

In The Central Administrative Tribunal
Lucknow - Bench
Lucknow

QANo. 1292 88

Ram Nath Kakkar

VI S

D. P. S. All.

① Check List - A₁-A₂ ✓

② Order Sheet - A₃-A₅ ✓

③ Final order with
Date 22.10.92 - A₆-A₇

④ Petition - A₈-A₂₅

⑤ Power - A₂₆

⑥ Counter Affidavit - A₂₇-A₄₀ (A₂₇ to A₃₈)

⑦ Bench Copy {
Petition / CA / PA } - A₄₁-A₇₂
Recounter Affidavit - A₃₉ to A₄₀

⑧ Index Sheet A₄₁ to A₄₂
Notice

⑨ Miscellaneous Paper - C₇₃-C₇₄

B/C - Recycled and / destroyed

Sc (S)

1. 1978. 10. 15. 10:00 AM

20.10.93

20

28/11/88

Promotion

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 1292 of 1988

A

APPLICANT (s) Ram Nath Kakkar

RESPONDENT(s) D P S Allahabad and another

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 ?	Four sets have been filed
3. (a) Is the appeal in time ?	yes NO
(b) If not, by how many days it is beyond time ?	About six months
(c) Has sufficient cause for not making the application in time, been filed ?	yes
4. Has the document of authorisation/Vakalat-nama been filed ?	yes
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-	yes
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	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 ?	Attested by Advocate

O.I.R. ①

1292 of 1500

A3

Sumit Singh 29.11.88 25/11/88
at which with him, &

②

2.1.89. OR

No one appears for rapid
Committee ^{to show cause} may be held by

27.2.89.

O.I.R. 27.2.89. 87m2 at C.A. 972001
Committee ^{to show cause} held by

③

27.2.89. OR

No listing due to lawyers
Strike. Ady to 24.4.89

Ad

④

24.7.89. OR

Committee has already been
held. Next before Court
for admission on 24.7.89.

✓

Item: Mr. K. J. Ramam, A.M.

Item: Mr. D. K. Agrawal, J.M.

24-7-89

At the request of d/c for the
applicant, the case is listed for
admission on 8-8-89.

D
J.M.

(SWS)

O.R.
A.M.

(3) IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

A.4

O.A./T.A. No.

1292

1988

R N Kakkar

Applicant(s)

Versus

U.O.J

Respondent(s)

SL.No.

Date

Orders

10.

14-3-90 DR

On the request, rejoinder
can be filed by 11/4/90

DR(J)

OR

Rejoinder has not been
received in the section
so far.

6-4-90

11. 11-4-90 DR

On the request rejoinder
can be filed by 29-6-90

Dec 4/90

DR(J)

OR

Rejoinder has not
been received in
the section so far

20/6/90

12.

29-6-90 DR

On the request of applicants
counsel rejoinder can be filed
by 17-8-90

DR(J)

ORDER - SHEET

5

AS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(ALLAHABAD)No. OA 1292 OF 1991R. Al-Kakkar VERSUS Union of India

Sl. No.	DATE	OFFICE REPORT	ORDER
1	2	3	4
17.	1.		<u>5/3191</u> See Court's order dt. 4/3191. List this case for final hearing on 15-7-91. Vide Court's order dt. 25-2-91.
18.			<u>15-7-91</u> No sitting. Adorned to 15-10-91 for hearing JUL
19.			<u>15-10-91</u> No sitting. Adorned to 3-12-91 for hearing.
20.			<u>3-12-91</u> Hon A. B. Gurha AM Hon S. N. Prasad - JY No one is present for the applicant. List for hearing on 11-2-92.
21.			<u>24/12/91</u> PDR The case relates to territorial jurisdiction of Lucknow. Hence, it is being transferred to Lucknow vide suitable N.C's order dated 12/12/91.

GHANSHYAM

M
S.O. (J)
22

Ab

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 1292 of 1988

Ram Nath Kakkar

Applicant

versus

Union of India & others

Respondents.

Shri R.K. Tewari
Shri K.C. Sinha

Counsel for Applicant.
Counsel for Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

The applicant retired from service on 1.10.1983 as Assistant Postmaster. When he was Assistant Post Master in the pre-revised scale of Rs 425-640, he was refused officiating promotion to the post of Post Master due to deemed disciplinary proceedings pending against him which ended in the award of a punishment of recovery of Rs 3225/- from his pay. The applicant filed Civil suit and the punishment order was quashed. The Superintendent of Post offices, Sultanpur filed appeal before the District Judge, Sultanpur and the appeal was transferred to the Tribunal and this Tribunal rejected the appeal vide their order dated 18.12.86.

2. The grievance of the applicant is that although

A)

pension and gratuity has been paid to the applicant but no interest has been paid to him and in case the amount would have been paid to him in time he would have earned the interest.

