

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: 20/1/94

Case Title C. A. No. 127 1988(L)

Name of Parties.

Amarjeet Singh Applicant

versus

Union of India Respondents.

PART -A

Sl.No.	Description of Documents	Page
1-	Check List	A A1
2-	Order Sheet	A2 - A4
3-	Final Judgement (27-1-93)	A5
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7-	Counter Affidavit	
8-	Rejoinder Affidavit	

PART -B

B88 - B166

Part -C

C167 - C171

Certified that no further action is required. The case is fit for consignment to record room.

Section Officer

Court Officer

Incharge

21-1-94

Signature of Dealt Assistant.

20/1/94

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 0 A . 127 of 1988

APPLICANT (s) Amarjeet Singh Bisen

RESPONDENT(s) Union of India through Secretary Ministry of Home Affairs New Delhi and others.

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 ?	No only Bench copies is 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 ?	No applicant is appearing in person.
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	P.O. No $\frac{50}{5}$ 019745 dt. 22-7-88.
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 both Commissioners of High Court Allahabad)

Particulars to be ExaminedEndorsement as to result of Examination

91

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

Let the case be listed on 22.9.01

Hein
20/9/88

ORDER

22.9.88

Hon. D. S. Miras, A.M.
Hon. G. S. Sharma, J.M.

A 2

Admit.
Issue notices. One month for C.A. for filing
thereafter R.A.

Sd/-
A.M.

Sd/-
J.M.

for
13/12

13.10.88

OR

Notices for respondents Nos 1 to 4, 6, 7, 9
& 10 received by Sri V. K. Chaudhary, Court Counsel
& notices issued to respondents Nos 5, 8, 9, 11 & 12
through Regd. Post. Date 24.11.88 for filing.

for
13/12

25.11.88

DR

Sri V. K. Chaudhary is present for the report.
C.A. has not been filed. He prays for
filing the same. The time prayed for is
allowed. List this in 20.12.88.

20/12/88

No sitting. Adjourned to
25.1.89.

h
20/12

25.1.89

DR

No reply filed. Reply may be
filed by 20.3.89.

24/3/89

DR

As the presiding officer is
not present, the case is adjourned
to 25/4/89

for

h

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

O.A. No. 127/88(L)
REGISTRATION No. _____ of 198 .

APPELLANT
APPLICANT

Amar Jit Singh Bisen

VERSUS

DEFENDANT
RESPONDENT

Union of India & ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---------------------------------	--	--

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

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

16/10/89

The applicant is present in person.
None for the respondents. Respondents have also failed to file counter affidavit. Let the deliberations of D.P.C. constituted for selection to the post of Hindi Translator Grade II be submitted to the Tribunal for perusal and adjudication of the case in hand. A notice be given to the General Manager (Telephones) (Telecommunications) to produce the said record on or before 10-11-89. Put up for orders on 10-11-89.

A.M.

(sns)

J.M.

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

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

10/11/89

The applicant is present in person. Counsel for the respondents Mr. Ashok Mohileya, desires 3 weeks time to file counter reply. Allowed. Let counter be filed within 3 weeks to which the applicant may file rejoinder within one week thereafter. Let this case on 13-2-90 for orders/hearing as the case may be.

(SNS)

or notice given 17/9/89

OR

As directed by the court's order on 16.X.89, notice was issued to the G.M. Telecommunications on 17.X.89

No undelivered regd. cover has been return back so far submitted for order

9/11/89

127-002

A4

19.7.91
D.R.

None is present for
the both side. Applicant
did not submit
Rejoinder till today
He is ordered to
file it, by 6/9/91.

6.9.91
D.R.

Both the parties
are absent. Applicant
to file Rejoinder
by 14/11/91.

14.11.91
D.R.

Both the parties
are absent. Rejoinder
to be filed by appli-
cant on or before
27/1/92.

27.1.92
D.R.

Respondent's side is
present. Applicant to
file Rejoinder by
10/4/92. *for*

O.A. No.127 of 88

Dated: 8.12.1992.

Hon'ble Mr. Justice U.C.Srivastava, VC
Hon'ble Mr. K. Obayya, Member (A)

The applicant is present in person.
The learned counsel for the respondents
is not present, may be because of
curfew in the city, as such the case
is adjourned to 27.1.93

A.M.

V.C.

27-1-93

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

The applicant has been absenting continuously.
The case has been listed on number of dates
but on every date he remained absent. It
appears that the applicant is not interested
in pursuing the matter, that is why he has
chosen to remain absent. No application
has been moved on his behalf. His prayer
is that it may be declared that he was a
fit departmental candidate for getting
clearance for appearing in the examination
for Hindi Translator and the cancellation
of his candidature may also be quashed.
It appears that the examination and selection
have taken place, that why he has chosen
not to appear. Accordingly, the application
is dismissed for non-prosecution.

A.M.

V.C.

*SR has not
been held by
submitted
27/1/93*

(ug)

Filed today
20/3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL A C

ADDITIONAL BENCH AT LUCKNOW.

PRINCIPAL BENCH : NEW DELHI

ADDITIONAL BENCH: LUCKNOW

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985.

FOR USE IN THE TRIBUNAL OFFICE

DATE OF FILING

REGISTRATION NUMBER OF 1988.

Signature:

Registrar:

notes late
Pr. sent 22.9.88
19/3

A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,
At Lucknow.

IN re:

Claim petition no. of 1988.

Amar Jit Singh Bisen applicant.
Vs.

Union of India and Ors opp. parties.

I N D E X

Sl No.	Details of particulars and Aneexure no.	paper book page nos.
1.	Application ..	1 to 18
2.	Electrostat copy of memo reg. no disc/vig. case pendency - 1 -	19
3.	electrostat copy of qualifications etc.of Hindi Translator Gr II - 2-	20 & 21
4.	Electrostat copy of complaint against opp.parties - 3 -	22
5.	electrostat copy of impgned order dtd 8.4.88 - 4 -	23
6.	electrostat copy of govt. circular dtd 25.6.65 - 5 -	24
7.	" " circular dtd 25.5.71 - 6 -	25.
8.	" " extract copy of govt. circulars dtd 12.1.88 - 7 -	26
9.	copy of govt. circulars dtd . 30.11.87 - 8 -	27
10.	copy of memo. dtd 18.7.86 - 9 -	28
Total pages		28

dtd 20.9.88
at Lucknow.

Amar Jit Singh Bisen
(Amar Jit Singh Bisen)
applicant/petitioner

*Identified Applicant and
Signature attested*

A. M. Singh
मुख्य अधिकारी
केन्द्रीय तार घर नमूना-226001
Chief Supdt
C.T.O. LUCKNOW-226001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH AT LUCKNOW

CLAIM PETITION NO. 127 OF 1988. (U)

(UNDER SECTION 19 OF ADMINISTRATIVE TRIBUNAL
ACT OF 1985).

District Lucknow.

Amarjeet Singh Bishen S/o Bhairava Dutt Singh
E.D. 370 Sector-Q Aliganj, Lucknow.

..Applicant/Petitioner.

VERSUS

1. Union of India through Secretary Ministry
of Home Affairs, New Delhi.
2. Director General, Department of Telecom,
New Delhi.
3. General Manager Telecom U.P. Circle, Lucknow.
4. Deputy General Manager of G.M. Telecom, U.P.
Circle, Lucknow.
5. Sri V.P. Garg at present Telecom District Manager,
Lucknow.
6. Assistant Director, Recruitment, Office of
G.M. Telecom, U.P. Lucknow.
7. Senior Superintendent, Telegraph Traffic,
Allahabad.
8. Sri B.S. Verma, at present Chief Superintendent
Central Telegraph Office, Agra.

18
2019

Recd at Lucknow
6, 7, 8, 19 only
17/10

Bishen Singh

2

19

9. Sri P.R. Harijan, Senior Superintendent
Telegraph Traffic, Varanasi.

10. Superintendent Central Telegraph Office, Allahabad.

11. Sri N.N. Murti at present Additional Superintendent
Central Telegraph Office Vishakhapatnam.

12. Sri B.K. Ram at present Superintendent Central
Telegraph Office Gorakhpur.

..Respondents/Opposite
Parties.

1. Particulars of the Applicant:

(a) Name of the Applicant	:Amarjeet Singh
(b) Name of the Father	:Bhairava Dutt Singh
(c) Designation and Office	:Telegraph Assistant Central Telegraph Office, Lucknow.
(d) Office Address	:Central Telegraph Office, Hazaratganj, Lucknow.
(e) Address of service of all notices	:Central Telegraph Office, Lucknow.

20/10/77

Bo'sen A/S

2. Particulars of Respondents as given above
in array of the correspondance.

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

3

710

- 3 -

- A. Provisional recommendation of the applicant for appearing at the examination of Hindi Translator Grade II which was subsequently not cleared.
- B. Order cancelling provisional candidature of the applicant communicated vide letter No. Recruitment/M-37/II/84 dated 8th April, 1988 by Deputy G.M., Telecom., U.P. Circle, Lucknow and conveyed under S.S.T.T., Allahabad No. SE-40/Hindi Translator/52 dated 14.4.88.

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which the relief is sought for his within the jurisdiction of this Hon'ble Tribunal.

5. Limitations :

The application is well within the period of limitation referred to in clause (a) of sub - section (1) of section 20 of the administrative Tribunal Act '85 as the order was passed on 8.4.88 and communicated to the applicant on 14.4.88.

Agreed

20/02/87

(4)
211

6. Facts of the case:

That the applicant most respectfully begs to showeth as under:

i. That the applicant was recruited on Circle basis and imparted training as time scale clerk, (now redesignated as telegraph assistant) by the General Manager, Telecom, U.P. Circle, Lucknow and thereafter was, after observing the necessary formalities, appointed and posted as such, at Central Telegraph Office, Dehradun by Superintendent, Telegraph Traffic Division, Saharanpur in July 1975.

ii. That the verification of the character and antecedents of the applicant was also obtained through the District Magistrate, District Gonda, which was the declared home district of the applicant at the time of recruitment.

iii. That in January 1977, the applicant was transferred under the divisionalisation scheme to Lucknow Telegraph Traffic Division and posted at Central Telegraph Office, Lucknow. The divisionalisation scheme was introduced by the department in 1975-76 to divisionalise the services of the cadre of time scale clerk of telegraph offices, which had so far been Circle Cadre services.

iv. That the applicant worked honestly, sincerely

By Sen A/S

29/10/77

(5)
A/2

and to the best of his ability and never caused
embarrassment to the administration. The applicant
earned good entries in his Annual Confidential
Reports and his overall service record has been good
since his appointment in 1975 till the date of filing
of this application and no vigilance or disciplinary
case is pending against him in the department. A
photostat copy of the letter issued by the Controll-
-ing officer of the applicant confirming the fact
that no vigilance or disciplinary case is pending
against him is enclosed as Annexure I to this
application.

v. That thereafter, the applicant was also
confirmed by the appointing authority in January '83
in the cadre of telegraph assistant w.e.f. 1.12.80
after careful consideration of his work and conduct.
The character and antecedents of the applicant were
also considered by the appointing authority at the
time of confirmation of the applicant, by going throu-
-gh his previous P.V.R. and a fresh PVR obtained
from District Magistrate, Lucknow.

vi. That on 20th December, 1983 an F.I.R. was lodged
by the C.B.I., S.P.E., Lucknow against the applicant
as RC-44/83, followed by submission of a charge-sheet
in the court of Special Magistrate, C.B.P., Lucknow
on 31st December, 1984 where he is being prosecuted
for concealment of certain facts.

vii. That it is submitted that the charges in the
above case do not relate to the official duties of the
applicant nor have any rational connection with his
official duties and have further, as yet, not been
proved in the court.

Presented

20/12/84

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A 13

viii. That the General Manager, Telecom, U.P. Circle, Lucknow, circulated a circular No. Recruitment/M-37/II /84/5 dated 29.9.84 in September 1984 calling for applications from eligible officials of the department to fill up the post of Hindi Translators, Grade-II (Rs.1400-2300) for one unreserved vacancy meant for outside quota, for direct recruitment. The departmental officials were allowed to appear in the said examination as departmental outsider candidates. Prior to it, the vacancy was also advertised in newspapers. The selection for the aforesaid post was to be by merit.

ix. That the qualifications and the eligibility conditions meant for the post of Hindi Translators, Grade-II, were annexed with the said Circular. A copy of the 'said Annexure' is annexed as Annexure No. 2. to this application.

x. That in pursuance of the said circular the applicant had applied, through the Superintendent Incharge, Central Telegraph Office, Allahabad for the aforesaid examination and submitted an application as required. However, the application of the applicant was initially not forwarded by the then Superintendent Incharge, Sri N.N. Murty, respondent No.11 as he bore personal grudge and illwill against the applicant, but after a legal notice having been served upon him by the applicant through his counsel, and then on the basis of legal opinion obtained from the D.G.C.(Civil) Sri Chintamani Pandey, Advocate, Allahabad, the application of the applicant was forwarded to the G.M.T., U.P., Lucknow. It is also

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(5) A14

It is worth mentioning here that the respondent No.8,9 and 12 were also prejudiced with the applicant for various complaints made against them to higher authorities, as the applicant was an active member of ministerial union and had been espousing the cause of employees and corrupt practices of these officers to higherups in the various capacities ^{as member and} such as, Circle Secretary of Ministerial Union and as Member, Regional Council(JCM), and as Member, Welfare Board. A copy of one of the complaints is enclosed in Annexure-3 to this application.

xi. That the said application was routed through the Senior Superintendent Telegraph Traffic, Allahabad, being the divisional head and appointing authority of the applicant, as usual routine.

xii. That Sri B.S. Verma, was the Senior Superintendent Telegraph Traffic Division, Allahabad at the time of forwarding the application of the applicant.

xiii. That the applicant was permitted to appear at the examination of Hindi Translator, Grade-II, held on 22nd. January, 1986 with roll number UP/HT/-84/23 (Pro) with provisional candidature, without mentioning the documents required to complete the formalities, if any, or reasons thereof.

xiv. That the applicant successfully took up the said examination of Hindi Translator, Grade-II, held on 22nd Jan. 1986 and hoped to be selected on the basis of his performance in the said examination.

