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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
Circuit Bench at Lucknow

Registration O.A. No.118 of 1988 (L)

Ashwani Kumar                      .....                      Applicant

Versus

Chief Engineer, Northern Zone,  
C.P.W.D., East Block, R.K.Puram,  
New Delhi & Another. ....                      Opposite Parties.

Hon. Justice Kamleshwar Nath, V.C.

This application under Section 19 of the Administrative Tribunals Act XIII of 1985 is for issue of an order to quash an order dated 27.8.87, Annexure-6 where the applicant's representation against refusal to permit him to cross the Efficiency Bar with effect from 1.2.83 was rejected. There is also a prayer for a direction to the opposite parties to allow the applicant to cross the Efficiency Bar with effect from 1.2.83.

2.                      The applicant was a Junior Engineer in the scale of Rs. 425-15-500-EB-15-560...700 and was due to cross Efficiency Bar at the stage of Rs.500/- with effect from 1.2.83. A Departmental Promotion Committee met on 15.6.83 and did not find him fit to cross the Efficiency Bar and remarked that the applicant's case would be reconsidered on receipt of the Special Confidential Report for the year ending 31.12.83 (vide order dated 21.6.83, Annexure-CA.1).

3.                      On receipt of the Character Roll entries later on upto period ending December, 1983, the Departmental Promotion Committee which met on 30.11.84 found the applicant fit to cross the Efficiency Bar with effect from 1.2.84, communicated to the applicant by letter dated 3.1.1985.

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4. On 1.7.85 the applicant made a representation against the bar which had been imposed against him. The representation was forwarded by letter dated 19.8.85 (Annexure-CA.2) to the Chief Engineer. The representation was rejected by the competent authority and the rejection was communicated to the applicant by letter dated 27.8.87 (Annexure-CA.3). This application was filed on 19.9.88. The case taken by the applicant is that his work and conduct has always been found satisfactory and no adverse entry was ever communicated to him. It is further said that by order dated 5.1.83, the applicant was confirmed on the post of Junior Engineer with effect from 1.4.81 and therefore he should also have been allowed to cross the Efficiency Bar with effect from 1.2.83. It is lastly said that the order dated 27.8.87, Annexure-6 (= Annexure-CA.3) by which the applicant's representation was rejected, is a non speaking order.

5. In the Counter Affidavit, it is mentioned that the case for crossing the Efficiency Bar was considered in accordance with the decisions of the Govt. of India set out under Fundamental Rule 25 and that the Departmental Promotion Committee had arrived at a bonafide decision that the applicant was not fit to cross the Efficiency Bar with effect from 1.2.83. It is further said that the order dated 5.1.83 confirming the applicant as Junior Engineer was effective from 1.4.81 and the relevant material for that purpose related to the period prior to 1.4.81. During the subsequent period, the applicant's performance was only average and therefore on a consideration of

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the service record, the Departmental Promotion Committee was justified in coming to the conclusion that the applicant was not fit to cross the Efficiency Bar with effect from 1.2.83. It is lastly said that the order rejecting the representation is not in exercise of appellate jurisdiction nor by way of punishment and therefore the requirement of a speaking order did not apply.

6. I have been taken through the Affidavits exchanged between the parties as well as the Annexures.

7. At page 121 of Swamy's Compilation of F.R.S.R. Part-I General Rules, 9th Edn., a decision of the Govt. of India in O.M. No.29014/2/75 dated 15.11.75 and another dated 4.9.84 of the Personnel Department is set out which says that the cases of government servants for crossing Efficiency Bar should be considered on the basis of the records of performance upto date available at the time of such consideration. At page 120 of the same publication, the Govt. of India's acceptance of the recommendation No.37 of the Third Central Pay Commission is mentioned where it has been said that there should be a more effective application of Efficiency Bar than had been done earlier and that measures ought to be taken to ensure that crossing the Efficiency Bar is no longer a routine matter and that those who do not pull their weight are denied further increments. It stands to reason, therefore, that when the applicant's case for crossing the Efficiency Bar was considered by the Departmental Promotion Committee on 15.6.83, the applicant's performance till the period ending 1.2.83 had to be scrutinised. The abstract of the applicant's record

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set out at the bottom of Annexure-CA.2 indicates that whereas during the period from 1.4.77 to 31.3.80, the applicant's performance was assessed to be either 'Good' or 'Very Good', the performance during the period from 1.4.80 to 31.12.82 was assessed to be Fair/Average/Just Average. The applicant seems to have rallied later on when the performance for the period from 1.1.83 to 31.3.84 was assessed as 'Very Good'. This material on the face of it indicates that there was a <sup>deterioration</sup> ~~decline~~ in the performance of the applicant during the period from 1.4.80 to 31.12.82. Since the date of crossing the Efficiency Bar fell on 1.2.83, the Departmental Promotion Committee was quite justified in coming to the conclusion that the applicant was not fit to cross the Efficiency Bar. Indeed, when it met again on 30.11.84 and had the record for the period ending December, 1983 before it, it allowed the applicant to cross the Efficiency Bar. The case of the applicant, therefore, that for reason of his having been confirmed with effect from 1.4.81 by an order dated 5.1.83, he should also have been allowed to cross the Efficiency Bar, is not valid.

8. It is true that no adverse entry was communicated to the applicant for the period in question; indeed, there was nothing adverse to be communicated. But it is not enough, for the purposes of crossing the Efficiency Bar, that the performance of an employee is found to be Fair/Average/Just Average, which the applicant has described as 'satisfactory'. There is a clear <sup>distinction</sup> ~~difference~~ between earning the routine annual increments in a scale of pay, and the crossing of Efficiency Bar at a specified stage in

- 5 -

the scale. The performance which is satisfactory is good enough to justify grant of annual increment, but is not enough in itself to allow the Efficiency Bar to be crossed.

9. The challenge to the order dated 27.8.87, rejecting the representation on the ground that it is a non-speaking order, is misconceived. The order is only a communication of the decision taken by the competent authority and it simply says that the matter had been examined by the competent authority. If the applicant was in any doubt about the application of mind of the competent authority, he might have required the record to be produced. What is more important is that the order is not by way of punishment as contemplated by the Central Civil Services (CC&A) Rules, 1965. Further, there is material on the record referred to above which could justify a bonafide assessment by the Departmental Promotion Committee that the applicant was not fit to cross the Efficiency Bar on the due date. On a cumulative effect of all these features of the case, it is not possible to hold that the impugned order suffers from any illegality on the ground of not <sup>stating</sup> out the reasons therefor.

10. These are all the points in this case and therefore the case must fail.

11. The application is dismissed. Parties shall bear their costs.

  
Vice Chairman

Dated the 1st September, 1989.