3. The respondents have resisted the claim of the applicant stating that the delay occurred due to disciplinary proceedings. That was not a reason for a delay. The applicant was also partly responsible as he was involved in disciplinary proceedings. The respondents are directed to pay interest to the applicant at the rate of 9% of three months which will start after the applicant was entitled to payment of gratuity. Let this be done within a period of three months of the date of communication of this order to respondents.


A.M.


V.C.

Shakeel/-

Lucknow: Dated 22.10.92.

A8

Application Under Section 19 of Administrative Tribunal Act, 1985

Filed On 10-11-1988

Regn. No. 1292 of 1988

Signature Of Registrar

In The Central Administrative Tribunal, Allahabad-1

Between

R.N.Kakkar

.....

Applicant

A N D

(1) D.P.S. Allahabad

I

(2) Union Of India through
the Secretary, M.C., New Delhi

I

Respondents

I N D E X

S.l. No.	Annexure Marked	Date Of Documents	Documents Relied Upon	Page No.
1	-	10-11-1988	Application	02 to 06
2	A-1	18-12-1986	Judgement Of CAT Alld	07 to 12
3	A-2	04-02-1987	Application to Supdt	13 to 14
4	A-3	11-11-1987	Appeal to DPS Alld	15 to 16

R.K.Tewari

(R.K.Tewari)

Advocate

154, Purshottamnagar,
Allahabad-16

211121988

Central Administrative Tribunal
Additional Bench At Allahabad
(2nd) Filing No. 1183

Filed today
Date of Admittance
28/11/85

R. P. D. E. W. A. R.

28/11/85

AG

Details of Application

by Post

By Registrar

11/11/85

1—Particulars of the Applicant :

- (i) Name of Applicant RAM NATH KAKKAR
- (ii) Name of Father/Husband late Shri B.N. Kakkar
- (iii) Age of Applicant 63 years
- (iv) Designation & Particulars of Office Ex Asstt. Postmaster, Sultanpur where employed or was last employed
- (v) Office Address NIL
- (vi) Address for service of Notice 130, Shahganj, Sultanpur

2—Particulars of the Respondents :

- (i) Name &/or Designation (1) D.P.S Allahabad
- (ii) Official Address (2) Union Of India, Through The Secretary, Ministry Of Communications, New Delhi-1
- (iii) Address for service of all notices

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

- (i) Order No. This application is against the Inadvertent Attitud
- (ii) Date of The Learned Supdt. Posts Sultanpur in not grantin
- (iii) Passed by legitimate Promotion to the Applicant from re-
- (iv) Subject in brief trospective effect.

4—Jurisdiction of the Tribunal :

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

5—Limitation :

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

6—Facts of the case :

The facts of the case are given below.

24/11/85 a.m. 8:13

R. P. D. E. W. A. R.

(i) The applicant entered the Department of Posts as a Postal Assistant in April 1945 and retired from service on 1.10.83 as an Assistant Postmaster (in the prerevised L.S.G. cadre of Rs.425-640) from Head Post Office Sultanpur. In the mean time he became entitled to officiate in the clear vacant Post of Postmaster Sultanpur borne in the High Selection Grade II of Rs.500-700 with effect from 25.9.1983. But it was not given to him instead one Shri Anant Prasad his next junior officiated on that post.

(ii) The applicant was refused officiating Promotion to the Post of Postmaster Sultanpur because of the pendency of a disciplinary proceeding against him which ended in the award of a punishment of recovery of Rs.3225/- from his pay vide Memo No. F-7/80-81 dated 31.12.82 passed by the learned Superintendent Posts Sultanpur. The applicant filed a Civil suit No.64 of 1983 before the learned Munsif South Sultanpur who quashed the punishment order on 12.10.83. The learned Superintendent Posts Sultanpur filed a civil appeal No.305 of 1983 before the learned District Judge Sultanpur. That appeal was transferred to this tribunal u/s 29 of Administrative Tribunal Act. And this Hon'ble Tribunal rejected the appeal vide their orders dated 18.12.86 in T.A. Registration No.300 of 1986 copy at Annexure A-1 on pages 7 to 12.

(iii) In this way the service records of the

Dr. Fewes

ରମାନାଥଙ୍କୁମାର

applicant became quite clean and no stigma was left which did not warrent his promotion to H.S.G.II cadre from 25.9.82. The applicant submitted a petition on 4.2.1987 to the learned Superintendent, Posts Sultanpur vide Annexure A-2 on pages 13 and 16 to revise the Pay and allowances of the applicant notionally presuming his promotion to H.S.G.II cadre from 25.9.82 and as a result thereof his pension & gratuity but that petition remained unattended altogether as such he preferred an appeal to the D.P.S. Allahabad on 11.11.1987 which too remained unattended hence he is submitting this application before the Hon'ble Tribunal.