(8)

A 15

xv. That thereafter, the departmental promotion Committee, for selection of Hindi Translator, Grade-III & II was constituted in the beginning of August, 1986 with Sri S.P. Kalsi, Director Telecom, Central Area, as its Chairman, and Sri R.B. L. Srivastava, Assistant General Manager, Telecom, U.P, Lucknow and Sri S.P. Singh, Assistant Post Master-General, U.P. Circle, Lucknow as its other two members.

xvi. That the aforesaid D.P.C. met twice in the month of August 1986 and considered the cases of the selection of candidates for the post of Hindi Translator Grade-III and II on the basis of their performance in the respective examinations. The case of the applicant for Hindi Translator, Grade-II was also put up before the said D.P.C. and considered by it.

xvii. That the Chairman of the D.P.C. also directed telephonically the Senior Superintendent Telegraph Traffic, Allahabad on 21.8.86, to ask the applicant to submit all the required documents for clearing his candidature to facilitate the declaration of the result.

xviii. That then the applicant had made every belief that he had secured the highest marks in the said examination and the D.P.C. had approved his case for selection as Hindi Translator, Grade-II and had desired to expedite the submission of remaining wanting attested copies of the required certificates and credentials to avoid delay in release of minutes of the D.P.C. and the result of recruitment, though these documents were called for by the respondents after almost 8 months

B

20/8/86

20/8/86

(9)
A 18

of submission of the application for the aforesaid post.

xix. That the applicant was then called by the Senior Superintendent, Telegraph Traffic, Allahabad on 21.8.86 and was directed that the required copies of the certificates may be submitted to the G.M. Telecom, U.P. Circle, Lucknow immediately so that his provisional candidature could be cleared and the result of the Hindi Translator Grade-II held on 22.1.86 could be announced.

xx. That the applicant accordingly promptly submitted on 4.9.86 all the required documents to the Assistant Director, Telecom, (Recruitment), U.P. Circle, Lucknow with proper intimation to the Senior Superintendent, Telegraph Traffic, Allahabad, and also to Superintendent, Central Telegraph Office, Allahabad for information.

xxi. That though the result of the Hindi Translator, Grade-III, which was finalised in the same D.P.C. was declared by the concerned respondents, the result of Hindi Translator, Grade-II, which too, should have been declared, was not declared.

xxii. That non-declaration of the result of Hindi Translator, Grade-II, by the concerned respondents even after completion of all the required formalities by the

applicant to clear his provisional candidature was malafide and led to the inference that the respondents were interested in delaying the case or willing to favour some one else having lower merit than the applicant.

xxiii. That the applicant, in between, continued to pursue vigorously the administration to announce the result by submitting various representations and also personally.

xxiv. That ultimately having no sympathetic response from the respondents and fearing that something wrong was being manipulated, the applicant served a legal notice upon the opposite parties through his counsel, Shri Rajiv Chaturvedi, Advocate, High court, Allahabad vide his notice dated 15.3.88 calling upon the concerned respondents to announce the result of the applicant, for Hindi Translator, Grade-II, held on 22nd January, 1986.

xxv. That this legal notice irked the authorities and instead of explaining the reasons of delay in announcement of result, which had never been the cause of granting him provisional candidature in the afore-said examination in dispute, the respondents cancelled the candidature of the applicant in view of the pendency of the C.B.I, case vide their letter dated 8.4.88, which was communicated to the applicant on 14.4.88 through the Senior Superintendent, Telegraph Traffic, Allahabad vide his letter dated 14.4.88.

Resent

20/9/77

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A18

A copy of the impugned order dated 8.4.88 circulated through SSTT Allahabad is enclosed as Annexure 4 to this application.

xxvi. That criminal proceedings against any official do not necessarily constitute misconduct or come within the ambit of definition of disciplinary proceedings. In the case of the applicant, no disciplinary or vigilance case is pending, and the applicant is holding the post of Telegraph Assistant in the department on regular basis without any break in service, and is also drawing full pay and allowances, and further no charge-sheet etc. is pending against the applicant, and the applicant is also enjoying all the departmental facilities and privileges. As such he is eligible for all promotional channels opened to his other colleagues.

xxvii. That even if, it be supposed that the case relates to the official duties of the applicant, the same can not be a ground to disallow the applicant from appearing in any promotional examination etc., and that too, against outside quota/direct recruitment vacancies, including that of Hindi Translator, Grade-II.

xxviii. That further, the department has issued circulars in June, 1965 and also in May 1971 in which it has been clearly laid down that an official could not be debarred from appearing in any examination mainly because of his involvement in a disciplinary case.

Present

20/9/77

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A 10

xxix. That the scope of circular dated 25th June, 1965 clearly reveals that such official are to be allowed to appear at an examination but they can be promoted only after the disciplinary proceedings are over and they are completely exonerated, or when the punishment, awarded, if any, is over. That it is also within the spirit words and scope of the circular dated 25.5.71. That the result of an examination of officials pending disciplinary proceedings could be announced, but actual promotion is to be given only after exoneration, or when punishment awarded, if any, is over, within the meaning and wording of aforesaid circulars. Copies of the circulars dated 25.6.65 and 25.5.71 are annexed as Annexures 5 & 6 to this application.

xxx. That further under the Government of India circular dated ^{12th Jan. 1988} ~~30th June, 1982~~ while an official can not be promoted, if he is facing the disciplinary proceedings, he could still be promoted, on an adhoc basis under certain conditions, which have been laid down in the said circular. A copy ^{of the extract} of the said circular dated ^{12 Jan. 1988} ~~30th June, 1982~~ is being annexed as Annexure no. 7 to this application.

xxx. That the candidature of an official can be provisional, if he does not fulfill the required qualifications or eligibility conditions-precedent necessary for appearing in an examination as can be inferred from the copy of the circular dated 30.11.87 issued by the Director-General, Department of Tele-communication, New Delhi. A copy of the circular dated 30.11.87 is enclosed as Annexure no. 8 with this application.

29/9/12

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xxxii. That it was not one of the conditions of eligibility or required qualifications for appearing in the examination for Hindi Translator, Grade-II, that an official should not be involved in any case or that no vigilance or disciplinary case should be pending against him.

xxxiii. That, in fact, the candidature of the applicant was made provional as he has not been able to submit the certificate of medium of examination at his B.A. level as can be ascertained from the memo issued by the Superintendent, Central-I Telegraph Office, Allahabad dated 18.7.86. A copy of the memo dated 18.7.86 is enclosed as Annexure no.9 to this application.

xxxiv. That the cancellation of the candidature of the applicant from the said examination on the basis of pendency of C.B.I. case, when it was made provisional due to non-submission of the certificate regarding medium of examination at B.A. level is malafide, arbitrary and bad in law, and contradictory in itself.

Presented

xxxv. That, in fact, the cancellation of the candidature of the applicant, directly implies, not permitting hi to sit in the examination for promotion which is also contrary in spirit and scope to the instructions issued by the department in circulars dated 25.6.65 and 25.5.71 and also against the

29/7/86

(14)
A 21

policy contained in administrative instructions and scheme issued by Home Ministry vide its circular dated ^{12th Jan 88} ~~20th Jan. 1982~~ as the applicant was fulfilling all the eligibility conditions.

xxxvi. That appearing at an examination of promotion is a right flowing as per the service rules of the department and further the declaration of the result of promotional examination is one thing while promotion as such, is another aspect of the issue. The Government does not loose any thing in announcing the result of an examination or the aforesaid examination.

xxxvii. That the cancellation of the candidature after 2 years and 3 months after holding the examination and 1 year and 7 months after submission of the required document and holding of the D.P.C. clearly indicates that the department was interested in cancellation of the examination itself. Since it was not possible to favour in legal way some candidates, who were junior in merit, in the examination of Hindi Translator, Grade-II.

xxxviii. That cancellation of the candidature of the applicant amounts to punishment, which is not just, fair and reasonable and is also against the principle of natural justice.

xxxix. That the respondents were not competent to cancell the candidature of the applicant when

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selection was approved by the D.P.C., and it was indicated by it that attested copies of certificate be obtained from the official before the result.

his is also violative of the provisions of the Constitution of India, because it does not take into account the interest of the applicant, in case, of the charges levelled against him in criminal proceedings.

xxxxi. That the respondents have committed a deliberate mistake on the face of patent facts in cancelling the candidature of the applicant due to the pendency of the C.B.I. case.

xxxxii. That there is no other alternative, efficacious and expeditious remedy available to the applicant except to invoke the jurisdiction of this tribunal under section 19 of it.

7.

Relief Claimed:

That in view of the facts and circumstances stated in the aforesaid paras, this Hon'ble Court may be pleased to" (a) call for his annual confidential reports and service records of the applicant and after perusal declare that the applicant was a fit departmental candidate to be clearly recommended for appearing in the examination for

(S) 22

his selection was approved by the D.P.C., and it was also indicated by it that attested copies of certificates may be obtained from the official before announcing the result.

xxxx. That the above act of the respondents is also violative of the provisions of Article 14 and 16 of the constitution of India, because it does not safeguard the interest of the applicant, in case, he is exonerated of the charges levelled against him in the criminal proceedings.

xxxxi. That the respondents have committed a deliberate mistake on the face of patent facts in cancelling the candidature of the applicant due to the pendency of the C.B.I. case.

xxxxii. That there is no other alternative, efficacious and expeditious remedy available to the applicant except to invoke the jurisdiction of this tribunal under section 19 of it.

7.

Relief Claimed:

That in view of the facts and circumstances stated in the aforesaid paras, this Hon'ble Court may be pleased to" (a) call for his annual confidential reports and service records of the applicant and after perusal declare that the applicant was a fit departmental candidate to be clearly recommended for appearing in the examination for

(16.)
A-23

Hindi Translator, Grade-II and his was a fit case for the finally clearing his provisional candidature in his favour and also call for the minutes and other records of the D.P.C. for its perusal, examination and satisfaction.

(b) quash the impugned order no. Recruitment/M-37 /II/84 dated 8.4.84 cancelling the candidature of the applicant from the examination of Hindi Translator Grade-II held on 22.1.86 issued under the Signatures of Sri V.P. Garg, By.G.M.(Administration), U.P. Telecom, Circle, Lucknow and conveyed through Senior Superintendent, Telegraph Traffic, Allahabad Division, Allahabad vide his letter No. SE-40/HT/52 dated 14.4.88 contained in Annexure no.4 to this Application.

(c) Direct/order the respondent General Manager, Telecom, U.P. Lucknow to declare the result of Hindi Translator, Grade-II held on 22.1.86 on the basis of the D.P.C. held in August 1986 for the same.

(d) pass any other order, direction as deemed fit by this Hon'ble Court in the vary circumstances of the case.

(e) award the cost of this application.

8. Interim Relief:

It is most respectfully prayed that this

①

A267

Hon'ble Court may kindly be pleased to:-

- (a) stay the operation of the order dated 8th April, 1988 issued by Dy.G.M.(Admn.), U.P. Telecom Circle, Lucknow cancelling the candidature of the applicant from the examination of the Hindi Translator, Grade-II, pending decision of the present petition in the interest of justice, and"
- (b) order that the examination held on 22.1.86 for the selection of Hindi Translator, Grade-II, will not be cancelled during pendency of the case and no examination for the said vacancy under dispute shall be held.

9. Details of the remedy exhausted:

That the applicant declares that he has availed all remedies available to him under the relevant service rules and has further served the respondents with legal notice before filing this application before this Hon'ble Tribunal, the details of which have already been given in paras above.

10. Matter not pending in any other court.

That the applicant further declares that the matter regarding which this application has been made is not pending in any court of law or before any authority or any Bench of Tribunal.

18

11. Particulars of Bank Drafts/Postal Order in respect of the application fee :-

1. Name of the Bank on which drawn. : N I L

2. Demand Draft No. : N I L

or

1. No. of Indian Postal Order : DD 5 019745

2. Name of the issuing Post. Office. : GPO, Lucknow.

3. Date of issue of Postal Order. : 22.7.88

4. Post Office at which payable. : As given on page - 2 of paper book.

1988
AFFIDAVIT
21
HIGH COURT
ALLAHABAD

V E R I F I C A T I O N

I, Amar Jit Singh Bisen aged about 36 years working as Telegraph Assistant at Central Telegraph Office, Lucknow S/o. Sri B.D. Singh, R/o. Ram Leela Gate, Gonda do hereby verify that the contents of para 1 to XXXXIII are true to my personal knowledge and those of paras XXXXIV to XXXXXII are believed to be true on legal advice and that I have not suppressed any material fact.

Date 20.9.88
Place : Lucknow

Amar Jit Singh Bisen
(Amar Jit Singh Bisen)
APPLICANT
in person

To,
The Registrar,

*Identified applicant and
signature attested*

Central Administrative Tribunal,
Additional Bench,
Lucknow.

मुख्य अधिकारी
केन्द्रीय तार घर लखनऊ-226001
Chief Supdt.
C.T.O. LUCKNOW-226001

Solemnly affirmed before me on
20/9/88 at 830 PM by the deponent Sri
Amarjit Singh Bisen who is identified
by Sri Ganga Ram Saini wal C.S. C.T.O
Lucknow,

20/9/88
DATE COMMISSIONED
At Allahabad
V. L. N. Ch

I have examined my self my examing
the deponent that he understood the
Content of this affidavit which has
been read over and explained by me to
him

20/9/88

ANNEXURE-1

19
A26

Department of Telecommunication.

Office of the Superintendent I/C,
Central Telegraph Office,
Allahabad.

Dated at Allahabad the 27-11-86.

TO WHOM IT MAY CONCERN.

Certified that Shri Amar Jit Singh Bisen, is working as Telegraph Assistant in this office for the last more than two years, and that no vig./disc. case is pending against him in this office. However, he is facing prosecution in the CBI Court at Lucknow, the details and the final outcome of which are not known to this office as yet.