RKM

ANNEXURE -A

CAT

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

CAUSE TITLE Writ Petition of 19 89

NAME OF THE PARTIES \_\_\_\_\_

Shri. ... Applicant

Versus

Shri. ... Respondent

Part A, B & C

Sl.No.	Description of documents	PAGE
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S.C.C. Singh

S.M. Efficiency Ben

Filed today  
19/5

# CENTRAL ADMINISTRATIVE TRIBUNAL

Chief **ADDITIONAL BENCH,**

23-A, Thornhill Road, Allahabad-211001

Gandhi Bhawan, Allahabad

Registration No. 110 of 198 O (L)

APPLICANT (s) Ashwani Kumar

RESPONDENT(s) Chief Engineer, N. Zone C. as.

## Particulars to be examined

## Endorsement as to result of Examination

1. Is the appeal competent?
2. (a) Is the application in the prescribed form?  
(b) Is the application in paper book form?  
(c) Have six complete sets of the application been filed?
3. (a) Is the appeal in time?  
(b) If not, by how many days it is beyond time?  
(c) Has sufficient case for not making the application in time, been filed?
4. Has the document of authorisation, Vakalat-nama been filed?
5. Is the application accompanied by B. D. /Postal-Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed?
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?  
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?

yes

yes

yes

2 sets filed

yes

—

—

yes

yes (i.p.o. No.

CC 102860 Rs 50/-

4 441405 Rs 2/-

43 to

43 441409 Rs 2/-

dt 23.5.82

} Rs 50/-

yes

yes

yes

(By Advocate)

Order Sheet

O-A. 118/00(L)

①

5.10.88. Hon'ble K. S. Puttaswamy, V.C.  
Hon'ble A. S. Chari, A.M.

On the request of Sri J. B. Singh  
Counsel for applicant the case is adjourned  
for tomorrow (6.10.88) for admission.

2/2  
A.M.

V.C.

②

6-X-00 Hon. K. S. Puttaswamy, V.C.  
Hon. A. S. Chari, A.M.

Applicant by Sri J. B. Singh  
Admit.

Issue notices - One month for C.A.  
& 10 days for R.A.

Call this case for hearing on  
25.11.00.

Sd/-  
V.C.

Sd/-  
A.M.

OR

Notice for Respondents Nos 1 & 2  
received by Sri V. R. Choudhry, Govt. Counsel.  
Fixing 25.11.00 for hearing.

fnish

③

25.11.88

Hon. D. S. Mishra, Am  
Hon. G. S. Sharma, JM

None is present for my party. The case  
is adjourned for hearing on 20.2.1988.

JM

25.11.88

my

Am

④

20-2-89

No sitting, Adjourned to 8-3-89  
for hearing.

Am

26/2



7

4/4/89

Hon. Justice K. Nath, VC.  
Hon. D. S. Misra, Am.

The learned counsel for the applicant  
files rejoinder affidavit. List for hearing  
on 10-5-89.

h  
Am.

Dr  
VC.

OR  
Case is ready for final  
hearing.  
Submitted for hearing

h  
9/5

8

10.5.1989  
mur

Hon. G. S. Sharma, J M  
Hon. K. J. Ramani, Am

On the request of learned counsel to  
the Applicant, the case is adjourned  
to 11.8.1989 for hearing.

h  
JM

10.5.89  
mur

h  
Am

OR  
Case is ready for  
hearing.  
Submitted for hearing

h  
10/5

11.8.89

The applicant or his counsel  
is not present. Shri VK Chaudhry  
appears for respondent. Therefore,  
in from applicant's counsel. List it  
on 1.9.89.

D  
h

OR  
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~~informed~~  
Applicant learned  
counsel already  
informed.  
Case is ready for  
hearing.

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31/9

Registered

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

5/9/89

No. CAT/CB/LKO/

Dated : \_\_\_\_\_

OFFICE - MEMO

118

9(2)

Registration No. O.A. \_\_\_\_\_ of 193 .

Ashwani Kumar

Applicant's

Union of India

Versus

Respondent's

4/9/89

A copy of the Tribunal's Order/Judgement

dated \_\_\_\_\_ in the abovenoted case is forwarded  
for necessary action.

FOR DEPUTY REGISTRAR (I)

Encl : Copy of Order/Judgement dated \_\_\_\_\_

To.

Shri J. B. Singh Adv C/A IBSR.

Shri V. K. Choudhary Adv C/R.

dinesh/

\*\*\*\*\*

9/9

Filed today  
Jish  
19/8  
X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,  
LUCKNOW.

OA 110 of 1988 (C)

Ashwani Kumar

.....

Applicant.

Versus

Chief Engineer, Northern Zone,  
C.P.W.D., East Block,  
R.K. Puram, New Delhi and another

.....

Opp. Parties-  
Respondents.

I N D E X

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Lucknow :

Dated : 23 Aug. 1988.

[ I.B. SINGH ]  
ADVOCATE,

COUNSEL FOR THE APPLICANT.

Copy of O.P.  
filed on 3-11-88

For Sd/- I.B. Singh  
Advocate

noted for  
21-9-88  
K.K. Singh  
23-9-88  
K.K. Singh

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT, 1985

DATE OF FILING - th August 1988

REGISTRATION NO.- . . . .

Signature

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,  
LUCKNOW.

BETWEEN

Ashwani Kumar, aged about 32 years,  
son of Shri Indrajeet Pandit.

..... Applicant

AND

1. Chief Engineer, Northern Zone, C.P.W.D., East  
Block, R.K. Puram, New Delhi.
2. Superintending Engineer, Delhi Central Electrical  
Circle (V), East Block, R.K. Puram, New Delhi.

..... Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant :

- i) Name of the Applicant - Ashwani Kumar
- ii) Father's Name - Shri Indrajeet Pandit

Contd.....2/

Swain

Recd. & filed  
in the  
18/11/88

iii) Designation and Office - Junior Engineer, Electrical  
in which employed Central Electric Sub-  
Division, C.P.W.D.,  
G.S.I. Campus, Sector E,  
Aliganj, Lucknow.

iv) Office address - Central Electric Sub-  
Division, C.P.W.D.,  
G.S.I. Campus, Sector E,  
Aliganj, Lucknow.

v) Address - 70, Nehru Nagar,  
Lucknow.