(iv) The applicant's case is very very simple. His contention is that because the punishment order dated 12.10.83 was quashed by the learned Munsif South Sultanpur whose judgement was also upheld by the appellate court, the applicant's services became ~~became~~ ^{blotless} and he became fully entitled for being promoted to H.S.G.II Cadre retrospectively from 25.9.82 (from which date the post of Postmaster Sultanpur fell vacant and the applicant's Junior Shri Anant Prasad was given a chance to officiate).

(v) The applicant's prayer is that his officiating pay and allowances may be notionally fixed on 25.9.82 and brought at par with that of his junior Shri Anand Prasad and his pension and gratuity may be revised accordingly.

R. S. Tewari

211121993

7. Reliefs sought for:-

In view of the facts narrated above the applicant most respectfully prays that he may be granted the following reliefs:-

- (i) His officiating pay and allowances may be notionally fixed on 25.9.82 as also on 30.9.83 (date of his retirement) and brought at par with that of his junior Shri Anant Prasad.
- (ii) The applicant may be paid the arrear of difference of pay notionally fixed and that actually drawn. However he leaves it, to the Hon'ble Tribunal to allow it in full in part or to completely disallow it.
- (iii) His pension and gratuity may be refixed on the basis of notional fixation of pay arrived at on 30.9.83 and he may be allowed the arrear of difference of pension and gratuity which should have been paid and that actually paid.
- (iv) He may be allowed the cost of this suit together with any other relief deemed fit by the Hon'ble Tribunal.

Ranewar

24/11/1983

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8—Interim order—If Prayed for—NIL

9—Details of the remedies exhausted :

The applicant declares that he has availed of all the remedies available to him under relevant service rules. He preferred an appeal to The DPS Allahabad on 11-11-1987 which remained unattended till this day hence this application is submitted.

10—Matters not previously filed or pending with any court :

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

11—If application is sent by Regd. Post, does the applicant desire to have oral hearing at the Admission stage if so he must attach a self addressed P. C.

12—Particulars of the Postal Order in respect of the application :

- (i) No. of I. P. O. DD3/630154
- (ii) Name of Issuing P. O. Allahabad H.P.O.
- (iii) Date of Issue 12-10-1988
- (iv) P. O. at which payable— Allahabad Head Post Office

13—List of enclosures :

- (i) Vakalatnama
- (ii) One I. P. O. for Rs 50/-
- (iii) **Three** documents to be relied upon

In verification

I, R.N.Kakkar S/O Shri B.N.Kakkar aged 63
years R/O 130, Shahganj, Sultanpur and working as Ex APM do hereby
verify that the contents from Paras 1 to 13 are true to my personal knowledge and belief
and that I have not suppressed any material facts.

Place—Allahabad

Date 10-11-88 19

To

The Registrar, Central Administrative
Tribunal, Allahabad - 211001

2111210983

Signature of applicant

R.K.Tewari
(R. K. Tewari)

Advocate

154, Purushottam Nagar,
Allahabad—16

Annexure A-1.

ALY

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

Registration No. T.A. 300 of 1986.

Union of India and . . . vs. . . Ram Nath Kakkar.
another.

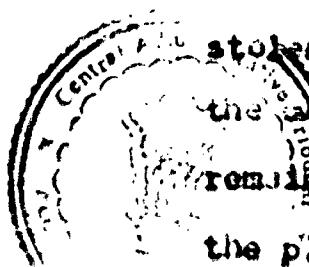
Hon'ble Justice Shri S. Zaheer Hasan, Vice Chairman.

Hon'ble Justice S. Zaheer Hasan, Vice Chairman.

(Delivered by Hon. S. Zaheer Hasan, V.C.)

Civil Appeal No. 306 of 1983 filed by the Union of India and the Cross Objection filed by Ram Nath Kakkar pending in the court of District Judge, Sultanpur have been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act (No. 13 of 1985).