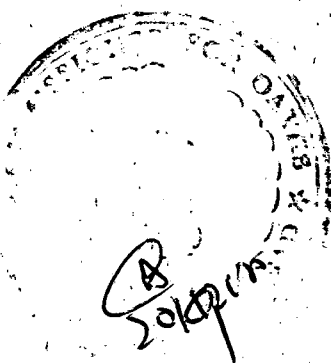
(B.K.R.M.)

अधीक्षक, केन्द्रीय तारघर

इलाहाबाद-211001

Supdt, I/c C.T.O. Allahabad.

Telephone-3142



29/11
Bisen

सेवायोजन कार्यालय वाराणसी तथा देहरादून से परीक्षार्थियों की पूर्ति हेतु अभ्यर्थियों के नामों को अग्रसारित कराने के लिए भाग-पत्र ।

27

पद का नाम तथा नियुक्ति

हिन्दी अनुवादक ग्रेड-1।

का स्थान:

॥ वाराणसी, देहरादून ॥

वेतनमान:

रु० 425-15-560-द० र० 0-20-640

पदों की संख्या

2 ॥ एक देहरादून तथा एक वाराणसी ॥

सीधी भर्ती के लिये आयु सीमा:

भर्ती वाले वर्ष की पहली जुलाई, 1984 को 18 से

28 वर्ष केन्द्रीय सरकार द्वारा जारी किए गए

अनुदेशों या आदेशों के अनुसार ॥ संबंधित ॥ सरकारी

कर्मचारियों के लिए 35 वर्ष तक की रियायत ।

सीधी भर्ती के लिए वैधानिक और अन्य अर्हताएं:

1: डिग्री स्तर पर अंग्रेजी/हिन्दी मुख्य विषय के साथ हिन्दी/अंग्रेजी में किसी मान्यता प्राप्त विश्वविद्यालय में मास्टर्स डिग्री

अथवा

डिग्री स्तर पर हिन्दी और अंग्रेजी मुख्य विषयों के साथ किसी मान्यता प्राप्त विश्वविद्यालय से हिन्दी/अंग्रेजी के सिवाय किसी भी अन्य विषय में मास्टर्स डिग्री

अथवा

डिग्री स्तर पर अंग्रेजी/हिन्दी मुख्य विषय के साथ हिन्दी/अंग्रेजी माध्यम से हिन्दी/अंग्रेजी के सिवाय किसी भी अन्य विषय में किसी मान्यता प्राप्त विश्वविद्यालय से मास्टर्स डिग्री ।

अथवा

उत्पत्ति

हिन्दी/अंग्रेजी में हिन्दी/अंग्रेजी माध्यम से किसी भी विषय में मास्टर्स डिग्री

तथा डिग्री स्तर पर मुख्य विषय के रूप में अंग्रेजी/हिन्दी में रही हों या परीक्षा का माध्यम रही हो ।

अथवा

मुख्य विषय के रूप में हिन्दी और अंग्रेजी सहित स्नातक ॥ बैचलर ॥ डिग्री या डिग्री स्तर पर दोनों में से किसी एक परीक्षा का माध्यम रही हो और दूसरी मुख्य विषय के रूप में रही हो तथा हिन्दी से अंग्रेजी और अंग्रेजी से हिन्दी अनुवाद का मान्यता प्राप्त डिप्लोमा/प्रमाण-पत्र या केन्द्रीय/राज्य सरकारों के कार्यालयों में जिसके अन्तर्गत भारत सरकार के उपक्रम भी आते हैं, हिन्दी से अंग्रेजी या अंग्रेजी से हिन्दी में अनुवाद कार्य का दो वर्ष का अनुभव ।

परिवर्धन की अवधि यदि कोई हो :
भर्ती का तरीका-सीधी भर्ती अथवा
पदोन्नति, स्थानान्तरण द्वारा और
विभिन्न तरीके से भरे जाने वाले रिक्त
स्थानों का प्रतिशत :

यदि भर्ती पदोन्नति, स्थानान्तरण से
होना है तो किस ग्रेड से पदोन्नति
की जायगी :

— 2 —

2 वर्ष

50 प्रतिशत सीधी भर्ती द्वारा और 50 प्रतिशत
पदोन्नति द्वारा और ऐसा न होने पर प्रतिनियुक्ति
पर स्थानान्तरण और दोनों न होने पर सीधी
भर्ती द्वारा

पदोन्नति-

ग्रेड-III के हिन्दी अनुवादकों में से जिनकी नियमित
नियुक्ति के बाद इस ग्रेड में 5 वर्ष की सेवा हो ।

प्रतिनियुक्ति पर स्थानान्तरण:

समान पदधारी कर्मचारियों या समान वतन वाले
कर्मचारियों अथवा रु० 330-560 के वेतनमान में से
जिनकी इस ग्रेड में डाक-तार विभाग के सर्किल या
फील्ड कार्यालयों में 5 वर्ष की नियमित सेवा हो ।
प्रतिनियुक्ति किये जाने वाले कर्मचारी द्वारा वे सभी
अर्हताएं पूरी कीजायेगी जो कि सीधी भर्ती के
उम्मीदवारों के लिए निर्धारित की गई है ।

नोट: प्रतिनियुक्ति की अवधि सामान्यतः तीन वर्ष
से अधिक नहीं होनी चाहिए ।

कार्य क्षेत्र

चयन विधि:

उत्तर प्रदेश टेलीकाम सर्किल

लिखित परीक्षा एवं साक्षात्कार द्वारा

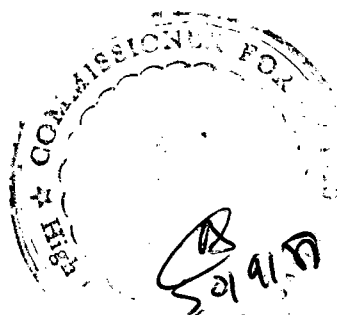
For sent

गुरुदयाल सिंह

॥ गुरुदयाल सिंह ॥

सहायक निदेशक दूरसंचार ॥पी०पी०॥

कृते महाप्रबन्धक दूरसंचार, 30 प्र० परिमण्डल, लखनऊ-1



23
ANNEXURE 4

CONFIDENTIAL

14 APR 1988

Copy of letter No. Rectt/M-37-II/84 dated 8th April, 1988 from the office of the General Manager Telecom. U.P. Circle Lucknow addressed to Shri S.C. Jain, S.S.T.T. Allahabad. A 29

Subject: Recruitment to the cadre of Hindi Translator Grade II-candidature regarding.

Shri Amar Jasti Singh Bisen, T.A., C.T.O. Allahabad was permitted provisionally to appear in the examination for recruitment to the cadre of Hindi Translator Grade II held on 22.1.86 with Roll No. UP/HT-84/23 (Prov) pending final decision regarding his candidature.

The case has been examined and it has been decided keeping in view the pendency of a CBI case against him that the candidature of Sri Amarjeet Singh Bisen from the said examination may be treated as cancelled.

The official may please be informed accordingly under intimation to this office.

sc/1
(V.P. Garg)
Dy. General Manager
U.P. Circle, Lucknow.

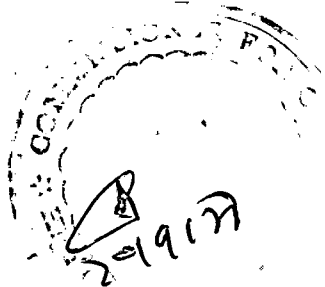
No. SE-40/Hindi translator/52 Date at Allahabad the 14-4-88

Forwarded to:

The Supdt. I/C, C.T.O. Allahabad for necessary action. He will please inform the official accordingly under intimation to this office for onward intimation to circle office.

Senior Supdt. Telegraph Traffic
Allahabad Divn. Allahabad.

Bisen A 7



(24)

ANNEXURE-5

A30

Officials to be allowed to appear in a departmental examination while under suspension or when facing departmental proceedings.—The question whether an official who submits an application for permission to sit at the examination for departmental candidates, and against whom either disciplinary proceedings have been initiated or who is under suspension should be allowed to take the examination or not, has been under consideration for some time past. It has now been decided in consultation with the Ministry of Home Affairs that such an official might be admitted to the examination even though he may be under suspension or disciplinary proceedings might have been initiated against him, if he satisfies all the other conditions prescribed for admission to such examination. The official can, however, be promoted only after the disciplinary proceedings are over and he is completely exonerated.

If on the basis of the disciplinary proceedings any punishment is imposed (other than removal, dismissal, or retirement in which case the question would not arise) the appointing authority should consider each case on its merits to see whether a person should be promoted in spite of the penalty imposed on the basis of the results of the examination which he has passed. If it is decided to promote him, then he should be promoted only after the expiry of penalty (other than censure) but his seniority in the higher grade may be determined on the basis of the rank obtained in the competitive examination.

[D.G., P & T's letter No. 7/31/63-SPB, II, dated the 25th June, 1965.]

Boiler AG 7

5.19.11

Promotion of employees on whom penalty has been imposed.—The following points were raised for clarification:—

- (i) 'Censure' should not be a bar to eligibility to sit for a departmental/promotional examination or for promotion;
- (ii) Where the responsibility of an employee for any loss is indirect, he should not be debarred from being considered for promotion during the period of recovery of the loss; and
- (iii) A distinction should be made between stoppage of increments and reduction to a lower stage of the pay scale and in the former type of cases, the employees should not be debarred from being considered for promotion.

2. As regards the first point, under the existing instructions every person, eligible for promotion and in the field of choice has to be considered for promotion. The fact of the imposition of the minor penalty of censure on a Government servant does not by itself stand against the consideration of such person for promotion, as his fitness for the promotion has to be judged, in the case of promotion by seniority, on the basis of an overall assessment of his service record, and in the case of promotion by selection on merit, on the basis of his merit categorisation which is again based upon an overall assessment of his service record. So far as the eligibility of a Government servant who has been awarded the penalty of censure, to appear at a departmental/promotional examination is concerned, the same principles would apply, viz., that he cannot, merely because of the penalty of censure, be debarred from appearing at such an examination. In case, however, the rules of such an examination lay down that only those eligible persons can be allowed to appear at the examination who are considered to be fit for the purpose, the fitness of an eligible candidate who has been awarded the penalty of censure, to appear at the examination has to be considered on the basis of an overall assessment of his service record and not merely on the basis of the penalty of censure.

3. As regards the other two points mentioned in paragraph 1 above, while it is not possible to lay down any hard and fast rules in this regard, and it is for the competent authority to take a decision in each case having regard to its facts and circumstances, it is considered necessary to reiterate the existing instructions on the subject. Recovery from the pay of a Government servant of the whole or part of any pecuniary loss caused by him to Government by negligence or breach of orders, or withholding of increments of pay, are also minor penalties laid down in Rule 11 of the C.C.S. (C.C.A.) Rules. As in the case of promotion of a Government servant, who has been awarded the penalty of censure, the penalty of recovery from his pay of the loss caused by him to Government or of withholding his increment(s) does not stand in the way of his consideration for promotion though in the latter case promotion is not given effect to during the currency of the penalty. While, therefore, the fact of the imposition of such a penalty does not by itself debar the Government servant concerned from being considered for promotion, it is also taken into account by the Departmental Promotion Committee, or the competent authority, as the case may be, in the overall assessment of his service record for judging his suitability or otherwise for promotion or his fitness for admission to a Departmental/Promotional examination (where fitness of the candidates is a condition precedent to such admission).

[G.I., C.S. (Department of Personnel), O.M. No. 21/5/70-Ests. (A), dated the 15th May, 1971.]

P. S. S. A. 77

5/2/91/17

6. Procedure for *ad hoc* promotion.—In spite of the six monthly review referred to in para. 4 above, there may be some cases, where the disciplinary case/investigation/criminal prosecution against the Government servant are not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him *ad hoc* promotion keeping in view the following aspects:—

- (a) Whether the promotion of the officer will be against public interest;
- (b) Whether the charges are grave enough to warrant continued denial of promotion;
- (c) Whether there is no likelihood of the case coming to a conclusion in the near future;
- (d) Whether the delay in the finalisation of proceedings, departmental or in a court of law or the investigation is not directly or indirectly attributable to the Government servant concerned;
- (e) Whether there is any likelihood of misuse of official position which the Government servant may occupy after *ad hoc* promotion, which may adversely affect the conduct of the departmental case/criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of the investigations conducted by the Bureau. Where the investigation as contemplated in para. 2 (iv) above is still pending, the C.B.I. or the other authorities concerned should be consulted.

6.1 In case the appointing authority comes to a conclusion that it would not be against the public interest to allow *ad hoc* promotion to the Government servant, his case should be placed before the next DPC held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on *ad hoc* basis. Where the Government servant is considered for *ad hoc* promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecution/investigation against him.

6.2 After a decision is taken to promote a Government servant on an *ad hoc* basis, an order of promotion may be issued making it clear in the order itself that—

- (i) the promotion is being made on purely *ad hoc* basis and the *ad hoc* promotion will not confer any right for regular promotion; and
- (ii) the promotion shall be "until further orders". It should also be indicated in the orders that the Government reserve the right to cancel the *ad hoc* promotion and revert at any time the Government servant to the post from which he was promoted.

6.3 If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings or the investigation did not lead to criminal prosecution/disciplinary proceeding the *ad hoc* promotion already made may be confirmed and the promotion treated as a regular one from the date of the *ad hoc* promotion with all attendant benefits. In case the Government servant could have normally got his regular promotion from a date prior to the date of his *ad hoc* promotion with reference to his placement in the DPC proceedings kept in the sealed cover(s) and the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of notional promotion as envisaged in para. 3 above.

6.4 If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is not exonerated in the departmental proceedings, the *ad hoc* promotion granted to him should be brought to an end.