2. Particulars of the Respondents :

- i) Name and designation - Shri Balbir Singh,  
of the respondent No.1 Chief Engineer.
- ii) Office address - Office of the Chief Engineer,  
Northern Zone, C.P.W.D.  
East Block-I, Level  
III,  
R.K. Puram, New Delhi.
- iii) Address for service of - Office of the Chief Engineer,  
all notices Northern Zone, C.P.W.D.,  
East Block-I, Level III,  
R.K. Puram, New Delhi.
- iv) Name and designation - Shri J.B. Fadia,  
of the respondent No.2 Superintending Engineer.
- v) Office Address - Office of the Superintending  
Engineer, Delhi Central  
Electrical Circle V,  
C.P.W.D., East Block-I,  
Level V, R.K. Puram,  
New Delhi.
- vi) Address for service - Office of the Superintending  
of the notices Engineer, Delhi Central  
Electrical Circle V,  
C.P.W.D., East Block-I,  
Level V, R.K. Puram,  
New Delhi.

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

- i) Order Number : 2/7/85-Estt.
- ii) Date : 27.8.1987, endorsed on  
23.9.1987.
- iii) Passed by : Superintending Engineer,  
Headquarter, Office of the  
Chief Engineer, Northern  
Zone, C.P.W.D., East Block-I,  
Level-III, R.K. Puram,  
New Delhi.

*Swain*

AM

iii) Subject in brief - The applicant was appointed on the post of Junior Engineer (Electrical) in the Department of C.P.W.D. on 28.2.1977 by the Superintending Engineer, Coordination. The applicant was to cross his first Efficiency Bar immediately after the expiry of 5 years of the service but the applicant's Efficiency Bar was crossed after expiry of 6 years of his service. The applicant made representations which were ultimately decided on 27.8.1987 but was communicated through letter dated 23.9.1987.

4. Jurisdiction of the Tribunal :

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

5. Limitations :

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the Case

i) That the applicant qualified the diploma of Electrical Engineering in the year 1976 and immediately after obtaining the diploma, applied for a service in the Central Public Works Department.

ii) That ~~after~~ <sup>of</sup> the appointment <sup>the</sup> petitioner was made on the post of Junior Engineer (Electrical) on the 28.2.1977 by the appointing authority - Superintending Engineer, Coordination, Delhi Central Electrical Circle No.I, New Delhi.

Sawal

the applicant was informed only when he received his salary for the month of April 1985 and then he came to know that the applicant's Efficiency Bar has been ordered to be crossed w.e.f. 1.2.1984. The said order was never communicated to the applicant in writing although it was passed in a most arbitrary and illegal manner.

ix) That immediately after getting information the applicant made a representation to the opposite party No.2 on 11.4.1985 but no action was taken by him in this respect. Subsequently, the applicant again moved a representation on 1.10.1986 to the Chief Engineer, the opposite party No.1, but no action was again taken, as such the applicant moved another application to the Chief Engineer, the opposite party No.1 on 30.5.1987.

x) That it appears that the said representation was forwarded by the Superintending Engineer, Delhi Central Electrical Circle (V) on 3.7.1987 and ultimately the final decision was taken only on 27.8.1987.

xi) That no reason, whatsoever may be, has been made in the said order dated 27.8.1987 and by an unspeaking order, in a most arbitrary manner, the petitioner's Efficiency Bar has been ordered to be crossed w.e.f. 1.2.1984.

xii) That the petitioner thereafter personally persuaded the opposite parties and pressed all

Contd.....6/

*Sawal*

In verification :

I, Ashwani Kumar, son of Sri Indrajeet Pandit, aged about 32 years working as Junior Engineer (Electrical), Central Electrical Sub-Division, C.P.W.D., G.S.I. Campus, Sector E, Aliganj, Lucknow, do hereby verify that the contents from 1 to 13 above are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place :

Dated :

Ashwani  
Signature of the Applicant.

To,

The Registrar,  
Central Administrative Tribunal,  
Lucknow Bench,  
Lucknow.

Sudh



# CENTRAL PUBLIC WORKS DEPARTMENT

**Dated New Delhi, the**

21 2/27

1. An initial pay of Rs. 425/- in the scale of Rs. 425-15-500-EB-15-560-20-700 plus usual allowances as admissible. No advance increments will be admissible to the Graduate.
2. The appointment will take effect from the date he actually joins duty.
3. No travelling allowance will be paid for joining this appointment.
4. No gratuity or pension will be admissible for officiating service, but he may be granted leave under the Central Service Revised Leave Rules 1972 as amended from time to time.
5. The appointment carries with it the liability to serve in any part of India or outside where the C. P. W. D. has an Organisation or any other Govt. Department where he is required to serve.
6. His/Her services are liable to be terminated by the Govt. at any time without assigning any reason but ordinarily one month's notice will be given. If, however, he wishes to resign he will have to submit his resignation and wait for its acceptance by the Govt. In case he goes away without its acceptance, he will be treated as having been dismissed from service with disqualification for future employment under the Central Government.
7. He is required to produce a certificate of good character from a 1st Class Magistrate or from two Gazetted officers who are known to him for the last three years but not related to him, before he is allowed to join the appointment.
8. Original certificate and testimonials in support of his qualification, age, cast, should be produced before joining duty.
9. If he has been employed anywhere previously, he will have to submit a discharge certificate from his last employer.
10. In case it is proved after the acceptance of offer and appointment that he is a dismissed employee of the Union or State Govt. disqualifying him for future employment under Govt. or that he has obtained employment by deceit, he will be dismissed from service without any remuneration.
11. He is an Indian National.
12. He will not keep two wives at any time throughout his service.
13. His services will be terminated if he is found to be an Alcoholic.
14. He will have to take an Oath of allegiance to the Constitution of India at the time of taking up of the appointment.
15. His appointment will be provisional subject to his character and antecedents being verified by the Police authorities and he being declared medically fit.
16. On his assumption of duty, he must apply to the Estate Office for Govt. accommodation in the prescribed form (wherever it exists) within a week in order to be eligible to draw House Rent Allowance as admissible under the Rules (in the event of such accommodation being not available) failing which no House Rent Allowance will be paid to him.
17. He will have to fill in a declaration of temporary service on joining the Department.
18. He will be governed by the Subordinate Services Disciplinary/Control and Appeal Rules etc. as framed by the Govt. of India from time to time.
19. He will have to give details of his moveable and immovable properties within 4 weeks from the date of his appointment. Similar information will have to be furnished in respect of his family members also.
20. He will not leave the Department on an offer being received from any other Department where he might have applied before being nominated here. Also he will not apply direct for any post outside C.P.W.D.
21. He will have to give his Home Town declaration within 7 days.
22. Schedule Caste/Scheduled Tribe candidate will have to furnish a certificate in the prescribed form in support of candidates' claim to belong to a Sch. Caste/Tribe community.
23. His appointment will be governed by the relevant rules and orders of Govt. issued from time to time.
24. He will be on probation for a period of two years. The period of probation may be extended at the discretion of the appointing authority. During the period of probation he will be required to do such duty as Govt. may prescribe. Failure to complete the period of probation to the satisfaction of the competent authority will result in his appointment being terminated.

thority will render him liable to discharge from service.

the prescribed form duly attested by stipendiary first class  
executive Magistrate or District Magistrate or sub-divisional Magistrate  
before signing the same.

advocate

Su-a

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH, LUCKNOW.