Ram Nath Kakkar, to be described as the plaintiff, was working as Assistant Post Master at Head Post Office, Sultanpur and Chhati Lal was working as his ~~Personal~~ ^{Postal} Assistant. On 20.4.1982 19 insured letters valued at Rs. 7,550/- were stolen while in custody of Chhati Lal. Half of the money was recovered from Chhati Lal and the remaining half was ordered to be recovered from the plaintiff since Chhati Lal was working under his supervision. Report was lodged and the police made investigation in this case. A charge-sheet



24/1/1986

was submitted for a major penalty on 15.7.1981 against the plaintiff. He filed his explanation and thereafter on 25.3.1982 the charge-sheet was dropped without prejudice to future action. On 1.6.1982 another charge-sheet was submitted on the same facts and on 31.12.1982 it was ordered that the remaining half amount (that is Rs. 3,22/-) be deducted by withholding 10 months' salary of the plaintiff at the rate of Rs. 213/- per month and by recovering Rs. 1,95/- from the Death-cum-Holiday Gratuity (D.C.R.G.). The plaintiff filed Suit No. 64 of 1983 for declaration that the order dated 31.12.1982 was illegal and the authorities be directed not to make recovery from the salary and of the gratuity etc. The case of the Department is that there was no defect in the departmental proceedings and the deductions were rightly made. The learned Munsif decreed the suit. Union of India filed Civil Appeal No. 305 of 1983 and the Cross Objection was filed by the plaintiff.

At the time of arguments following two points only were pressed:

Firstly, in view of the D.C., P. & T's letter No. 14/23-Disc. dated 5.7.1979 the second proceedings could not be started since the first proceedings were dropped without giving any reasons. This letter runs as below:-

* It is clarified that once the proceedings initiated under Rule 14 or Rule 16 of C.R.O.

24/11/2003

(C.C.E.A.) Rules, 1965, are dropped, the Disciplinary Authorities would be deterred from initiating fresh proceedings against the delinquent officer unless the reasons for cancellation of the original charge-sheet or for dropping the proceedings are appropriately mentioned and it is duly stated in the order that the proceedings were being dropped without prejudice to further action which may be considered in the circumstances of the case. It is, therefore, important that when the intention is to issue a subsequent fresh charge-sheet, the order cancelling the original one or dropping the proceedings should be carefully worded so as to mention the reasons for such an action and indicating the intention of issuing a subsequent charge-sheet appropriate to the nature of charges the same was based on."

The first charge-sheet was given on 15.7.1981 and when the explanation was submitted by the plaintiff, the proceedings were dropped on 25.3.1982 with a simple note that ^{the same was} ~~it~~ were being dropped without prejudice to future action. No reasons were given.

In ~~the~~ written statement a vague allegation was made that the proceedings were dropped on administrative ground. Here again no reasons have been given in the written statement. According to this letter dated 5.7.1979, the disciplinary authority

2 M 1012/993

is debarred from initiating fresh proceedings unless the reasons for cancellation of the original charge-sheet are clearly mentioned. In this way, the directions contained in the aforesaid letter were not followed. In this connection it may be added that Chh. bi Lal was handling these 19 ensured letters valued at Rs. 7,550/- . He was charge-sheeted. The matter was reported to the police. The occurrence took place on 25.5.1980; the charge-sheet was submitted on 5.7.1981; and on 21.3.1982 without assigning any reason the proceedings were dropped with a note that it were being dropped ^{further} without prejudice to ~~further~~ action.

Secondly, the provisions of Rule 109 of the P. & T. Manual, Volume-III have not been followed. Rule 109 of the P. & T. Manual runs as below:-

"In a case of recovery of loss imposed on a Government servant as a measure of penalty, the recovery from pay should be effected in the normal course. If during the course of recovery, the official retires from service and a balance is still outstanding for recovery, the amount so outstanding cannot be adjusted against the gratuity without following the procedure laid down in Rule 9 of C.G.S. (Pension) Rules, 1972. In cases where a Government servant is due to retire shortly and the amount of loss caused by a

24/11/1993

Government servant cannot be recovered in full because of his impending retirement, the final punishment order should not be passed and the case referred to the Directorate for initiation of action under Rule 9 of C.C.S.(Pension) Rules, 1972, along with the record of disciplinary proceedings. *

In this case the disciplinary authority stated in the order that 10 instalments of Rs. 213/- each from the salary of the plaintiff's and remaining amount of Rs. 1,055/- be recovered from the gratuity etc. The plaintiff was due to retire shortly and the amount of the loss could not be recovered in full from his salary due to his impending retirement. Therefore, the final punishment order should not have been passed and the case should have been referred to the Directorate for action according to law. ~~etc.~~

The learned Munsif rightly held that the impugned order was against the aforesaid rule (i.e. Rule 109 of the P.E.T. Manual), and, therefore, was bad in law. Plaintiff's suit was rightly decreed.

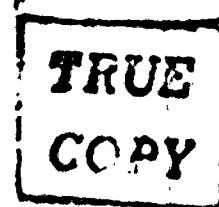
No other point was pressed before us. The plaintiff did not press his cross-objection, and, therefore, it is not necessary for us to go into the merits of the same. The appeal filed by the Union of India has no substance and is liable to be

24/11/1993

dismissed.

This application (Civil Appeal No. 302 of 1983) is dismissed. The cross-objection filed by the plaintiff is disposed of as not-pressed. Parties are directed to bear their own costs.