Disen

20/9/88

DEPARTMENT OF TELECOMMUNICATIONS

Copy of letter No 25-30/87-DE dated at ND 30-11-87 from Director (DE) D.G. Telecom New Delhi endorsed under GMT UP Circle Lucknow No. Rectt/R-50/5 dated 19-1-88 from Rameshwarlal Asstt. Director (Rectt) % GMT UP Circle Lucknow and SSTT Allahabad letter No. SF-61/RLF/G dated 18-2-88.

Subject :- Departmental Examination & Conduct of.

Sir,

Instances have come to notice of this office where circles have computed the vacancies wrongly and had announced the same in excess of the actual number required and intimated them to the Directorate after announcement of the result. A circle had admitted candidates who did not have the prescribed qualifications and detected the error after declaration of the results.

2. Such lapses on the part of the Circles, puts the Directorate in ~~xxx~~ an embarrassing position and causes a lot of inconveniences both the Department and to the candidates. Some times the candidates also go to court for such lapses. It is therefore, reiterated that utmost care should be taken in calculating vacancies and also ~~xx~~ in scrutinising the applications. The lapses indicated above are avoidable. In word and spirit.

- a) Action in regard to the arrangement of holding examination must be taken in advance in accordance with the calendar of examinations.
- b) Final of candidates in each centre and full name destinations and address of the Supervising Officers must be forwarded to this office on before the prescribed date.
- c) Supervisory Officers may, as far as possible be selected from a discipline other than the one for which the exam is being held.
- d) Utmost care should be taken in calculating vacancy position and intimating them in advance.
- e) Name, Roll No. & SC/ST particulars in prescribed tabulation form must be sent to this office within one month of the conclusion of the examination.
- f) All provisional candidature must be settled finally within one month of the examination and intimation of Directorate.
- g) Eligibility conditions of candidates should be verified beforehand and as far as possible provisional candidature, should be avoided.

No. E-1/Rlg/9

Dated at Allahabad the 29-2-1988.

Copy to :-

1. File E-7/Rlg

2. E-15/Rlg

3. E-20/Rlg

4. E-48/Rlg

5. E-54/Rlg

6. E-72/Rlg

7. E-106/Rlg

8. E-129/Rlg

9. E-215/Rlg

O/C.

Shyam .

सं. व्यवहार-22

Corr-22

दूर संचार विभाग

DEPARTMENT OF TELECOMMUNICATIONS

उत्तर देने समय कृपया

निम्न संदर्भ दें

In reply

Please quote

प्रेषक

From

जयपुर, केन्द्रीय कार्यालय

दिनांक 21.07.86

Supdy. to C.T.O. Ahmednagar

सेवा में

To

दिनांक

Dated at

श्री अमरजीव सिंह मिश्र,
तार सहायक

केन्द्रीय तारघर, इलाहाबाद

इलाहाबाद दिनांक 18-7-86

क्रम संख्या

No.

5-6/हिन्दी अनुवाद

विषय

Subject

विषय:- हिन्दी अनुपाठक ग्रेड-II को बाध्य कटिकी
अर्थात्- दिनांक 22-1-86 को हुई परीक्षा के सम्बन्धों

XXX

आपको उपरि उल्लिखित परीक्षा में बैठने की अस्थायी
आदेश (PROVINCIAL ORDER) बी.ए. स्तर पर
भाषा माध्यम का प्रमाण-पत्र न प्राप्त होने पर प्रदान
किया गया था। उक्त प्रमाण-पत्र में आपने एक माह
में प्रमाण-पत्र प्रस्तुत करने का समय माँगा था, जबकि
लगातार एक वर्ष का समय होने जा रहा है अभी तक
प्राप्ति प्रमाण-पत्र इस कार्यालय में प्राप्त नहीं हुआ।

अतः आपको आदेश दिया जाता है
कि इस सम्बन्ध में प्राप्ति प्रमाण-पत्र प्राप्त
होने के तीन दिनों के अन्दर इस कार्यालय में अवश्य
जमा कर दें जिससे उचित कार्यवाही की जा सके।

जयपुर, केन्द्रीय कार्यालय

दिनांक 21.07.86

Supdy. to C.T.O. Ahmednagar

4/23/86

20/9/86



In the Central Administrative Tribunal, Circuit Bench
LUCKNOW.

..

f. f. 14/2/91

Counter-Affidavit

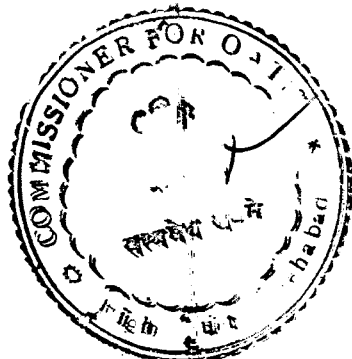
In

Registration No.127 of 1988 (L)

Amr Jit Singh Bisen ..

..Petitioner

Versus.



1. Union of India through Secretary Ministry of
Home Affairs, New Delhi.

2. Director General, Department of Telecom., New Delhi.

3. General Manager Telecom., U.P. Circle, Lucknow.

4. Deputy General Manager of G.M. Telecom., U.P. Circle,
Lucknow.

5. Sri V.P. Garg at present Telecom. District Manager
Lucknow.

6. Assistant Director, Recruitment, Office of G.M. Telecom.,
U.P. Lucknow.

7. Senior Superintendent, Telegraph Traffic, Allahabad.

8. Sri B. Verma, at present Chief Superintendent,
Central Telegraph Office, Agra.

9. Sri P. Harijan, Senior Superintendent, Telegraph
Traffic, Varanasi.

10. Superintendent, Central Telegraph Office, Allahabad.

11. Sri N.N. Murti at present Addl. Supdt., Central Telegraph
Office, Varanasi.

12. Sri B.K. M at present Supdt., Central Telegraph,
Office, Gorakhpur.

..Respondents.

Filed today
24/1/91

Recd copy
Bisen Ags
23-1-91

Amr Jit Singh Bisen

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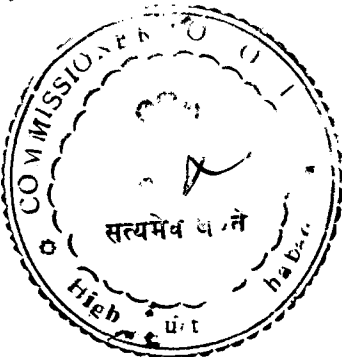
Law Mohan Khare
Affidavit of *late* aged
about *56* years, son of Sri. *Kamla*
Khare
DE (Legal) office of the
Chief General Manager, Telecom.,
U.P. Circle, Lucknow.

Deponent.

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

1. That the deponent is working as *Legal Officer*, Office of the Chief General Manager, Telecom. U.P. Circle, Lucknow and has been authorised on behalf of the respondents in the aforesaid case. He is, as *such*, well acquainted with the facts of the case deposed below.
2. That the deponent has read the contents of the petition and has fully understood the same. Parawise reply is being given hereunder:
3. That the contents of para no.1(a) and 1(b) of the petition are not disputed.
4. That the contents of para no.1(c) of the petition are not admitted as stated therein. It is submitted that the petitioner is actually posted and working in Central Telegraph Offices, Allahabad. He simply remained on temporary deputation in the

Khare



A37
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Central Telegraph Office, Lucknow and that too for a very short period.

5. That the contents of para no.1(d) of the petition are not admitted. It is stated that the petitioner is actually posted and working in Central Telegraph Office, Allahabad.

6. That the contents of para no.1(e) of the petition need no comments except that the ~~the~~ petitioner is working in Central Telegraph Office, Allahabad.

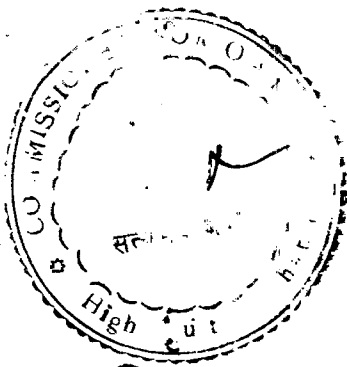
7. That the contents of para no.2 of the petition require no comments.

8. That the contents of para no.3(A) and 3(B) of the petition are not denied but it is stated that the provisional candidature of the petitioner was cancelled vide G.M. Telecom.U.P.Circle, Lucknow letter No. Rectt./M-37-II/84 dated 8.4.88 due to pendency of a C.B.I. case against him which is now under trial in the court of Chief Judicial Magistrate, Lucknow.

9. That the contents of para no.4 of the petition require no reply by means of this affidavit.

10. That the contents of para no.5 of the petition require no reply by means of this affidavit.

11. That the contents of para no.6(i) of the



Lucknow

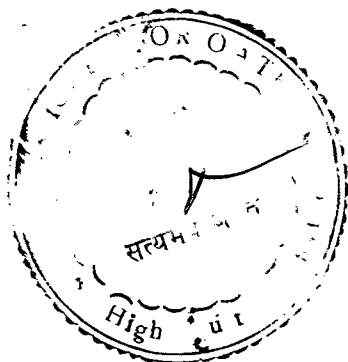
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petition are not admitted as stated therein. It is worth mentioning that the C.B.I. Lucknow has filed a charge-sheet in the Hon'ble Court of Chief Judicial Magistrate, Lucknow under Section-420, I.P.C., against the petitioner for managing his recruitment fraudulently and taking entry in the Telecom. Department in July, 1975. It has been noted later on that he has covered the period of his absence while in jail by submitting medical certificate and out of which he dodged the department by way of receiving a sum of Rs. 80,000/- which is recoverable from him. The departmental action is kept pending in light of the prosecution proceedings going on against the petitioner in the aforesaid court of Magistrate.

12. That in reply to the contents of para no. 6(ii) of the petition it is stated that the very fact that the petitioner fraudulently managed his appointment in the department by concealing the fact that he was convicted by the Court of Law, itself leaves a question mark on the authenticity/genuineness of the police Verification Report. The matter was investigated by the C.B.I. Lucknow who found the facts incorrect and the petitioner is facing prosecution under Section-420 of the Indian Penal Code. The Central Bureau of Investigation which had investigated into the matter and lodged a F.I.R. and the said First Information Report has been registered as Crime no. 44 of 1983. The First Information

Lucknow

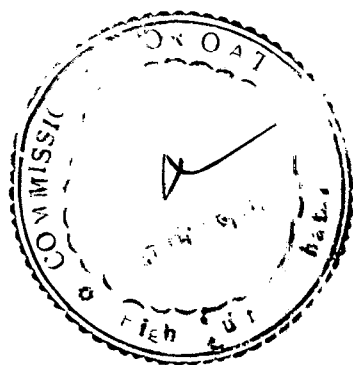


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Report reads as under:-

" An information has been received that Sri Amar Jit Singh Bisen presently posted and functioning as Telegraph Asstt., Central Telegraph Office was convicted and sentenced to a term of two years R.I. under Section-302, I.P.C., on 4.1.1975 by the Addl. District Judge, Gonda. The appeal of Amar Jit Singh Bisen against the said judgment was also dismissed by the Hon'ble High Court, of Judicature at Allahabad Lucknow Bench on 1.8.1978.



Sri Amar Jit Singh Bisen dishonestly and fraudulently managed his appointment in P & T in July, 1975 by concealing the fact that he was convicted by court of law. Besides, when he was in jail, during his posting in the department he covered up his absence from the Govt. duty by submitting bogus, false and forged medical certificates. He received about Rs. 80,000/- salary from the department for which he was not actually entitled.

The above fact discloses an offence punishable under Section 420, I.P.C. Against the Amir Jit Singh Bisen. A case is therefore registered and Sri Ram Chandra Inspector of Police, C.B.I. (S.P.) Lucknow is deputed to investigate it."

Mishra

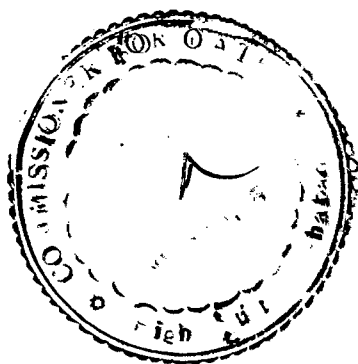
Sd/- S.P. Misra.
S.P. (C.B.I.)
Lucknow. "

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13. That the contents of para no.6(iii) of the petition are matters of record and, as such, require no reply by means of this affidavit.

14. That the contents of para no.6(iv) of the petition are not admitted, as stated therein. It is stated that the work and conduct of the petitioner was not at all satisfactory as alleged. He was awarded the punishment of "Censure" and remained under suspension from 29.6.1981 to 17.7.1981. It is entirely wrong to say that no vigilance and disciplinary case is pending against him when the petitioner is facing prosecution in the court of law. The alleged certificate, a copy of which has been annexed as Annexure-1 to the petition, though managed by the petitioner in his personal gain from the then Superintendent Incharge, who issued it beyond his powers, itself plainly states the involvement of the petitioner in a criminal case and thereby facing prosecution in the court of Chief Judicial Magistrate, Lucknow. Moreover, the form and manner in which the said certificate has been issued is altogether different and contrary to the form and procedure laid down for issuance of such a certificate in the department. The said certificate is never issued to the official concerned but to his controlling authority and that too when it is necessary. Thus the said certificate was actually managed by the



P. K. Sharma

A411

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petitioner wilfully simply with the intention to manipulate the things in his favour. The averments made to the contrary are false and as such are emphatically denied.



15. That in reply to the contents of para no.6(v) of the petition it is stated that this actually happened as a result of dishonest and unlawful act of the petitioner who managed his appointment in the department fraudulently by concealing the material fact that he was convicted by the court of law. The F.I.R. in C.B.I.Lucknow was lodged only on 20.12.1983 on coming to know of these facts.