Ashwani Kumar ..... Applicant.

Versus

Chief Engineer, Northern Zone,  
C.P.W.D., New Delhi & another.

..... Respondents.

ANNEXURE NO. 2

CENTRAL PUBLIC WORKS DEPARTMENT

No. 8(21.EI)82/DCECV/195

Dated, New Delhi the  
5-1-83

MEMORANDUM

In accordance with orders issued by the Director General of Works, C.P.W.D., New Delhi vide No.12/4/81-ECIV/ dated 14.4.82 and 12/4/83 EC-VI dated 11/13/8/82 and on the approval accorded by the Departmental promotion committee held on 18.12.82, the following Junior Engineers (Elect.) whose particulars are given below are hereby confirmed in the grade of Junior Engineer (Elect) in the Scale of Rs.425-15-500-EB-560-20-700 with effect from 1.4.81.

S.No.	Name	Date of birth	Date of appointment as J.E.	S.No.	Date of confir- mation	Office to which attached.
12.	Ashwani Kumar	15.12.56	28.2.77	1379	1.4.81	Luck- now.

The under signed is satisfied that :-

1. There is no disciplinary case pending against the Junior Engineers (Elect.)
2. They have been medically examined and found fit by the competent authority.
3. Character and antecedents have been got verified and found satisfactory.

Sd/-

(H.K. Munjal)  
Superintending Engineer,  
Delhi Central Elect. Circle V,  
C.P.W.D., R.K. Puram, New Delhi.

Copy forwarded for information and necessary action to :-

1. The Director General of Works, C.P.W.D., New Delhi for favour of information with reference to his No.12/4/81-ECVI dated 14.4.82 and 11/13-8-82,

Contd.....2/

TRUE COPY  
J. B. Singh  
B. B. Singh

Singh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,  
LUCKNOW.

Ashwani Kumar

~~Applicant~~....

Versus

Chief Engineer, Northern Zone,  
C.P.W.D., New Delhi & another.

.....

Respondents.

ANNEXURE NO. 3

No. JE(E)/P/85/

Dated 11.4.85

To,

The Superintending Engineer,  
Delhi Central Elec. Circle-V,  
CPWD, R.K. Puram, New Delhi-66

(THROUGH PROPER CHANNEL.)

Sub:- Petition against permitting to cross efficiency  
bar at later date than the actual due date.

-----

Sir,

Kindly permit to bring to your kind notice  
an omission which has been committed in your office  
while permitting me to cross efficiency bar w.e.f.  
1.2.84 whereas the same was due to be crossed w.e.f.  
1.2.83. In this connection, I want to add here  
that during my entire eight years of service in  
this department, I had performed my duty to the  
utmost satisfaction to my officers and have also  
received altogether praise and encouragement from  
my superiors and as such it is not understood as  
to why I was not allowed to cross my Efficiency  
Bar with due date i.e. w.e.f. 1.2.83.

I therefore, request you kindly take a personal  
interest and after re-examining my case kindly  
allow me to cross efficiency bar w.e.f. 1.2.83.

Thanking you,

Yours faithfully,

Sd/-

(ASHWANI KUMAR)  
J.E.(E)

Central Elec.Sub-Division No.I,  
CPWD, GSI Campus, Sector-E,  
Aliganj, Lucknow-226 020.

*BSingh*  
*G. D. Singh*  
Advocate

*Singh*

(13)

24

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH, LUCKNOW.

Ashwani Kumar

.....

Applicant.

Versus

Chief Engineer, Northern Zone,  
C.P.W.D., New Delhi & another.

.....

Respondents.

ANNEXURE NO. 4

No. JE(E)/P/85/

Dated 1.10.86

To,

The Chief Engineer (NZ),  
CPWD, R.K. Puram,  
New Delhi-66

THROUGH PROPER CHANNEL

Sub:- Petition against permitting to cross efficiency  
bar at later date than the actual due date.

-.-.-.-.

Sir,

Kindly permit to bring to your kind notice an omission which has been committed in your office while permitting me to cross efficiency bar w.e.f. 1.2.84 whereas the same was due to be crossed w.e.f. 1.2.83. In this connection, I want to add here that during my entire eight years of service in this department, I had performed my duty to the utmost satisfaction to my officers and have also received altogether praise and encouragement from my superiors and as such it is not understood as to why I was not allowed to cross my Efficiency Bar with due date i.e. w.e.f. 1.2.83.

I therefore, request you kindly to kindly take a personal interest and after re-examining my case kindly allow me to cross efficiency bar w.e.f. 1.2.83.

Thanking you,

Yours faithfully,

Sd/-

(ASHWANI KUMAR)

J.E.(E)

Central Elec.Sub-Division No.I,  
CPWD, GSI Campus, Sector-E,  
Aliganj, Lucknow-226 020

1857-1861  
TRUE COPY

G. B. Singh  
Advocate

Singh

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH, LUCKNOW.

Ashwani Kumar ..... Applicant.

Versus

Chief Engineer, Northern Zone,  
C.P.W.D., New Delhi & another.

.....

Respondents.

ANNEXURE NO. 5

No. JE(E)/P/87/1

Dated 30.5.87

To,

The Chief Engineer (NZ),  
CPWD, R.K. Puram,  
New Delhi-66  
(Through Proper Channel)

Sub:- Petition against permitting to cross efficiency  
bar at later date than the actual due date.

Sir,

Kindly refer my representation NO:JE(E)/P/85/3  
dated 1.7.85. In which I had requested for re-  
examination/re-consideration of my efficiency bar  
case which was due to be cross w.e.f. 1/2/83, which  
infact had been allowed by SEDCEC V w.e.f. 1/2/84.  
In this connection I may again to request your  
goodself for reconsideration of my case to allow  
me the Efficiency Bar from 1/2/83 instead of 1/2/84,  
considering my 10 year service in the department  
to the utmost satisfaction of my superiors.

Early action in this matter is solicited  
please.

Yours faithfully,

Sd/-

(ASHWANI KUMAR)  
JE(E)

Lucknow Electrical Sub Div. No.I  
C.P.W.D., GSI Campus,  
Aliganj Lucknow.

1/30/87  
TRUE COPY  
G. D. Singh  
Advocate

Saved

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH, LUCKNOW.

Ashwani Kumar ..... Applicant.

Versus

Chief Engineer, Northern Zone,  
C.P.W.D., New Delhi & another.  
..... Respondents.

ANNEXURE NO. 6

Office of the Chief Engineer (NZ)  
CPWD, East Block I, Level III  
R.K. Puram, New Delhi-110 066.