21/12/1986. Vice Chairman. Member (1).
R.P.T.



D.S. Dubey

TRUE COPY
R. K. Tewari
(R. K. Tewari Advo.)

(D. S. DUBEY)
SECTION OFFICER
Central Administrative Tribunal
Administrator.

TRUE COPY
R. K. Tewari
(R. K. Tewari Advo.) 10/11/88

241112003

-13-

Annexure A-2

A29

To

The Superintendent
of Posts, Sultanpur.

Sir,

I was confirmed in L.S.G.Cadre from 1.7.1979. The post of Postmaster Sultanpur (in H.S.G II) had fallen vacant on 25.9.82 but I was not allowed to officiate on it because of the pendency of a ~~R~~ disciplinary case against me. And my junior Shri Anant Prasad was allowed to officiate on that post.

That disciplinary proceeding ended in the award of a punishment of recovery of Rs.3225/- passed by your Honour vide your Memo No.F-7/80-81 dated 31.12.82. This punishment order was quashed by the learned Munsif South Sultanpur vide his order dated 12.10.83 in civil suit no. 64 of 1983. The judgement of the Munsif south also assailed in the appeal decided by the Hon'ble Tribunal on 18.12.86 in T.A.registration No.300 of 1986.

My services thus became blotless and I am fully entitled for being given the officiating chance in H.S.G.II from 25.9.82.

It is, therefore, ^humbly prayed

P R A Y E R

(1) That the officiating pay and allowances may kindly be got notionally fixed on 25.9.82 and

2H/11/1993

024

-14-

: 2 :

30.9.83 bring it at par to that of my junior Shri

R₂ Anand Prasad.

(2) R₂ I may be allowed the arrear of difference of pay what I should have drawn and what I actually drew.

(3) My pension and gratuity may also kindly be revised on the basis of my pay notionally fixed and I may be allowed the arrear of the same.

Yours faithfully,

R. N. Kakkar

(R. N. Kakkar)

Dated: 04.02.87

TRUE COPY

R. K. Tewari
(R. K. Tewari Adv.)

241121983

Annexure A-3

A22

To,

The D.P.S.

Allahabad.

Appeal against the inadvertant attitude of learned Superintendent Posts Sultanpur in revising the pension and gratuity of the appellant.

Sir,

The appellant R.N.Kakkar a retired Assistant Postmaster Head Post Office Subtanpur most respectfully begs to state:-

(1) That while in service he became entitled to officiate from 25.9.82 on the clear vacant Post of Postmaster Sultanpur ~~before~~ in H.S.G.II grade. But he was not ~~ever~~ permitted to officiate because of the pendency of disciplinary proceeding against him. The appellant's next junior Shri Anand Prasad was posted to hold that officiating Post.

(2) The disciplinary proceeding ended in the award of a punishment of recovery of Rs.3225/- passed by the learned Superintendent vide his No.F-7/80-81 dated 31.12.82. This punishment order was quashed by the learned Munsif Sough Sultanpur vide his order dated 12.10.83 passed in the civil suit No.64 of 1983. The Government preferred an appeal against the said orders of the learned Munsif before the learned District Judge as Civil Appeal No.305 of 1983 which was transferred u/s 29 of A.T.Act to the

2 M 1191 on 93

Hon'ble Central Administrative Tribunal, Allahabad who rejected the same vide their orders dated 18.12.86 passed in T.A. Registration No.300 of 1986 In this way the service of the appellant became blotless and he became fully entitled for being posted as officiating Postmaster Sultanpur from 25.9.82. The appellant submitted a petition on 4.2.87 to the learned Superintendent (vide copy enclosed) but as the learned Superintendent did not pay any attention to it he is submitting this appeal with the following prayer.

P R A Y E R

(i) That his pay may be aotionally fixed on 25.9.82 bringing it at par with that of his junior Shri Anant Prasad and his pension and gratuity may be revised in the basis of that revised pay.

R. (ii) He may be allowed the difference and pay and allowances as also of pension ~~as~~ gratuity between what he should have drawn and what he actually drew.

For this act of kindness he shall ever pra

Yours faithfully,

Ad Rukhakher

D.A.-1

Dated-11.11.1987

TRUE COPY

R. K. Tewari
(R. K. Tewari Advo)

2H11121987

Before the Central Administrative Tribunal
Allahabad.

Misc.petition No. of 1987.

In

O.A.Registration No. of 1988

R.N.Kakkar Petitioner

Versus

Union of India and others. Respondents.

Application for the condonation of delay.

~~Applicant~~ The applicant most respectfully
begs to state as under:-

In the instant case he had preferred an appeal to D.P.S.Allahabad on 11.11.87 which remained unattended till this day. The applicant contacted his Advocate in June 1988 for filing a suit before the tribunal. He was advised by his advocate to go to him near about 24.6.88 so that he may file the suit on 27.6.88 when the Tribunal was to reopen ~~after~~ after Summer vacations.