16. That the contents of para no.6(vi) of the petition are not admitted, as stated therein. The petitioner is trying to mis-lead this Hon'ble

Tribunal by concealing the correct facts. The correct facts is that as already stated herein above a F.I.R. was lodged on 20.12.1983 and the Central Bureau of Investigation submitted a charge sheet in the court of Special Magistrate, C.B.I., Lucknow on 31.12.1984 where the petitioner is facing prosecution under Section-420, I.P.C.. The averments made that he is being prosecuted "for concealment of certain facts" is not based on factual position. As a matter of fact it is his own act that he suppressed the material fact of his conviction

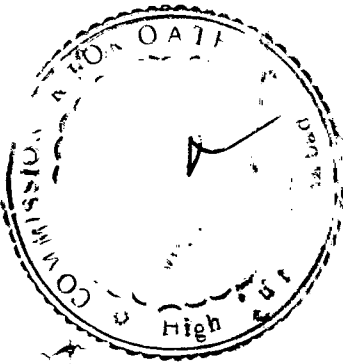
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wilfully, and fraudulently managed his entry in the department.

17. That the contents of para no.6(vii) of the petition are absolutely misleading, false and wrong. It is submitted that the petitioner dishonestly and fraudulently managed his appointment in the department by concealing the fact that he was convicted the court of law as stated in the preceding paragraphs. He thus committed an offence under Section-420, I.P.C. and consequently facing prosecution in the court of law.



18. That the contents of para no.6(viii) of the petition are not admitted as stated therein. It is entirely incorrect to say that the vacancies were advertised in the newspapers. Actually the names of suitable candidates were called for from the concerned Employment Exchanges to fill up one reserved and one unreserved vacancies in the cadre of Hindi Translator Grade-II meant for the outside candidates. The eligible departmental candidates fulfilling the requisite conditions of eligibility prescribed for the recruitment of outside candidates were allowed to apply for the post.

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19. That the contents of para no.6(ix) of the petition are matters of record and, as such, require no reply by means of this affidavit.

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20. That in reply to the contents of para no.6(x) of the petition it is submitted that the petition of the petitioner for appearing in the examination for the post of Hindi Translator Grade II was forwarded in time. Neither the Superintendent Incharge nor the Senior Supdt. Telegraph, Traffic Allahabad Division, Allahabad was having any grudge or ill will against the petitioner. The allegations thus made are altogether false and baseless. The alleged complaint, a copy of which has been annexed as Annexure no.3 to the petition was never routed through the Office of Senior Duptd. Telegraph Traffic, Allahabad Division, Allahabad. It appears that the said complaint is a fabricated document manipulated by the petitioner with mala fide intention simply to make out a case for the alleged biased attitude of the authorities. Infact there is no reality in the contention of the petitioner that his application was not initially forwarded whereas the fact remains that it was forwarded in time by the Supdt. Incharge, C.T.O., Allahabad as stated above. The rest of the avermentss made in para under reply are false and as such are denied.



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21. That the contents of para no.6(xi) of the petition are denied to the extent that the petition was routed through the office of Senior

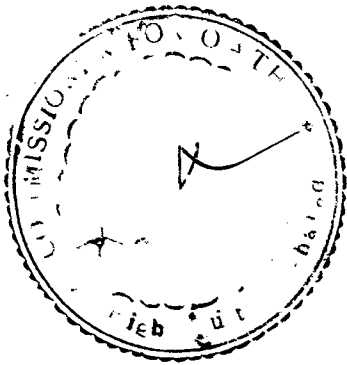
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Superintendent, Telegraph Traffic, Allahabad Division,
Allahabad.

22. That the contents of para no.6(xii) of the petition are matters of record and, as such, require no reply by means of this affidavit.

23. That the contents of para no.6(xiii) of the petition are not admitted as stated therein. It is absolutely incorrect to say that the provisional permission was granted without mentioning the documents required for completion of the formalities. Infact, the petitioner himself is responsible for the lapse, and he had admitted it while applying on the prescribed application form stating that he would submit the wanting documents after some time as he was not in possession of these documents at that time. After sufficient lapse of time when he failed to submit the wanting documents, he was reminded for the lapse on his part. Hence, there is no truth in the contention of the petitioner rather altogether false and baseless.



24. That in reply to the contents of para no.6(xiv) of the petition only this much is admitted that the petitioner appeared in the examination of Hindi Translator Grade-II. His

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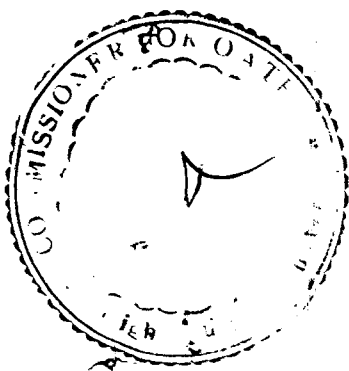
.11.

contention that he was hopeful for his selection is nothing but simply a presumption having no ground to stand for consideration.

25. That the contents of para no.6(xv) of the petition are matters of record and, as such, require no reply by means of this affidavit.

26. That the contents of para no.6(xvi) of the petition are not admitted as stated therein. It is entirely wrong to say that the case of the petitioner was put up before the Departmental Promotion Committee which considered his candidature for the post. Actually the petitioner was allowed to appear with his provisional candidature which did not in any way make him eligible for consideration. He could be entitled only after its clearance. The said provisional permission remained in continuance and no decision could be taken as the petitioner all along failed to submit the wanting documents. Hence, the question of considering his case as alleged did not arise at all.

27. That The contents of para no.6(xvii) of the petition are not admitted. It is stated that no such telephonic directive was ever given by the Chairman of the D.P.C. as alleged. Further, the

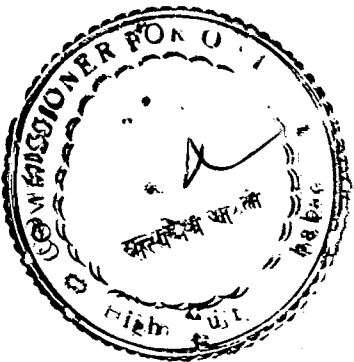


Resubmit

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candidature of the petitioner from the said examination was cancelled vide orders dated 8.4.1988. Hence, the question of calling for the wanting documents on 21.8.1988 as alleged did not arise at all. The facts thus presented by the petitioner are quite wrong and baseless but simply with the intention to mislead the Hon'ble Tribunal.



28. That the contents of para no.6(xviii) of the petition are absolutely misleading, false and baseless. It is stated that there is no truth in the contention of the petitioner that he had secured highest marks and was hopeful of his selection. It is also entirely wrong to allege that the wanting documents were called for after almost 8 months of submission of the ^{application} ~~petition~~ form whereas the petitioner himself was responsible as the lapse was on his own part and he was supposed to submit the wanting documents in time as per his statement as enumerated in para -13 above. The candidature of the petitioner was ^{cancelled} ~~cancelled~~ vide orders dated 8.4.1988 and as such, there was no question of calling for the wanting documents as alleged in view of the facts stated above. The averments thus made are entirely based on the wrong presumption having no ground to rely upon.

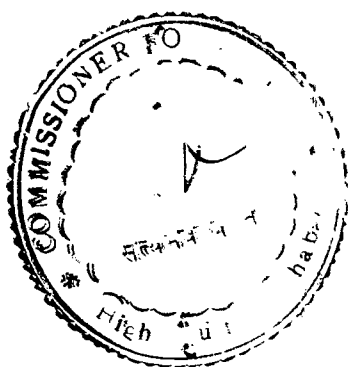
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29. That ~~the~~ in reply to the contents of para no.6(xix) of the petition it is stated that the

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petitioner was fully aware of the fact of submission of the wanting documents as stated in the preceding paragraphs. As he failed to submit the wanting documents even after giving an undertaking, he was directed to submit the same to complete the requisite formalities for consideration of his case without any prejudice or bias to the clearance of his provisional candidature. The rest of the averments made in para under reply are false and as such are emphatically denied.



30. That in reply to the contents of para no. 6(xx) of the petition it is stated that the petitioner had not been prompt in submission of the wanting documents as is evident from the fact stated in the preceding paragraphs. Hence there is no truth in the contention of the petitioner and it is rather wholly wrong and baseless.

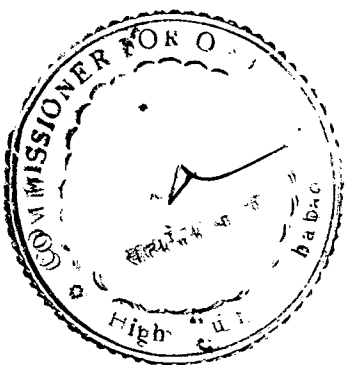
31. That in reply to the contents of para no. 6(xxi) of the petition it is stated that there are actually two different examinations and both are processed, conducted and its results are announced separately. Hence, there is no relevancy at all with each other in regard to the declaration of the result etc. as alleged. It always depends on possibility of announcement of the results keeping in view other aspects of recruitment.

Disbanded

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32. That the contents of para no.6(xxii) of the petition are absolutely false and baseless. It is further stated that it always depends on administrative convenience keeping in view the possibility of announcement of the results and other aspects relating to the recruitment as stated in para no.21 above. Hence, contention of the petitioner for delaying the result or favouring some one else as alleged is wholly unfounded having been concocted for the purpose of this petition.



However, it is further submitted that vigilance clearance was not given by the Circle Office in view of case registered by Central Bureau of Investigation against the petitioner. In this connection a true copy of the Directorate letter No. 1-1/86-VIG-1, dated 1.1.1988 and No. VID/R-1/86/1, dated 25.2.1988 is being filed and marked as Annexure CA1 to this affidavit.

33. That in reply to the contents of para no.6(xxiii) of the petition it is stated that there is no truth in the contention of the petitioner regarding making various representations and personal approach for announcement of the result and as such are emphatically denied.

Annexure

34. That in reply to the contents of para no.6(24) of the petition it is stated that it is true that the petitioner served a legal notice but it is

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stated that it was not obligatory to succumb to the pressure of the petitioner inasmuch as in view of the facts disclosed herein above.-the petitioner was not entitled to the benefit which he wanted as his initial appointment is subject matter of dispute and he is being prosecuted under Section 420 I.P.C. for manipulating his appointment in the department by suppression of material fact. The averments made in this paragraph ^{are} ~~which~~ only with a mala fide intention simply to gain sympathy from the Hon'ble Tribunal.



35. That the contents of para no.6(25) of the petition are not admitted as stated therein. That the allegations levelled by the petitioner against the authorities having 'irked' is wrong and have been maliciously made. It is stated that the petitioner was convicted in a criminal case and sentenced to a term of seven years R.I. under Sections 307, I.P.C. on 4.1.1975 by the Addl. District Judge, Gonda. The appeal of the petitioner against the said judgment was dismissed by the Hon'ble High Court of Judicature Allahabad, Lucknow Bench, Lucknow on 1.8.1978. The petitioner dishonestly and fraudulently managed his appointment in the department in July, 1975 by concealing the fact that he was convicted by the Court of Law. For the said unlawful act of the petitioner, the C.B.I. registered a case against him under Section 420, I.P.C. and the

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petitioner is facing prosecution in the court of law as stated in para -1 and 2 hereinabove. On knowledge of the facts and keeping in view the gravity of offence where the moral turpitude of a Govt. servant was involved duly proved by the court of law, it was necessary rather essential to cancel the candidature of the petitioner from the said examination of Hindi Translator Grade-II forthwith for which he was not actually entitled but managed it fraudulently. Thus the action taken was in no way irregular rather perfectly correct supported by rules and regulations as well as law and justice. A true copy of the judgment of the Hon'ble High Court rejecting the appeal of the petitioner is being filed as Annexure -CA2 to this affidavit.

A True copy of the F.I.R. registered against the petitioner is being filed and marked as Annexure-CA3 to this affidavit.

36. That the averments made by the petitioner in para no.6(26) of the petition are absolutely misleading, misconceived and based on misconception of law. It is submitted that the petitioner was convicted under Section-307, IPC. and was sentenced to a term of seven years R.I. for assaulting Km.Meera Rai by means of a knife while she was going to College. In appeal the Hon'ble High Court held that the background of the occurrence was an attempt of the appellant to acquire intimacy with the victim of the crime, and when these overtures

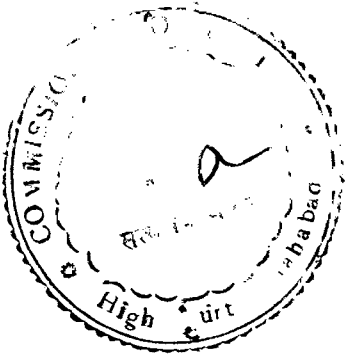


Annexure

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failed he attacked here with knife blows. The court on the question of sentence was told that the petitioner was receiving education at the time of occurrence. Taking the view that he was student and his long detention in jail will jeopardise his academic career, reduced his term of sentence to a period of 2½ years R.I. under Section-308, IPC, setting aside the conviction under Section-307, IPC. With that modification in sentence his appeal was rejected. The judgment of the Hon'ble High Court was pronounced on 1.8.1978. It is stated that the gravity of his offence is as such that it makes him unfit for the Govt. employment. The continuance in service and drawal of pay, all these are the result of his dishonest and fraudulent act by which he managed his appointment in the Department by concealing the material fact of his conviction at the time of his recruitment. By suppressing the fact of his conviction, the petitioner further committed a criminal offence under Section-420, IPC, and for that he is facing prosecution in the court of Chief Judicial Magistrate as enumerated in the preceding paragraphs. Hence, his contention of non-pendency of vigilance or disciplinary case as alleged is entirely false and baseless. There is no question of giving any consideration to the matter of his promotion as contended for which he does not at all stand for consideration.

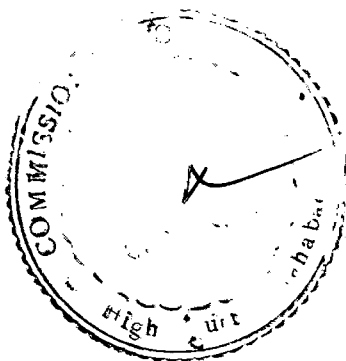


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37. That the contents of para no.6(xxvii) of the petition are absolutely false and baseless. It is further stated that as per the rules and regulations governing appointments in a department under Union of India, conviction of a person on a criminal charge is termed as a disqualification and thereby rendering him unfit for Govt.employment. Infact,due to the aforesaid reasons the petitioner fraudulently managed his appointment in the department by concealing the fact that he was convicted by the Court of law. Thus he is guilty of his own conduct which actually resulted in cancellation of his candidature from the examination. The plea of the petitioner that the Criminal case can not be a ground to disallow him from appearing in the promotional examination is nothing but simply a ~~maxified~~ motivated act of mis-representation of the facts manipulated only for the sake of his personal gain,which does not in any way stand for consideration in light of the facts stated above.



