIGINAL ORDER

Subject: Harassment of and discrimination against
Scheduled Castes and Scheduled Tribes
employees in Central Govt. Services/Posts.

Ministries/Department are aware that the Government, as a part of the programme for the general welfare of the persons belonging to the S.C./S.Ts. have provided reservation in Central Government Services accompanied by various other benefits, concessions and relaxations. The main objective for providing reservation for Scheduled Castes and Scheduled Tribes is to give them an equal opportunity in Civil posts and services of the Govt. is not just to give jobs to some persons belonging to those communities and thereby, increase their representation in services but to uplift these people socially and merge them in the mainstream of the nation.

2. It has, however, been pointed out to this Department that the Scheduled Castes and Scheduled Tribes

.....

Bribes Officers, after appointment, are subjected to harassment and discrimination on grounds of their social origin. It has been pointed out that S.O./S.I. officers are sometimes transferred to far off places and also placed in insignificant positions, it has also been stated that these officers are not accepted at their places of postings by the concerned superior officers in some cases.

3. In this connection, it is emphasised that Government servants should desist from any act of discrimination against members of S.O./S.I. communities on grounds of their social origin. It is also requested that senior officers, including the Liaison Officers of the Ministry/Department, should keep close watch to ensure that such incidents do not occur at all. However, if any such incident comes to the notice of the authorities, action should be taken against the erring officials promptly.

4. Ministry of Defence etc. are accordingly requested to bring the contents of this office memorandum to the notice of all concerned.

sd/-

(S.M. Das Gupta)

To Under Secretary to the Government of India.

1. All Ministries/Depts. and other offices (as per Standard List).
2. All attached & subordinate offices of the Ministry of Personnel and Training, Administrative reforms & Public Grievances and Pensions.
3. All Officers and Sessions of Deptt. of Personnel & Training.

Encl. copy

29/8/89

[Handwritten signature]