Unfortunately the applicant fell in serious Heart trouble and was hospitalized at the Marwari ~~Hindu~~ Hindu Hospital Varanasi on 21.6.88 from where he was discharged on 8.11.88 hence he could not file his application before the Hon'ble Tribunal on 27.6.88 as proposed.

R.N.Kakkar

2H1121ang3

- 18 -
A25

: 2 :

P R A Y E R

It is humbly prayed that the delay if any
may kindly be condoned.

In Verification

I, R.N.Kakkar the applicant of this do
hereby verify that the contents of this application
is true to the best of my knowledge and belief.

24/11/1993

(R. N. KAKKAR)
Applicant.

Dated: 08.11.88

R. K. Teewari

R. K. TEWARI

Advocate

154, Purshottam Nagar

(Khuldabad)

Allahabad-16



19 A26

वकालतनामा

The Central Administrative

बादालत Tribunal Allahabad-

नम्बर मुकदमा

सन् १९

ई०

नम्बर वृजी

सन् १९

ई०

CA Regn. No.

१८८६

मुद्रित

R N Kakkar बनाम Union of India & others. मुद्रित

मैं R.N. Kakkar aged 63 yrs रेस्पान्डेन्ट

मैं/हम ८१० लेटि श्री R.N. Kakkar

निवासी ४३०, Shahganj, Sultanpur

श्री R.K. Tewari, Advocates
१५4 Purshottam Nagar, Allahabad-16

को उपरोक्त मुकदमे की पैरवी के लिये मेहनताना अदा करने को वचन देकर
मैं / हम अपना वकील नियुक्त करता हूँ / करते हैं। उन वकील महोदय को मैं / हम
यह अधिकार देता हूँ / देते हैं कि वह मुकदमे में मेरी ओर से पैरवी करें
आवश्यक सवाल पूछें, जवाब दें और बहस करें दस्तावेज व कागजात अदालत
में दाखिल करें, व वापस लेवें पंचनामा उपस्थित करें, पंच नियुक्त करें यदि
आवश्यकता हो तो पंच निर्णय का लिखित विरोध करें, सुलहनामा दाखिल करें, दावा
स्वीकार करें, उठा लेवें और डिग्री प्राप्त हों जाय तो उसे जारी करावें, डिग्री का रूपया
व खर्च, हजारी का रूपया या किसी दूसरे तरह का रूपया व खर्च जो अदालत से
मुझे / हमें मिलने वाला हो वसूल करें मेरी / हमारी ओर से अदालत में दाखिल करें,
कोर्टफीस व स्टाम्प देवें या वापिस लेवें रसीद ले लेवें व प्रमाणित करें, नकल प्राप्त
करें, अदालत की अनुमति से भिसिल का मुआयना करें, आवश्यकता होने पर मुकदमा
स्थापित करावें व इस मुकदमे के सम्बन्ध में दूसरे काम जो जरूरी समझे पैरवी के
लिए अपनी ओर से कोई दूसरा वकील नियुक्त करें यदि आवश्यकता हो तो अपील या
निगरानी दायर करें और अपील निगरानी की अदालत में पैरवी करें और यह भी
वचन देता हूँ / देते हैं कि यदि मैं / हम पूरी फीस या खर्च न अदा करूँ / करें तो
वकील साहेब व उनके कलर्क बहस व पैरवी के लिये बाध्य न होंगे।

इस अधिकार पत्र के अनुसार उक्त वकील महोदय इस मुकदमे के सम्बन्ध में जो
कुछ काम करेंगे वह सब अदालत में स्वयं मेरा/हमारा किया हुआ समझा जायेगा और
वह मुझे हम सदेव हो मेरे/हमारे किये के समान सर्वथा मान्य होगा।

तारीख

१७ माह १०-१९८८ सन् १९ ई०

Accepted

R.N. Kakkar

स्वीकार है

R.K. Tewari

Advocate

१५४, Purshottam Nagar

(Khuldabad)

Allahabad-16

सन् १९

बनाम

अदालत
मुकदमा नं०

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

.....
CIVIL MISC. APPLICATION NO.

OF 1989

ON BEHALF OF

DIRECTOR POSTAL SERVICE,
ALLAHABAD & ANOTHER.

..APPLICANTS
RESPONDENTS.

Recd A/M
Ran Nath
21/9/89

IN

REGISTRATION NO. 1292 of 1988

Ram Nath Kakkar

Applicant

Versus

Director Postal Service,

Allahabad & another.

Respondents.