No.2/7/85-Estt. Dated 27 Aug. 1987.

To,  
The Suptdg. Engineer,  
Delhi Central Elct. Circle V,  
CPWD, New Delhi.

Sub:- Regarding E.B. case of Shri Ashwani Kumar, JE(E)  
-----

With reference to your letter No.15(107-JE)/  
DCECV/6556, dated 3.7.87 forwarding the representa-  
tion of Shri Ashwani Kumar, Junior Engineer (E)  
against permitting him to cross the E.B. at a later  
date than the due date. The matter has been examined  
by the competent authority, but it is regretted  
that his request cannot be acceded to.

Shri Ashwani Kumar, Junior Engineer(E) may  
be informed accordingly.

Sd/-  
(P.P. Popli)  
Superintending Engineer(HQ)

CENTRAL PUBLIC WORKS DEPARTMENT

No.8( )/87-LCED/3314-15 Dated. 23.9.87

Copy to :-

1. Sri Ashwani Kumar, JE(E) for information  
and necessary action.
2. Personal File.

Sd/-  
Executive Engineer (E)  
Lucknow Central Elect. Division  
CPWD, GSI Campus, Sector-E  
Alignaj, Lucknow-226 020

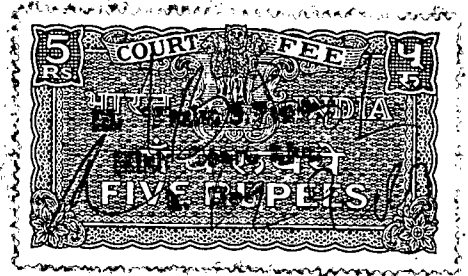
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J. D. Singh  
Advocate

Sud

# समस्त माननीय उच्च न्यायालय, खण्ड पोस्ट, लखनऊ।

ब अदालत श्रीमान *In the Central Administrative Tribunal, Lucknow*  
Bench Lucknow महोदय

## वकालतनामा



वादी [अपीलांट]

प्रतिवादी [रेस्पॉण्डेंट]

... .. *Ashwani Kumar* ... .. (वादी मुद्दाई)

बनाम

... .. *Chief Engineer And Others* ... .. प्रतिवाद मुद्दाअलेह

न० मुकद्दमा ... सन् १९८८ पेशी की तारीख ... १९८८ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री आई० बी० सिंह, एडवोकेट, १-केसरबाग संगीत विद्यालय के सामने लखनऊ, महोदय को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीहसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्त-खती) रसीद से लेवें या पंच नियुक्त करें, वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर समयरा हिसो जाने पैरोकार का भेजता रहूंगा और मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैतला हो जाता है तो उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

*accepted*  
*Bonyadi*

हस्ताक्षर ... .. *Singh* ... ..

साक्षी (गवाह) ...

*Accepted*  
*K. K. Singh*  
*Advocate*

साक्षी [गवाह] ...

दिनांक ... .. महोदय ... .. सन् १९८८ ...

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
XX CIRCUIT BENCH. LUCKNOW

SA 110/1000,

Ashwani Kumar

... Applicant

Versus

Chief Engineer, Northern Zone,  
CPWD New Delhi and another .. Opp. parties.

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES

I, P.K. Garg, aged about 31 years, son of  
late Shri L.S. Garg, at present posted as  
Executive Engineer, (Electrical), Lucknow  
Central Electric Division, C.P.W.D., Lucknow  
do hereby solemnly affirm and state as under:

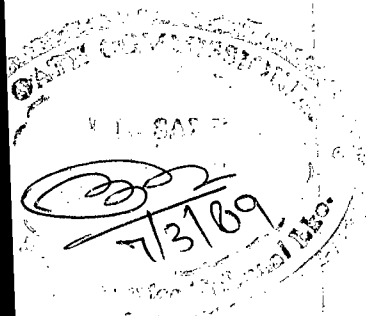
1. That the deponent has been authorised  
to file this counter affidavit on behalf of the  
Opposite parties and has read and understood the  
contents of application as well as the facts  
given herein under in reply thereof. The deponent  
is also well conversant with the facts of the  
case.
2. That before giving parawise reply to the  
application it would be pertinent to give brief  
history of the case which is as follows:-

(a) That the applicant is a Junior Engineer(E)



was to cross his efficiency bar with effect from 1.2.1983 but the applicant's contention that he was due to cross his first efficiency bar immediately on expiry of 5 years of service, is not correct. The applicant was appointed on the post of Junior Engineer on 28.2.1977 in the pay scale of Rs.425-15-500-EB-15-560-20-700. Thus the applicant was due to cross his first Efficiency Bar only on ~~28.2.1977~~ expiry of 6 years of service ie. with effect from 1.2.1983 D.P.C. which took place on 15.6.1983, did not find the applicant suitable to cross the efficiency bar from the due date. Such decision of the DPC was duly conveyed to the deponent vide Opposite Party No.2 letter No.15(107-JEO/83/DCECV/1393 dated 21.6.83. A copy of the said communication is being filed herewith as Annexure No. A CA-1 to this counter affidavit.

(b) The D.P.C. again reviewed the case of efficiency bar of the applicant on 30.12.1984 and found him fit to cross the efficiency bar ~~on~~ with effect from 1.2.1984 only. This decision was also communicated to the deponent vide Opposite party letter No.15(107)/JE/EI/DCECV/43 dated 3.1.1985. ~~A copy of the above communication is being filed as Annexure CA-2 to this counter affidavit.~~



Such decision was taken as per Government of India order as contained in FR-25 para 1 to 4 and Rule 11 of CCS(CCA) Rules 1965. As per this rule, stoppage of increment at Efficiency Bar on the ground of official's unfitness, shall not amount to penalty within the meaning of Rule 11 of CCS(CCA). Against a representation made by the said applicant, a detailed report was submitted to the Opposite Party No.1 vide letter No. 15(107)JE/DCECV/10025 dated 19.8.1985. A copy of the said letter is being annexed as Annexure No.CA-3 to this counter affidavit.

(c) The Opposite party no.1 after ~~ex~~ having examined the whole case, approved the action of the DFC vide his letter No.2/7/83-Estt. dated 27.8.1987. A copy of the said letter is being annexed as Annexure CA-3 to this counter affidavit.

3. That the contents of para 1 to 5 of the application are formal and need no reply in view of the brief facts as stated above in the preceding paragraph.