38. That in reply to the contents of para no.6(28) of the petition it is submitted that the Circular referred to ~~shown~~ by the petitioner are not relevant at all. It is submitted that as a matter of fact the petitioner was convicted on a criminal charge by the court of Law and this conduct of the petitioner automatically debars him from all the

Kashmir

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service benefits that he should have availed in a normal course of his employment. Hence there is no truth in his contention rather a nice way of misrepresentation of the facts manipulated with a mala fide intention simply to mislead the Hon'ble Tribunal.

39. That the contents of para no.6(29) of the petition are wrong, misleading and baseless. It is submitted there is no force in the contention of the petitioner which calls for any consideration from this Hon'ble Tribunal. As a matter of fact, no new facts have emerged rather he is repeating the previous contention and the averments thereto have already been replied to in the preceding paragraph in this affidavit and the same are reiterated as correct.

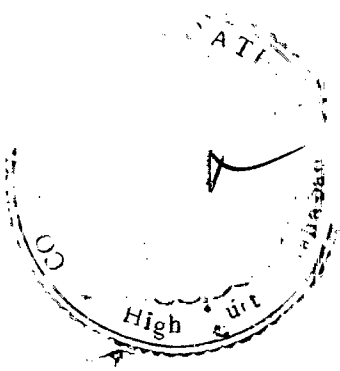
40. That in reply to the contents of para no.6(xxx) of the petition it is stated that the case of the petitioner is quite different and it has no relevancy at all with the circular dated 30.6.1932 as referred to. The facts thus presented by the petitioner are altogether wrong and baseless and it do not in any way stand for consideration in light of the facts stated in the preceding paragraphs.

Subhash

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41. That the contents of para no.6(xxx1) of the petition are wrong and baseless. It is further stated that actually there is nothing but simply misrepresentation of the facts and that do not in any way stand for consideration as stated above. It appears that the petitioner has forgotten the very fact of his conviction on a criminal charge which, as a matter of fact has debarred him from all the benefits that he should have availed in a normal way of his employment.



42. That the contents of para no.6(xxxii) of the petition are not admitted. It is stated that it is only an act of manipulation managed with the intention to exploit the real facts of the case to gain a ^{favourable} ~~favourable~~ position. Infact satisfactory records of service and unblemished character are the vital points of consideration to which a person has to satisfy prior to the grant of permission. The petitioner was convicted on a criminal charge and was sentenced to undergo Rigorous imprisonment and as such he was not entitled for grant of such a permission either as a departmental or outside candidate and, even for his entry in the department as enumerated in the preceding paragraphs.

Deekhaul

^a in reply to ^a

43. That/the contents of para no.6(xxxiii) of the petition it is stated that actually the conviction of the petitioner on a criminal charge deprives him from all the service benefits as

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stated above. As such the provisional permission granted to the petitioner prior to the knowledge of his conviction cannot have any relevancy rather wholly wrong and baseless extending no support to his contention as alleged.



44. That the contents of para no.6(xxxiv) of the petition are not admitted. It is stated that it is only the C.B.I. report which disclosed the very fact of involvement and conviction of the petitioner in a criminal case. On knowledge of the above facts it was imperative on the part of the respondents to cancel the provisional candidature of the petitioner for which he was not actually entitled but he managed it fraudulently by suppression of facts. As such, there has been nothing wrong in cancelling the provisional permission of the petitioner rather the action taken was perfectly correct and in conformity with the rules and regulations as well as law & justice.

45. That the contents of para no.6(xxxv) of the petition are absolutely misleading, misconceived and baseless. It is further stated that the petitioner was not entitled even for grant of the provisional permission but he managed it wrongfully by concealing the fact of his conviction as stated above. As such there was no way to rectify the said irregularity except to cancel it forthwith. Hence the action

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taken was perfectly correct supported by rules and regulations and cannot in any way be termed as violation to any Rule, order or constitutional provisions.



46. That the contents of para no.6(xxxvi) of the petition are not admitted. It is stated that it is only the act and action of the petitioner which has debarred him from all the service benefits as stated in the preceding paragraphs. The petitioner stands debarred from any service benefit till he has cleared all the charges under Section-420, IPC. of cheating and manipulating his appointment in the Government and suppressing the fact that he was convicted for an attempt to murder under Section-307, IPC. by Addl. District Judge, Gonda and sentenced to 7 years' R.I. which sentence was later on modified to 2½ years' R.I. On appeal by the High Court. The petitioner suppressed all these facts and manipulated his appointment and had drawn nearly Rs. 80,000/- for which he was not entitled as per Rules. The petitioner's contention is absolutely wrong.

47. That the contents of para no.6(xxxvii) of the petition as alleged are emphatically denied. The allegations regarding favouring some candidates who were junior in merit to the petitioner are all false and have been maliciously made by the petitioner to give colour to his pleading before this Hon'ble Tribunal. It is submitted that his only wrongful

Subhash

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manipulation which has compelled the respondents for resorting such an action against him when they came to know of the fact that the petitioner was convicted under Section 307, IPC. for 7 years' R.I. and the said conviction was upheld by the Hon'ble High Court in appeal. As such it is entirely on the part of the petitioner to blame the respondents for cancellation of his candidature. As a matter of fact the petitioner himself is responsible for the situation in which he has placed due to his own conduct and behaviour.



48. That the contents of para no.6(xxxviii) of the petition are not admitted. It is stated that cancellation of candidature of the petitioner does not amount to punishment as alleged, rather an act of justice which has been done to the petitioner keeping in view his involvement and conviction in a criminal case as enumerated in the preceding paragraph. The action thus taken was in no way irregular rather perfectly correct, just, fair, legal and strictly as per rules and regulation.

49. That the contents of para no.6(xxxix) of the petition are not admitted. It is stated that the selection of the petitioner was never approved by the D.P.C. as alleged. The appropriate authority competent to make recruitment always reserves his right to cancel the selection of a person if he is not found fit or where the selection has been obtained

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fraudulently or has been made erroneously without observing the usual formalities as laid down in the rules, without assigning any reason. It is stated that the petitioner was inherently disqualified for being appointed in the Govt. service on account of his conviction under Sec.307,IPC. and sentence of 7 years' R.I. imposed on such conviction. The allegation thus made are wholly wrong and baseless and as such are emphatically denied.

50. That the contents of para no.6(xxxx)of the petition are not admitted. It is submitted that the petitioner is not entitled to the protection under Articles-14 and 16 of the Constitution of India. No discrimination has been practised nor action of the authority is arbitrary. As already stated above, the petitioner was sentenced under Sec.307,IPC. and was convicted for 7 years' R.I. for making a murderous assault on a girl -student who did not succumb to petitioner's overtures . The appeal of the petitioner was also rejected and the sentence was upheld by the Hon'ble High Court. As such the petitioner was inherently disqualified for being appointed in the department and what to say of the cancellation of his provisional candidature. It is submitted that the plea of his exoneration in the present criminal case filed by the C.B.I. under Section 420,IPC., is merely supposition and is based altogether on the wrong presumption. The action taken was strictly as



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per rules and abide the constitutional provisions and cannot be in any way be termed as unconstitutional or violative to any Rule or order.

51. That the contents of para no.6(xxxxi) of the petition are not admitted. It is stated that by cancelling the provisional candidature of the petitioner the respondents have not committed any mistake as alleged rather acted correctly as per rules as warranted by the facts and circumstances of the case. As a matter of fact the conviction of the petitioner under Section 307, IPC. and sentence of 7 years' R.I. imposed on him makes inherently disqualified for being considered for Govt. employment but inspite of the same the petitioner suppressed the facts from the department and fraudulently managed his appointment in the department by concealing the fact that he was convicted by a court of law and was not qualified. It is submitted that the aforesaid conduct and fraudulent act of the petitioner disentitled him for any service benefit which he should have availed in normal course. It is submitted ^{that} it is the petitioner's conduct and behaviour and fraudulent act which has resulted in cancellation of his candidature for which he ^a ~~himself~~ himself is responsible and liable and the respondents cannot be blamed for the same.

52. That the contents of para no.6(xxxxi) of

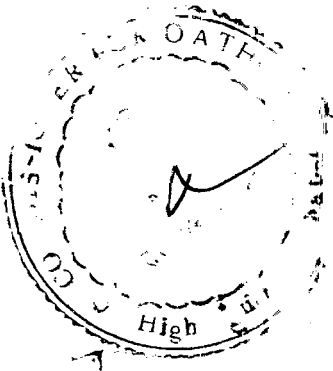


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the petition are not admitted. It is submitted that the petitioner could have represented the matter to the higher authorities against the said order. However, it is submitted that no injustice has been done to the petitioner by not extending the benefit for which he was not actually entitled as per the rules and statutory provisions. No case has virtually been made out by the petitioner to invoke the jurisdiction of this Hon'ble Tribunal.



53. That in reply to the contents of para no.7 of the petition under heading "Relief claimed", it is stated that the petitioner is not entitled to any of the reliefs (a)(b)(c)(d)(e) as claimed for. It is only the conduct and behaviour of the petitioner of his own which had led him to the forfeiture of his candidature. The contentions made in para under reply all are misconceived in view of the facts and circumstances disclosed in the preceding paragraphs of this counter affidavit and the petition filed is liable to be dismissed with costs.

54. That in reply to the contents of para no.8 of the petition it is stated that the petitioner is not at all entitled to any interim relief by this Hon'ble court inasmuch as he is guilty of his own criminal conduct by which he has deprived himself from all the service benefits as

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enumerated in the preceding paragraphs of this affidavit. The petition thus filed is misconceived in law and it is respectfully prayed that the same may be dismissed with costs.

55. That in reply to the contents of para no.9 of the petition it is stated that the petitioner has not availed all the remedies available to him under the relevant service rules. No doubt he served a legal notice but it does not amount exhausting of the remedy falling under the purview of the said provisions. Hence, the petition filed is not maintainable and is liable to be dismissed on this score alone.

56. That the contents of para no.10 of the petition are matter of records and as such requires no reply by means of this affidavit.

57. In this connection it is submitted that the petitioner had also applied for House Building Advance but the department had refused to give him House Building Advance on the ground that his permanency in service had been under dispute and, therefore, it was not possible to process his case. The petitioner had filed a writ petition No.9702 of 1984 which was transferred to the Central Administrative Tribunal, Circuit Bench at Lucknow and registered as T.A.No.1983 of 1987(T). The Hon'ble Tribunal by its judgment dated 23.10.1989 had rejected the

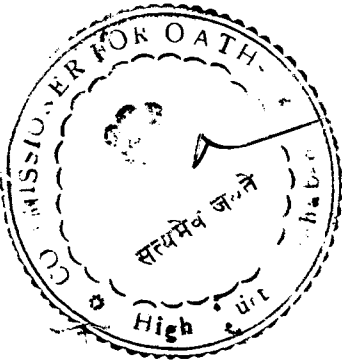


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application of the petitioner and upheld the contention of the department. A true copy of the judgment of the Hon'ble Tribunal is being filed and marked as Annexure-CA4 to this affidavit.



58. That in view of the facts and circumstances mentioned above by means of this affidavit it is respectfully prayed that the petitioner is not entitled to any relief claimed for as he is guilty of suppression of material fact from this Hon'ble Tribunal. He has suppressed the fact from this Hon'ble Tribunal and obtained employment in the department by suppressing the fact that he was convicted by a court of law for offence under Section-307,IPC. and was sentenced to 7 years' R.I. for making murderous assault on a girl student of his college who turned down the petitioner's overtures. The said conviction was also maintained by the High Court. As such he was inherently disqualified from taking a Govt. employment. He manipulated his employment in the department by suppression of material fact. These facts came to the knowledge of the department and action was initiated against him. Even C.B.I. entered into the scene and had launched the petitioner's prosecution under Section-420,IPC. Due to his manipulation the petitioner has drawn a sum of Rs.80,000/-salary which he was not entitled. The petition is misconceived and is liable to be rejected with costs.

D. K. Chaudhary

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of this affidavit are based on legal advice which all the deponent believes to be true; that no part of this affidavit is false and that nothing material has been concealed in it.

Deponent.

Michael

R. C. Gardner
Clerk. 9/9/20

Solemnly affirmed before me on this 9th day of ~~November, 1989~~ ^{September, 1990} at 8:15 a.m./p.m. by the deponent who is identified by the aforesaid clerk.

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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

Alfred J. Starn
OATH COM. 1, 10-11-12
High Court of the Oath Commission
Date-- 9-9-90--
Sr. No-- 65/939--

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In the Central Administrative Tribunal, Circuit Bench
Lucknow.

..

Annexure-CA1

In

Counter-Affidavit

In

Registration No.127 of 1988(L)

Amarjeet Singh Bisen..

.Petitioner

Versus.

Union of India and others..

. Respondents.

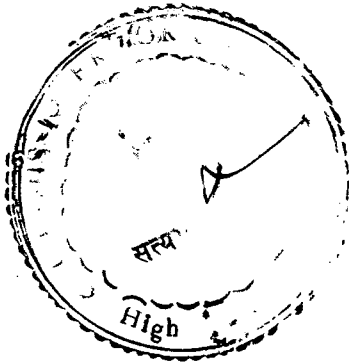
....

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM.U.P.CIRCLE
LUCKNOW.