To

The Hon'ble The Vice Chairman and His
Companion Members of the aforesaid Tribunal.

The humble application of the abovenamed
Most respectfully states as under :

1- That full facts have been given in the

(b)

A28

2.

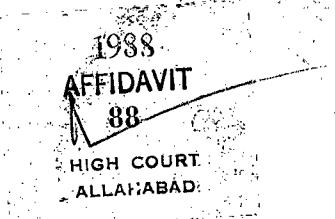
accompanying counter affidavit and it is therefore, in the interest of justice that this Hon'ble Tribunal may kindly be pleased to reject the petition moved by the petitioner.

P_R_A_Y_E_R

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

Dt.;;January 30 | .1989.


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



A29

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH : ALLAHABAD.

.....

COUNTER AFFIDAVIT

ON BEHALF OF

DIRECTOR POSTAL SERVICE,

ALLAHABAD & ANOTHER.

RESPONDENTS.

IN

REGISTRATION NO. 1292 of 1988

Ram Nath Kakkar

Applicant

Versus

Director Postal Service,

Allahabad & another.

Respondents.

Affidavit of Hari Mangal Singh

aged about 57 years, s/o Shri Chhatra

Pal Singh, Superintendent of Post

Offices, Sultanpur.

Hari Mangal Singh
(Deponent).

Hari Mangal Singh

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

1- That the deponent is Superintendent of Post

2.

Offices, Sultanpur and has been deputed to file this counter affidavit on behalf of respondents and is well acquainted with the facts deposed below.

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

3- That before giving a parawise reply to the petition, following facts are asserted in order to facilitate this Hon'ble Tribunal in administering justice :

a/- That the post of Post Master, Sultanpur fell vacant due to promotion of Shri D.D. Dubey to Postal Subordinate Services Group B and a local officiating arrangement was made w.e.f. 25th September, 1982 for the said post keeping in view that regular arrangement of Post Master Sultanpur, Higher Selection Grade -I will be made by the competent authority, i.e. the Director Postal Services, Allahabad.

b/- That at the time of said officiating local arrangement, the petitioner was working as Sub-Post Master Deara which is about 35 Kms. away from Sultanpur Head Office and as such he could not be

Hari Mangal Singh

A3

3.

considered for the said officiating arrangement and in view of provisions of Rule 50 of the Post & Telegraph Manual Vol.VI Shri Anant Prasad Srivastava who was working as Assistant Post Master, Sultanpur was ordered to officiate. A photostat copy of Rule 50 Ann-I. is enclosed as Annexure-I to this counter affidavit.

c/- That the said arrangement was expected to be for less than one month. Moreover, for regular promotion in the Higher Selection Grade-I the candidature of the petitioner cannot be considered as he is too junior.

4- That the contents of paragraphs 1, 2, 3, and 4 of the petition need no comments.

5- That the contents of paragraph 5 of the petition are not correct and as such are denied. The declaration which has been made in para under reply, is absolutely wrong. The petition is badly time barred and the petition is liable to be dismissed on this ground alone.

Hari Mangal Singh

6- That in reply to the contents of paragraph 6(i) of the petition, it is submitted that the petitioner was not entitled to work in Higher

A32

4.

SelectionGrade - I as his grading in seniority list is very low, as the post of Post Master, Sultanpur is a Higher SelectionGrade I cadre. Moreover, Shri Anant Prasad Srivastava , who was working as Assistant Post Master at Head Office, Sultanpur was given a chance to officiate against the said post w.e.f. 25th September, 1982 in view of exigency of service and at that time, the petitioner was working as Sub-Post Master Dearly, which is 35 Kms. away from the Head Office.

7- That in reply to the contents of paragraph 6(ii) of the petition, it is submitted that the said officiating arrangement which was given to Shri Anant Prasad Srivastava, was purely temporary and was likely to cease within a very short period. In fact the appropriate and competent authority for making regular arrangement on the post of Higher SelectionGrade-I is the Director Postal Services and since the petitioner was too junior for being promoted to the said cadre and as such the question of consideration of his candidature does not arise.

Hari Mangal Singh

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6.

8- That the contents of paragraph 6(iii) of the petition are not correct and as such are denied. It is further submitted that it is absolutely wrong to allege that the petitioner ~~is~~ has sent any such petition as referred in para under reply, on 4th February 1987 to the Superintendent of Post Offices, Sultanpur. In fact in order to bring the case within the period of limitation, the petitioner has taken a false plea and the petitioner should be put to strict proof of the fact that he had sent the said petition on 4th February 1987. Neither he had sent any petition on 11.11.1987 to the Director Postal Services , Allahabad. Moreover, as stated earlier, the Superintendent Post Offices is not the competent authority to promote the petitioner ,i.e. official of lower cadre to Higher Selection Grade ~~Excess~~ II or Higher Selection Grade-I.