4. That the contents of para 6(i) to 6(vi) of the application need no comments.

7/3/89

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5. That the contents of para 6(vii) of the application are incorrect as stated and in reply it is submitted that the efficiency bar of the applicant was not allowed illegally. DPC which was an authorised and competent body, as per procedures laid down by Government of India, had not found the said Junior Engineer suitable to cross efficiency bar with effect from 1.2.1983. The CR of the applicant for the period were not found satisfactory by the DPC to allow him to cross efficiency bar. However, on the review after one year, the DPC found him suitable to ~~xx~~ cross efficiency bar. However, on the review after one year, the DPC found him suitable to cross the efficiency bar with effect from 1.2.84 only.

6. That in reply to the contents of para 6(viii) of the application it is submitted that the DEEC's decision, allowing the applicant to cross Efficiency Bar with effect from 1.2.1984, was duly conveyed to his controlling officer vide letter No.15(107)/JE/EI/DCECV/43 dated 3.1.1985.

7. That the contents of para 6(ix) of the application need no comments.

8. That in reply to the contents of para 6(x) of the application it is submitted that the applicant admits that his representation was duly considered

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7/3/89  
[Signature]

by the Competent authority and a final decision was taken on 27.8.1987. Thus his clamour that no action was taken on his representation, as alleged under para 6(viii) and (ix) of the petition are not correct.

9. That in reply to the contents of para 6(xi) of the application it is submitted that the DPC had arrived at the decision for not allowing the applicant to cross efficiency bar with effect from 1.2.1983 on the basis of records of his performance as derived from the confidential reports. There was no malafide intention to harm the interest of the applicant. The DPC took dispassionate views of his confidential reports in its first review and had not found him suitable. However, there was no obligation to communicate entries in the confidential reports to the concerned official. It is pertinent to point out that Hon'ble Tribunal of Calcutta Bench in the case Registration No.O.A/58/1986 had decided on 25.6.1986 that in the absence of existence of malafide in the minds of the DPC, the Tribunal had no power to interfere with their findings. Rule 11 of CCS(CCA) ~~Rules~~ 1965 clearly states that competent authority can withhold increment if the performance of the Government servant has not been found satisfactory and such action is not

treated as a penalty.

10. That in reply to the contents of para 6(xii) of the application it is submitted that the applicant had submitted only three representations as below:-

- (a) Letter dated 11.4.85 addressed to the Superintending Engineer, DCECV, CPWD, New Delhi.
- (b) Letter dated 1.7.85 addressed to Chief Engineer (NZ).
- (c) Letter dated 30.5.87 addressed to Chief Engineer (NZ).

It is further stated that nothing on the record, if the applicant had persuaded the Department after the above representations as alleged by the applicant in this paragraph.

11. That in reply to the contents of para 6(xiii) of the application it is submitted that the decision of the DPC is final and Tribunal should have no jurisdiction to interfere in it as discussed in para 9 above.

12. That the grounds taken by the applicant under this paragraph are baseless and preposterous allegations as such these are not tenable in the eyes of Law.

13. That the contents of para 8 of the application are wrong and hence denied and in reply it is submitted that the applicant has not indicated the rules under which decision of the DFC was arbitrary and illegal as alleged by the applicant in this paragraph.

14. That the contents of paras 9 to 13 need no reply in view of the facts and circumstances as discussed in the preceeding paragraphs.

15. That in view of the facts and circumstances stated above, the application filed by the applicant is laible to be dismissed with costs to the Opp. parties.

  
Deponent.

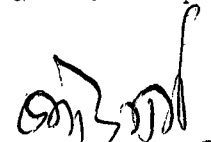
Lucknow,

Dated: 7-3-89

Verification.

I, the above named deponent do hereby verify that the contents of paragraphs 1 <sup>to</sup> 2 are true to my personal knowledge, and those of paragraphs 2 <sup>to</sup> 11 are believed to be true on the basis of perusal of office records as well as information gathered and those of paras 12 <sup>to</sup> 15 are believed to be true on the basis of legal advice.

Nothing material fact has been concealed and no part of it is false.

  
Deponent.

REGD/CONFIDENTIAL

GENERAL PUBLIC WORKS DEPARTMENT

No.15(107-JE)83/DCECV/1393

Dated: 21-6-83

To

Shri Premnath  
Executive Engineer(E)  
Lucknow Central Elect.Division,  
CPWD, Lucknow.

Sub: Crossing of Efficiency Bar of Shri Ashwani Kumar  
Junior Engineer(E).

Ref: Your letter No.15(30)83/LCED/353 dt.3.2.83.

....

The above noted case of Shri Ashwani Kumar,  
Junior Engineer(E) has been considered by the DFC on  
15.6.83 but has not been found fit to cross the efficiency  
bar with effect from 1.2.83. As decided by the DFC the  
case will be reviewed again after receipt of Special  
Confidential Report ending 31.12.83. The case may please  
be sent to this office alongwith the Special Confidential  
Report ending 31.12.83 in 1/84.

The Service Book of Shri Ashwani Kumar Junior  
Engineer(E) alongwith Leave Account is sent herewith for  
further necessary action.

Sd/- for Superintending Engineer,  
Delhi Central Elect.Circle  
CPWD, New Delhi.

Encl: S/Book & Leave Account.

/True copy/

7/3/89

of the DFC and was replied that being decision of DFC this office is not to take any action ~~on~~ on his representation.

Now Shri Ashwani Kumar Junior Engineer(E) has submitted his same representation to Chief Engineer(NZ) . The same is hereby sent for consideration with the recommendation to up-hold the decision of the DFC.

Encl: As stated.

1. An application of Shri Ashwani Kumar
2. One abstract of CRs
3. File No.15(107) JE/DCEC-V

Sd/- Superintending Engineer,  
Delhi Central Elect. Circle-V  
CPWD, P.K. Puram, New Delhi.

2 3 3 . . . . .

A B S T R A A C T .

- |                        |                 |
|------------------------|-----------------|
| 1. 1.4.77 to 31.3.78   | .. Very Good    |
| 2. 1.4.78 to 31.3.79   | .. Good         |
| 3. 1.4.79 to 31.3.80   | .. Very Good    |
| 4. 1.4.80 to 31.3.81   | .. Fair         |
| 5. 1.4.81 to 30.6.81   | .. Average      |
| 6. 1.7.81 to 31.12.81  | .. Average      |
| 7. 1.4.82 to 31.12.82  | .. Just Average |
| 8. 1.1.83 to 16.5.83   | .. Very Good    |
| 9. 1.4.83 to 31.1e.83  | .. Very Good    |
| 10. 17.5.83 to 31.3.84 | .. Very Good    |

/True Copy/

*omgnd*

*BB*  
*7/3/09*



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ANNEXURE - NO. CA-3

OFFICE OF THE CHIEF ENGINEER (NZ)  
CPWD East Block I Level III  
R.K. Furam, New Delhi-110066

No.2/7/85-Estt.

Dated: 27 Aug 1987.