To,

1. All Officers of Circle, Office, Lucknow.
2. All Area Directors Telecom.
3. All Telecom District Managers.
4. All TDE/ SDOT(P)/AEs.
5. All ASSTT/ST.
6. All Supdt. I/C. CTOs/DTOs.
7. Chief Supdt. CTO Agra/Lucknow.
8. Principal RTTC Lucknow.
9. A. E. I/C CTSD Lucknow.
10. A. E. I/C CTTC Lucknow.
11. Supdt. Engineer (Elec) Telecom. Circle,
3-B, Habibullah Estate Building Lucknow.
12. Supdt. Engineer P&T Civil Circle,
7-Rani Laxmi Bai Marg, Lucknow.
13. The Executive Engineer (Civil), LW/KP/AD/DDM &
GZB.
14. Chief Accounts Officer (TA) Lucknow.

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15. Accounts Officer(ICO) Lucknow.
16. Accounts Officer(Telecom.Check Units),
Naini (Allahabad)/ Rae Bareli and Mankapur(Gonda).
17. All SS Circle Office Lucknow.
18. Office Supdt./Dy.Office Supdt. I & II,
Circle Office,Lucknow.
19. All Circle Secretaries recognised,
Union Class-III & IV.

...

No. VID/R-1/86/1

Dated 25.2.1988.

Subject:- (1) Issue of Vigilance clearance in case of
promotion, confirmation or deputation,
crossing of E. B. etc.

(2) Determination of disciplinary authority
in case of reversion of accused employee
doing the process of disciplinary case-
clarification regarding-

Please find enclosed herewith copies of
Directorate letter No.1-1/86-Vig.I dated 1-1-88 and
No.8-16/86-Vig. II, dated 28.1.1988 for information,
guidance and necessary action.

Receipt of this letter may please be
acknowledged.

Sd/- (S. N. Srivastava)
VIGILANCE OFFICER
(TELECOM.)

COPY TO:-

(I). VID/G-1/86/1.

(II). Guard file.

AP Srivastava	
OATH COMMISSIONER	
High Court, Allahabad	
Date	9.9.90
Sr. No	65/939

True copy

Lucknow

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.3.

COPY OF DDG(VIG.T)MINISTRY OF COMMUNICATIONS.
DEPARTMENT OF TELECOMMUNICATIONS.DAK TAR BHAWAN.SANSAD
MARG .NEW DELHI LETTER NO.1-1/86-Vig.I DATED 1st JANUARY
1988, ADDRESSED TO ALL GENERAL MANAGERS TELECOM./
TELEPHONES & OTHERS.

SUBJECT: Issue of Vigilance clearance in case of
promotion, confirmation or deputation,
crossing of E.B.etc.

...

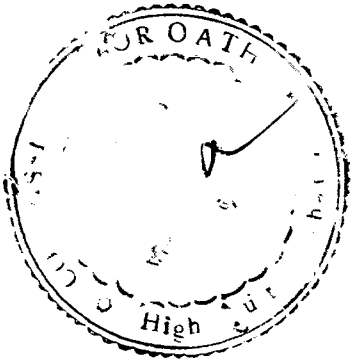
Sir,

In modification to this office circular No.
56/7/77-Disc.I dated 13.12.1977 and No.1/1/86-Vig. I
dated 3.12.87 the following guide lines shall
Henceforth be followed for issuing Vigilance clearance
in case of promotion,confirmation,deputation,crossing
of E.B.etc.

2. It is hereby clarified that in case a
Vigilance clearance is requested in respect of an
officer/official for above purpose vigilance clearance
may be withhold under the following circumstances:-

- i) Where an officer/official is placed
under suspension by competent disciplinary
authority,or
- ii) Where a charge-sheet has been issued
by competent disciplinary authority,or
- iii) Where the competent disciplinary authority
has decided in writing to institute
disciplinary proceedings although the
charge-sheet has not been actually issued,
or,

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iv) Where the officer/official has been prosecuted in the Court of law or competent disciplinary authority has decided in writing to prosecute the accused Govt. servant for a criminal offence or offence involving moral turpitude.



3. Where Vigilance clearance is withheld the date of decision of competent disciplinary authority to initiate disciplinary proceedings or the date of current suspension should be intimated to authority requesting vigilance clearance.

4. In respect of cases where a case has been under investigation/or under process against a suspect officer, vigilance clearance may be withheld only when the competent disciplinary authority take a decision in writing to withhold Vigilance clearance after considering the allegations and facts disclosed till then against the accused Govt. servant. Such case should be put up to the competent disciplinary authority immediately for decision.

5. The contents of this letter may please brought to the notice of all concerned working in your control.

6. Receipt of this letter may please be acknowledged.

R. D. D. V
OATH COMMISSIONER
High Court, Allahabad
Date--9.9.90--
Sr. No--65/939--

Sd/--
DDG(VIG. T)

.....

True copy.

Subhash

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In the Central Administrative Tribunal, Circuit Bench
Lucknow.

..

Annexure-CA2

In

Counter- Affidavit

In

Registration No. 127 of 1988(L)

Amar Jit Singh Bisen ..

.. Petitioner

Versus.

Union of India and others..

. Respondents.

...

In the High Court of Judicature at Allahabad

Lucknow Bench, Lucknow

Court No. 1

Criminal Appeal No. 66 of 1975.

Amarjit Singh, S/o-B. D. Singh.

.. Accused-Appellant

Versus.

The State ...

. Respondents.

Hon'ble Prem Prakash, J.

Amarjit Singh(22), an erstwhile student of B. Sc., receiving coaching in Thempson College, Gonda, on 5.2.1973, has directed this appeal against his conviction and sentence to a term of seven years' R. I., under Section-307 Penal Code, upon the finding that on 5.2.1973 at about 8.30 a.m. near the bifurcation leading to the Lal Bahadur Shastri Degree College, in the town of Gonda, he assaulted Km. Meera Rai, by means of the knife Ex. 2, with such intention or

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knowledge and under such circumstances that if by that act he had caused the death of Km.Meera Rai, he would have been guilty of murder, rendering him liable under Section-307 Penal Code.

Km.Meera Rai(18) was then living in the locality known as Pant Nagar in Gonda city. She was a student of B.A.Part-I in Lal Bahadur Shastri Degree College, Gonda. Her brother Ghan Shyam Rai(P.W.1) was also a regular student of that degree college, and was attending classes of B.Sc.Part I.



On the fateful day, at about 8.30 a.m., Km.Meera Rai accompanied by his two younger sisters Bina Rai and Uma Rai, boarded a 'Rickshaw' from her house at about 8.30 a.m. and left for the college. Ghan Shyam Rai accompanied his sisters on a bicycle to attend his classes in the Degree College. He was a little ahead of the 'Rickshaw' and when he reached near the gate of the Degree College he heard some shouts and weeping from behind. Ghan Shyam Rai turned back and saw to his utter dismay that Km.Meera Rai lay on the ground and the appellant was striking blow with his knife on her right knee while the other two sisters were raising shrieks and weeping. The place was at a distance of 60 or 70 paces from the gate of the College. Ghan Shyam Rai(P.W.1) alongwith Ghan Shyam Singh(P.W.2), Subhash Chandra Pandey(P.W.3), Mazhar Husain, Mata Prasad, Madan Mohan Srivastava, Murli Manohar Singh and others, who were the students of the college rushed to the scene of occurrence. When they

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reached there Amarjit Singh was standing by. The appellant challenged Ghan Shyam Rai saying that he had taken revenge from Meera and that he would see him also. He was holding blood smeared knife. Nearby lay his cycle Ex.9. Ghan Shyam Rai and other students apprehended the appellant together with the knife Ex.2. He was taken by the students to the office of the Degree College; the bicycle and the knife were also taken to the office of the college.

Thereafter Km.Meera Rai was sent on a rickshat to the hospital for examination and medical treatment while Ghan Shyam Rai proceeded to the police station to make a report of the occurrence.

Meera Rai who was examined by Dr.Wirankar Singh (P.W.9) at 8.55 a.m., on the very day bore four incised wounds and a linear abrasion, they being (1) Incised wound 3 cm. x 1 cm. x depth, under observation, right side back of chest. (2) incised wound 5 cm. x 1 cm. x depth, left side back of chest middle, 11 cm. away from mid-line, both ends tapering and bleeding profusely. (3) incised wound 6 cm. x 1 cm. x bone deep, front and lower parts of right knee, both ends tapering and bleeding profusely, (4) incised wound 2 cm. x 1/2 cm. x skin deep, front and base of the middle finger, and (5) linear abrasion 2.5 cm. long, on palmar surface of first phalanx of right index finger.

The chest injuries of the victim were X-rayed by Dr.R.S.Pandey whose statement made in the committal court was tendered in evidence, it being

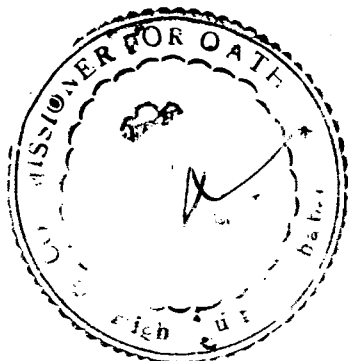


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Ex.Ka 18. Dr.Pandey found pleural effusion on the right side of the chest. The pleural effusion in the opinion of the doctor was the combined effect of traumatic swelling inflammation and the cutting of the minute vessel. He did not, however, find any external sign of cut injury in the pleura. The pleural effusion as told by Dr.Pandey corresponded to the back injury.



Ghun Shyam Rai made over a written report of the incident at police station Kotwali, Gonda, at 9.30 a.m. .After the check report had been prepared the investigation of the case was taken up by Sub Inspector Kalika Singh (P.W.7), who went to the place of occurrence at about 10 a.m. The accused as also the knife(ex.2) and bicycle(ex.9) were handed over to the Investigating Officer by Sri Jagdish Pratap Singh(P.W.1), the Principal of Lal Bahadur Shastri Degree College, Gonda. Memo of blood smeared knife was prepared there. The incriminating articles and the accused appellant were then brought to the police station. Thereafter the Investigating Officer took into his possession the blood stained clothes ~~am~~ of the victim of the crime which were sealed and deposited at police station Kotwali, vide Ex.Ka 7. After doing the necessary investigation and interrogating the witnesses, a charge sheet was submitted against the accused on 10.2.1973.

Dr. Shyam

The plea of the accused was of a denial of

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his guilt. He denied that he was caught on the spot with a blood stained knife. He asserted that he was called from his house and arrested, and the knife was planted upon him. According to him Sri K.K.Nayyar, Advocate, was instrumental in falsely implicating him in the case. He did not adduce any evidence as to the circumstances in which he was arrested. He produced a pamphlet Ex.Kha 3 but that pamphlet does not in any manner create a breach in the incident connecting the accused with the crime, and the trial court, therefore, rightly rejected it as of no value.



At the trial the prosecution examined Km.Meera Rai in the committal court, and at the trial were examined Ghan shyam Rai(P.W.1), the brother of the victim of the crime to support the prosecution story. Ghan Shyam Singh(P.W.2), the then student of the Degree College studying in B.A.Part II, had taken the injured to the hospital at about 8.30-9.00 a.m. He disclaimed to have seen the appellant causing knife injuries to Meera Rai though he acknowledged that Meera Rai was lying injured at a distance of 60-65 paces from the gate of the college. and that Amarjit Singh was caught by the students and brought to the office of the Principal. He also admitted that the bicycle of the accused was also lying there which was taken to the college office. He admitted having made a statement in the committal court that Amarjit Singh appellant had a knife in his hand and that the same was snatched by the students

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from him. Subhash Chandra Pandey (P.W.3) was a student of the degree college reading in B.A. Part I at the material time. He deposed that the assault on Meera Rai with a knife took place at about 8.20 or 8.25 a.m., on 5.2.1973, and he rushed to the place of occurrence on the alarm and found Meera Rai injured. He did not support the prosecution that he saw the appellant near the place of occurrence but when he was cross-examined by the prosecution and confronted with his statement made in the committal court (Ex.Ka6) he resiled from that statement, saying that he gave it at the instance of Mr. Nayyar. The Principal of the college P.W.4 stated that the College classes used to begin in February, 1973 at 8 a.m. and that when he reached the office at about 9.00 a.m. he found that the appellant had been confined by the students of the college in the office room. One blood smeared knife was also taken along with the bicycle of the appellant. A couple of minutes thereafter the Investigating Officer came and to him the Principal handed over the accused and other articles.



The trial investigating upon the evidence of the victim of the occurrence contained in the statement made in the committal court which was admitted in evidence under Section 33 of the Indian Evidence Act, and upon the ocular testimony of Ghan Shyam Rai (P.W.1) which was re-inforced by the circumstances, which were brought in evidence from the testimony of the witnesses who had turned hostile and from what was said by the Principal returned

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a finding that the appellant was the author of the crime and holding that the nature and the size of the injuries revealed that the requisite intent was the .. and the appellant guilty of the offence under Section-307 Penal Code.



Counsel for the appellant has at the very outset urged that the first information report lodged by Ghan Shyam Rai was document ,which was prepared and presented in consultation with Sri K.K.Nayyar, an Advocate, and was dictated in the presence of the Station Officer. He has contended that Ghan Shyam Rai was not present at the scene of occurrence, lest he would have had accompanied the victim of the offence to the hospital. I am unable to agree with the submission that the appellant was falsely named or that the events of the crime set out in the first information report were given out after deliberation and consultation. In the present case, the first information report was lodged at the police station at 9.30 a.m. .In this report Ghaym Shyam Rai gave the background of the occurrence, stating therein that the appellant used to tease his sister off and on. He also stated that there was a verbal altercation between him and the appellant on that score sometime before the occurrence. He also stated that Subhas Pandey, Ghan Shyam Singh and others had arrived at the scene of occurrence and that the appellant was taken by the students and confined in the office of the college. That the report was lddged at that hour, is corroborated from the fact that immediately

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thereafter the Investigating Officer went to the college office, and arrested the appellant, who had been confined in the office room of the college. The blood stained knife was also there. The circumstance that the appellant had been taken by the students immediately after the commission of the crime, and the statement of the Principal that the Investigating officer had taken him from there, show that the version, reproduced in the first information report, was a truthful version of the occurrence. It may be that Mr. K. K. Nayyar, an Advocate, was there but because the story contained in the first information report does not suffer from an air of artificiality, as the learned counsel seems to suggest, the presence of Mr. K. K. Nayyar will not reflect upon the credibility of the version contained in the first information report.