To

The Suptdg. Engineer,  
Delhi Central Elec. Circle V,  
CPWD, New Delhi.

Sub: Regarding E.B. Case of Shri Ashwani Kumar, JE(E)  
.....

With reference to your letter No.15(107-JE)/DCECV/6556 dated 3.7.87 forwarding the representation of Shri Ashwani-Kumar, Junior Engineer(E) against permitting him to cross the E.B. at a later date than the due date. The matter has been examined by the competent authority, but it is regretted that his request cannot be acceded to.

Shri Ashwani Kumar, Junior Engineer(E) may be informed accordingly.

Sd/- P.P. Popli  
Superintending Engineer(HQ)

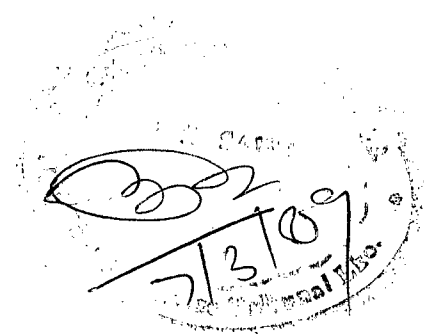
Copy to:

Executive Engineer(E) Lucknow Central Exlect. Divn CPWD, Lucknow - with reference to your letter No. PE/87-LCEO/2226 dated 20.6.87. Shri Ashwani Kumar, JE(E) may please be informed accordingly.

Sd/- ~~for x Supdtg. Engineer~~  
illegible.

/True copy/

*[Handwritten signature]*



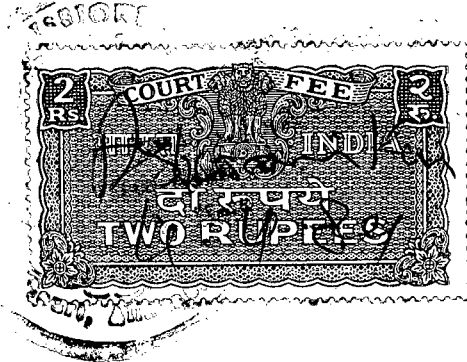
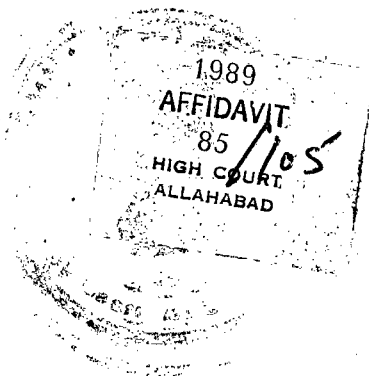
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Q/W

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW

+++++

==



Ashwini Kumar

.... Applicant

Versus

Chief Engineer , Northern Zone,  
C.P.W.D. & Others

.... Opp. Parties.

-----  
REJOINDER AFFIDAVIT TO THE COUNTER AFFIDAVIT  
FILED ON BEHALF OF THE OPPOSITE PARTIES.

=====

I, Ashwini Kumar aged about 32 years son of  
Sri Indrajeet Pandit, Junior Engineer (Electrical),  
Central Electrical Sub-Division, C.P.W.D. GSI Campus,  
Sector E, Aliganj, Lucknow, R/o. 70- Nehru Nagar, Lucknow,  
do hereby solemnly affirm and state as under-

1. That the deponent is the petitioner-applicant  
and has read the Counter affidavit after being fully  
conversant with the facts , giving parawise reply to the  
same as under -
2. That the contents of paragraph 1 of the Counter  
Affidavit need no reply.

Swat

3. That in reply to the contents of paragraph 2A, of the Counter Affidavit, it is stated that the contention of the Opposite Parties are incorrect and wrong. The deponent was to cross his Efficiency Bar at the end of 5 years and in the beginning of sixth year of his service i.e. w.e.f. 1.2.1983. It is stated that the deponent was never informed about the decision of any so-called Departmental Promotion Committee dated 15.6.1983. However, it is stated that the decision was wrongly taken by the Departmental Promotion Committee. There was no adverse entry in the Character Roll of the Deponent and every officer of the deponent was satisfied with the work and conduct of the deponent and till date no adverse entry has been communicated to the deponent. It is stated that in the department of the deponent, every Junior Engineer against whom no adverse entry is recorded, has been allowed to cross the Efficiency Bar w.e.f. the date of expiry of 5 years of his service. The decision mention in Annexure C-1 was wrongly taken and the same is liable to be quashed as the same decision was baseless and was illegal.

4. That in reply to the contents of paragraph 2B, of the Counter Affidavit, it is stated that the deponent was entitled to be allowed to cross the Efficiency Bar w.e.f. 1.2.1983 and the D.P.C. wrongly and illegally did not allow to cross the Efficiency Bar of the deponent from that date. Moreover, no decision of the D.P.C. was communicated to the deponent, although it was incumbent upon the department to convey the same, as it was affecting the rights of the deponent. There was nothing material before the Departmental Promotion Committee showing that the deponent was inefficient or unfit and the report itself submitted

4.4.89

Swat

by the Superintending Engineer vide Annexure CA-2 which shows that there was nothing material which could enable the D.P.C. to take such a decision stopping the crossing of Efficiency Bar of the deponent. The abstract of the character roll entries will show that the deponent was awarded 'Very good' and 'good' entries. There are entries showing 'Average' to the deponent for the period of two months and 5 months. Moreover, on the basis of the same entries, the deponent was confirmed on 5.1.1983 w.e.f. 1.4.1981 and two contrary decisions were taken in respect of two matters affecting the right of the deponent.

5. That in reply to the contents of paragraph 2(c) of the Counter Affidavit, it is stated that the decision of the D.P.C. is illegal and incorrect by which the deponent was allowed to cross the Efficiency Bar w.e.f. 1.2.1984.

6. That the contents of paragraph 3 & 4 of the Counter Affidavit need no reply.

7. That in reply to the contents of paragraph 5 of the Counter Affidavit, it is stated that the Opp. Parties have themselves admitted that the deponent was illegally not allowed to cross the Efficiency Bar. It is submitted that the decision of the D.P.C. was never communicated to the deponent. The decision of the D.P.C. was illegal, baseless and incorrect by which the deponent was stopped to cross the Efficiency Bar for complete one year.

8. That in reply to the contents of para 6 of the Counter Affidavit, it is submitted that the

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decision of the D.P.C. is illegal and is liable to be quashed.

9. That the contents of paragraph 7 of the Counter Affidavit need no reply.

10. That in reply to the contents of paragraph ~~10~~ 8 of the Counter Affidavit, it is submitted that since the earlier decision of the D.P.C. was not communicated to the deponent, the deponent made a representation praying for crossing his Efficiency Bar w.e.f. 1.2.1983 but it was wrongly decided to cross the Efficiency Bar of the deponent after one year from the date, when it became due.