Even the witnesses who tried to support the accused were constrained to admit in the cross-examination that the appellant had been taken by the students to the room of the college office, and that he was standing there near the place of occurrence. It was a broad day light incident. There was no reason for the complainant to implicate the accused falsely. It cannot be disputed that Km. Meera Rai had received knife injuries, not one but many, and it does not stand to conviction that she or her brother would let off the guilty and implicate an innocent person like the appellant.

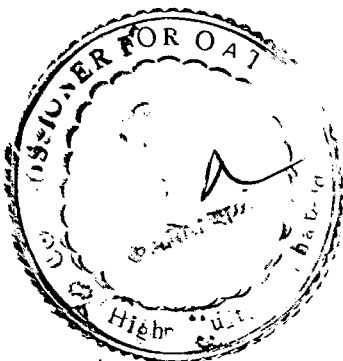
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In these circumstances, I am unable to agree with the learned counsel for the appellant that the first information report contains a tutored version or a version which was prepared in consultation with interested persons.

Learned counsel then contended that the trial court has fallen into error in admitting the statement of the victim of the crime made in the committal court under Section 33 of the Indian Evidence Act. I agree with the learned counsel that only in exceptional circumstances, which should strictly be proved to exist that a previous deposition of a witness should be transferred in a case. Where severe punishment has been enjoined by law upon the offender, it is an admitted right of an accused person that witness who is to testify against him should come in person and thus afford an opportunity to the court to see the witness and observe his demeanour, and for a better appreciation as to his reliability than is possible from reading his statement. In the present case Section-33 of the Indian Evidence Act was taken recourse to because the victim of the crime was not found living in Gorakhpur. She was residing with her husband in Singapur. The Special Messenger was sent to serve the summons for the appearance of Meera Rai, at the instance of the accused and on the address furnished by him. On 27.10.1974

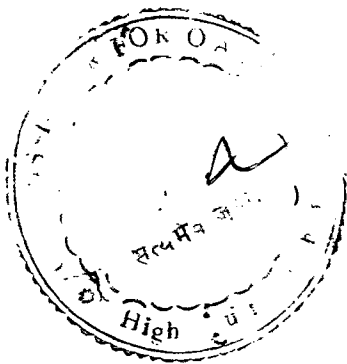


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it was reported that she had gone to Singapur with her husband and that her address was not known. Constable Awadhesh Singh (P.W.6) had also gone to effect service of the summons upon Meera Rai on 19.8.1974 but she was not found there. The constable reported that she was at Singapur. In these circumstances, the trial court was perfectly justified in admitting the statement made by Meera Rai in the committal court under Section-33 Indian Evidence Act. I have perused the statement. The cross-examination was done in detail. She was subjected to a lengthy cross-examination, covering the background of the occurrence as also what took place at the time of the assault and thereafter. By admitting the statement under Section-33 Evidence Act, the appellant was not prejudiced.



Now, we are left with the question what offence, if any, the appellant committed. Learned counsel for the appellant has contended before me that because none of the doctors has opined that the injuries suffered by the victim were dangerous to life, and there was also no evidence that her pleura had been cut, it was at the most an offence falling within the purview of Section-324 Penal Code. He has referred me to a decision of the Allahabad High Court reported in Bhagwan Din and others Vs. State (1966 A.W.P. p.590) The facts of the case are distinguishable inasmuch as the gun shot injuries suffered by the injured in that case were on the

Reference

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back side of right and left thighs. In *Sarju Prasad Vs. State of Bihar* (A.I.R. 1965, S.C.p 843) their Lordships held that the mere fact that the injury actually inflicted by the appellant did not cut any vital organ of the victim is not by itself sufficient to take the act out of the purview of section -307. They, however, observed that the burden is still upon the prosecution to establish that the intention of the appellant in causing the particular injury to the victim was any of the three kinds referred to in section-300 Penal Code, and that burden may be discharged by looking into the appellant's state of mind which can be deduced from surrounding circumstances. After determining the background the Court has to determine whether the appellant intended to cause such injury as he knew to be likely to cause death or intended to inflict an injury which was sufficient in the ordinary course of nature to cause death or that he knew that his act was so imminently dangerous that it must in all probability cause death or cause an injury as is likely to cause death. In an earlier case reported in *Harjinder Singh V. Delhi Administration* (AIR 1968, S.C. P. 867) their Lordships held that if a knife blow is given in the abdomen or near it, a vulnerable part of the human body, such a blow was likely to result in the death. In the circumstances it was held that when the assailant struck the deceased with the knife, he had at least an intention to cause an injury



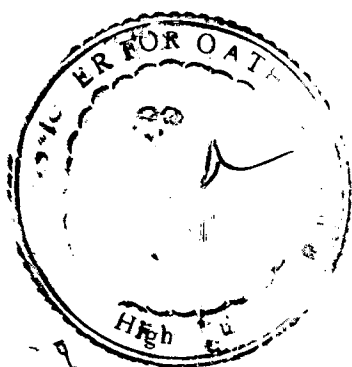
Discharge

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likely to cause death. The appellant was accordingly convicted in that case under section 304 Part I.

In the present case the background of the occurrence was an attempt of the appellant to acquire intimacy with the victim of the crime, and when these overtures failed he attacked her with knife blows. Two of the knife blows were given on the scapular region; there was pleural effusion on the right side of the pleura. The blade of the knife, as it would appear from the recovery memo, was about 5" in length. The doctor was not, in particular, asked the question whether the injury was caused with such an intention as to bring the act, if death had taken place, within clause Thirdly of section 300 Penal Code. Dr. R. S. Pandey was not even definite that any vessel had been cut. Nor did he confirm that the pleura had been cut. The requisite intent as is referred to in section 300 may not be there, but the assailant had, at least, an intention to cause an injury likely to cause death. The appellant is, therefore, guilty of the offence under section-308 Penal Code.



Now as to the question of sentence, learned counsel has brought to my knowledge that the appellant is a young boy, who was receiving education at the time of the occurrence. His long detention in jail will jeopardise his academic career. I think the ends of justice would be adequately met if I reduce the term of sentence to a period of two and a years' R.I., under Section-308, Penal Code, setting

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aside the conviction under section-307 Penal Code. With this modification in sentence, his conviction under section-308 Penal Code is maintained. He is on bail. He has to serve out the unexpired portion of his sentence. His bail bonds are cancelled.

The Chief Judicial Magistrate, Gonda, shall report compliance within six weeks.

Sd/- Prem Prakash.

1.8.1973.

True copy.

Subscribed



<i>APD Sharma</i>	
OATH COMMISSIONER	
High Court, Allahabad	
Date	9.9.90
Sr. No.	65/939

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In the Central Administrative Tribunal, Circuit Bench
Lucknow.

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Annexure-CA3

In

Counter-Affidavit

In

Registration No. 127 of 1988(L)

Amarjit Singh Bisen..

..Petitioner

Versus.

Union of India and others..

. Respondents.

...

SPECIAL POLICE ESTABLISHMENT

LUCKNOW
BRANCH

FIRST INFORMATION REPORT

(Recorded u/s 154, Cr.P.C.)

Crime no. 44/83 Date and time of Report 20.12.83 at
1400 hours.

Place of occurrence with
State

Lucknow (U.P.)

Date and time of occurrence:

1975 to 1981.

Name of complainant or
informant with address

Source

Offence.

U/s. 420, IPC.

Name and address of the
accused.

Sri Amarjeet Singh
Misen, Telegraph Asstt
C.T.O, Lucknow.
(Cr. 'C' Officer)

Lucknow

Action taken:

R.C. registered.

Investigating Officer:

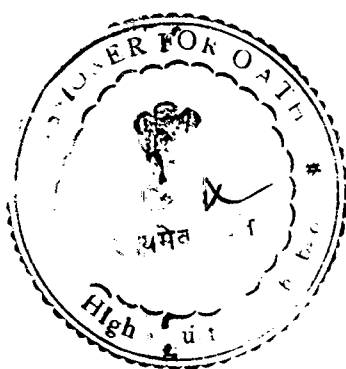
Sri Ram Chandra,
Inspector, CBI,
Lucknow.

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INFORMATION

Information has been received that Sri Amarjeet Singh Bisen presently posted and functioning as Telegraph Assistant, Central Telegraph Office, Lucknow was convicted and sentenced to a term of 7 years R.I. u/s-307 I.P.C. on 4.1.1975 by the Addl. District Judge, Gonda. The appeal of Sri Amarjeet Singh against the said judgment was also dismissed by the Hon'ble High Court of Allahabad Lucknow Bench Lucknow on 1.8.1978.



Sri Amarjeet Singh B dishonestly and fraudulently managed his appointment in P&T Department in July, 1975 by concealing the fact that he was a convicted by the court of law. Besides, when he was in jail, during his posting in the department he covered up his absence from Govt. duty by submitting bogus, false and forged medical certificates. He received about Rs. 80,000/- as salary from the department for which he was not actually entitled.

The above facts disclose offence punishable under Section 420, IPC. against Sri Amarjeet Singh Bisen. A regular case is, therefore, registered and Sri Ram Chandra, Inspector of Police, CBI/SPE Lucknow is deputed to investigate it.

Mishra

Sd/- (S. P. Mehra)
Supdt. of Police, CBI/SPE
Lucknow

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.3.

Registered/Secret.

No. /3/44/83/CW.V/ Dt. 20th Dec., 1983.

Copy to:-

1. The Dy. Insp. Genl. of Police, CBI, Zone-V, New Delhi.
2. The Special Magistrate, Anti Corruption, U.P., Lucknow.
3. The C.B.I., U.P. Circle, Lucknow (By name).
4. Sri Ram Chandra, Inspector, CBI/SPE, Lucknow.



Sd/- (S.P. Mehra),
Supdt. of Police, CBI/SPE
Lucknow.

True copy

Lubhane

R. D. Singh V	
OATH COMMISSIONER	
High Court, Allahabad	
Date	9.9.92
Sr. No.	65/939

A25

In the Central Administrative Tribunal, Circuit Bench
Lucknow.

...

Annexure-CA4

In

Counter- Affidavit

In

Registration No.127 of 1988(L)

Amarjit Singh Bisen ..

..Petitioner

Versus.

Union of India and others..

.. Respondents.

...

CENTRAL ADMINISTRATIVE TRIBUNAL: ALLAHABAD.

Circuit Bench at Lucknow.

Registration T.A.No.1983 of 1987(T)

(W.P.No.9702 of 1984)

Amarjit Singh Bisen..

. Applicant.

Versus.

Union of India through the
Secretary, Ministry of Works, Housing
and Supply, Govt. of India,
New Delhi & Others..

. Respondents.

Hon'ble Justice Kamleshwar Nath, V.C.:

...

Arbhave

The above mentioned writ petition was
received in this Tribunal under Section-19 of the
Administrative Tribunals Act XIII of 1985 and the
relief claimed is for issue of a direction to the

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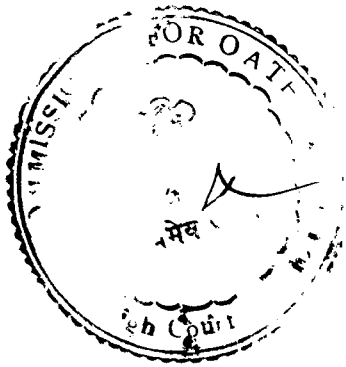
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opposite parties to sanction House Building Advance to the applicant.

2. The applicant's case is that he is a confirmed employee of the Telegraph Department of the Govt. of India and therefore is entitled to receive House Building Advance in accordance with the principles laid down in Office Memorandum dated 30.1.1976, Annexure-5, The grievance is that by Annexure-S1 dated 30.3.1984, the advance has been denied to him on the ground that the applicant's permanency is service had been under dispute and therefore it was not possible to process his case. The applicant's reply is that by virtue of an order dated 25.1.83 contained in Annexure-1 he had been confirmed in service retrospectively from 1.12.1980 and therefore the objection contained in Annexure-S1 has no value.

3. According to the opposite parties, however, the question of applicant's permanency is in dispute in the sense that the applicant has secured employment by cheating Central Govt. in respect of which a criminal case is already pending in the Court of Chief Judicial Magistrate, Lucknow. The facts of the pendency of the case is admitted by the applicant. He however says that some persons who are facing a criminal case have been granted

Richard



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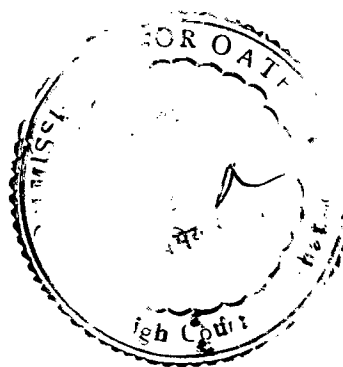
advance. That is not a compelling basis for grant of house Building Advance.

4. The Rules of House Building Advance do not create an absolute right to an employee to have a House Building Advance. The grant of the advance is in the discretion of the employer and it cannot be said that the reason of refusal, namely obtaining of employment with the Govt. by cheating it, could be unreasonable or improper. It is also not material that the case is still pending disposal before the appropriate Criminal Court. The Government is well justified in taking note of the fact that the applicant is facing a criminal trial for cheating the Govt. itself.

5. At any rate, the relief sought before the Tribunal is a discretionary relief and having regard to the nature of the allegations of the applicant I do not think that the discretion should be exercised in favour of the applicant.

6. The application is dismissed.

Dt. the 23rd October, 1989.



R.D. Wadhwa
OATH COMMISSIONER
High Court, Allahabad
Date -- 9-9-90 --
Sr. No -- 65/939 --

True copy.

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