11. That in reply to the contents of paragraph 9 of the Counter Affidavit, it is stated that the deponent was confirmed on the basis of the same record w.e.f. 1.4.1981 on 5.1.1983 and it is illegal, incorrect and ~~wr~~ wrong to say that the deponent was not found suitable for crossing the Efficiency Bar w.e.f. 1.2.1983. It is denied that there was no obligation to ~~x~~ communicate the ~~x~~ entries in the Confidential report to the deponent. It is further submitted that the deponent was never informed about the stoppage of the crossing of the Efficiency Bar as such there was no question of allegation of malafide etc. and the case law is not applicable in this case. The decision of the D.P.C. stopping the Efficiency Bar is illegal and liable to be set aside. The decision of the D.P.C. was punitive in nature and it was the duty of the concerned official to communicate the same to the deponent.

Swat

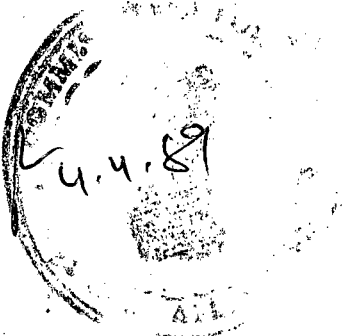
12. That in reply to the contents of paragraph 10 of the Counter Affidavit, the contents of paragraph 6 (xii) of the application are reiterated. In view of the facts already stated above, the deponent was continuously approaching by means of representation to the concerned authority.

13. That the contents of paragraph 11 of the Counter Affidavit are denied. It is stated that this Hon'ble Tribunal has full jurisdiction to interfere into the matter.

14. That the contents of paragraph 12 of the Counter Affidavit are denied. The decision of the D.P.C. of stopping the one year in crossing the E.B. is liable to be set aside.

15. That in reply to the contents of paragraph 13 of the Counter Affidavit, it is stated that every action of the employer taken arbitrarily, illegally and baselessly can be challenged in this Hon'ble Tribunal and the same are liable to be quashed.

16. That the contents of paragraph 14 of the Counter Affidavit are denied and in reply the contents of



12. That in reply to the contents of paragraph 10 of the Counter Affidavit, the contents of paragraph 6 (xii) of the application are reiterated. In view of the facts already stated above, the deponent was continuously approaching by means of representation to the concerned authority.

13. That the contents of paragraph 11 of the Counter Affidavit are denied. It is stated that this Hon'ble Tribunal has full jurisdiction to interfere into the matter.

14. That the contents of paragraph 12 of the Counter Affidavit are denied. The decision of the D.P.C. of stopping the one year in crossing the E.B. is liable to be set aside.

15. That in reply to the contents of paragraph 13 of the Counter Affidavit, it is stated that every action of the employer taken arbitrarily, illegally and baselessly can be challenged in this Hon'ble Tribunal and the same are liable to be quashed.

16. That the contents of paragraph 14 of the Counter Affidavit are denied and in reply the contents of paragraphs 9 to 13 of the application are reiterated.

17. That the contents of paragraph 15 of the Counter Affidavit are denied. It is stated that the decision of the D.P.C. is liable to be set aside. The deponent is entitled to be allowed to cross the E.B. w. e.f. 1.2.1983.

4.4.89

wood

18. That the copies supplied to the deponent of the Counter Affidavit does not disclosed the proper verification of the affidavit. As such the Counter Affidavit is not maintainable.

Lucknow-Dated,

March 30, 1989

4.4.89

Sawal

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paragraphs 1 to 18 of this Rejoinder Affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed by me. So help me God.

Lucknow-Dated,

March 30, 1989

4.4.89

Sawal

Deponent

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

Lucknow-Dated,

March 30, 1989

4.4.89

Advocate

Solemnly affirmed before me on 30.3.1989 at

9:10 am/pm by Sri Ashwini Kumar, the deponent, who is identified by Sri I. Ahmad c/o Sri I. B. Singh Advocate, High Court, Lucknow Bench, Lucknow.

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

Rehmat

Advocate, Lucknow Bench

4.4.89

By...



A/46

# VAKALATNAMA

C A T  
In the Hon'ble High Court of Judicature at Allahabad

At

Lucknow Bench

Ashwani Kumar ..... Plff./Applt./Petitioner/Complainant,

Verses

Chief Engineer Sanjay ..... Defent./Respt./Accused  
KNOW ALL to whom these presents shall come that I/We CE & SE CPWD  
the above-named Reshondant .....do hereby appoint

Shri V. K. CHAUDHARI, Advocate, .....  
.....High Court, Lucknow Bench  
(hereinafter called the advocate/s) to be my/our Advocate in the above-noted case and  
authorised him :—

To act, appear and plead in the above-noted case in this Court or in any other Court  
in which the same may be tried or heard and also in the appellate Court including High Court  
subject to payment of fees separately for each Court by me/us.

To sign, file, verify and present pleadings, appeals, cross-objections or petitions for  
executions, review, revision, withdrawal, compromise or other petitions or affidavits or other  
documents as may be deemed necessary or proper for the prosecution of the said case in all  
its stages.

To file and take back documents, to admit &/or deny the documents of opposite  
partys.

To withdraw or compromise the said case or submit to arbitration any differences  
or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and  
to do all other acts and things which may be necessary to be done for the progress and in the  
course of the prosecution of the said cause,

To appoint and instruct any other Legal Practitioner authorising him to exercise the  
power and authority/herby conferred upon the Advocate whenever he may think fit to do so  
& to sign the power of attorney on our behalf.

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the  
Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all  
hearings & will inform the Advocate for appearances when the case is called.

And I/we undersigned do hereby agree not to hold the advocate or his substitute  
responsible for the result of the said case. The adjournment costs whenever ordered by the  
Court shall be of the Advocate which he shall receive and retain for himself.

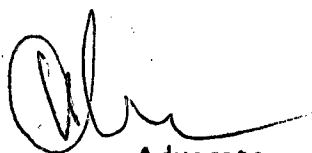
And I/we the undersigned do hereby agree that in the event of the whole or part of  
the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to  
withdraw from the prosecution of the said case untill the same is paid up. The fee settled  
is only for the above case and above Court I/we hereby agree that once the fees is paid. I/we  
will not be entitled for the refund of the same in any case whatsoever.

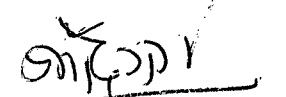
IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the  
contents of which have been understood by me/us on this.....day of.....19

Accepted subject to the terms of fees.

Client

Client

  
Advocate

  
Executive Engineer (Elect.)  
Lucknow Central Electrical Office  
G. P. W. D. LUCKNOW