Rest of the contents have already been replied in earlier paras, hence need not be repeated here again.

9- That the contents of paragraph 6(iv) of the petition are not correct and as such are denied. It is further submitted that the petitioner's candidature for promotion in officiating capacity in Higher Selection Grade-I cadre was not discarded because of any punishment, which was ultimately quashed by the

Hari Mangal Singh

A34

6.

judicial pronouncements. In fact there were so many other officers, who were senior to the petitioner as well as Shri Agant Prasad Srivastava, but since they were posted outside the office of Head office, Sultanpur and as such Shri Anant Prasad Srivastava, who was working as Assistant Post Master, in Head Office, Sultanpur was ordered to work as Post Master Sultanpur. Moreover, for the officiating arrangement and that too for very short period, the petitioner does not possess any right for being promoted on the said post.

10- That the contents of paragraph 6(v) of the petition are not correct and as such are denied. It is further submitted that there is no provision for giving any pensionary benefit for officiating to such a short time and accordingly Shri Anant Prasad Srivastava was also not given any pensionary benefits for officiating as Post Master, Sultanpur for a short period.

11- That in reply to contents of paragraph 7 of the petition, it is submitted that in view of facts and circumstances stated above, the petitioner is not entitled for any relief as referred in paragraph under reply.

Har Mangal 5th

A35

7.

12- That the contents of paragraph 8 of the petition need no comments.

13- That in reply to the contents of paragraph 9 of the petition, it is submitted that the petitioner has not preferred any such appeal as referred in para under reply to the Director Postal Services Allahabad on 11.11.1987 and as such the petition is liable to be dismissed on this count alone, as he has not exhausted the departmental remedy which was opened to him and the petitioner has taken a very false plea that he has fully availed the departmental remedy.

14- That the contents of paragraphs 10, 11, 12 and 13 of the petition need no comments.

That the contents of paragraphs 1 and 2 of this affidavit are ~~xxxxxxxxxxxxxx~~ true to my personal knowledge; those of paras 3 to 10, 12, 13 and 14 are based on record and those of para 11 are based on legal advice, which all I believe to be true. No part of it is false and nothing material has been concealed in it. So help me GOD.

Hari Mangal S/o

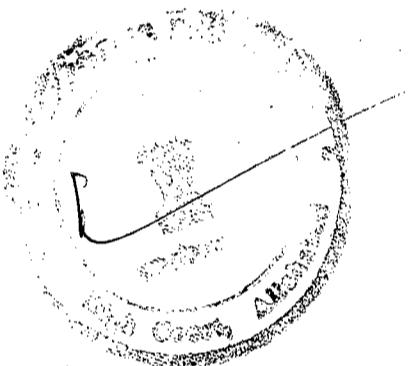
Hari Mangal S/o
Deponent.

A36

8.

I, DS Chaybey, clerk to Shri KC Sinha, Advocate
declare that the person making this affidavit and
alleging himself to be the deponent is known to me
personally.

(IDENTIFIER)


Solemnly affirmed before me on this 28th day
of January 1989 at 8.00 AM am/pm by the deponent, who
is identified by aforesaid.

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

Hari Mangal Singh

DS Chaybey
28/1/89
8811528

OATH COMMISSIONER.

और संवित लेखा परीक्षा अधिकारी और महानिदेशक को भेजो जानी चाहिए। जब किसी अराजपतित कर्मचारी को स्थानापन रूप से किसी ऐसे पद पर कार्य करने के लिए नियुक्त किया जाए जिसे वह राजपतित हजेर का हकदार हो तो उसकी कार्यभार रिपोर्ट की एक प्रति उसे कार्यालय-अध्यक्ष के पास भी भेजी जानी चाहिए, जिसमें वह अराजपतित कर्मचारी के रूप में नियुक्त था।

49. केवल सर्किलों या मंडलों में संलग्न सहायक मंडल इंजीनियरों और सहायक तथा उप-सहायक इंजीनियरों और केवल विभागीय तार-घरों से सहमत सहायक और उप-अधीक्षकों जैसे अधिकारी जिस तारीख को स्टेशन छोड़े या स्टेशन पर आए उसकी सूचना की दो प्रतियां यथा-स्थिति मंडल इंजीनियर, सर्किल अध्यक्ष या विभागीय तारघरों के प्रभात अधीक्षकों के पास भेजी जानी चाहिए।

अस्थायी रिक्तियों को भरने के लिए स्थानान्तरण

50. जहां तक ही सके अस्थायी रिक्तियों (दैकेन्सीज) को भरने के लिए अराजपतित कर्मचारीयों का स्थानान्तरण नहीं किया जाना चाहिए। अल्पवृत्ति रितियां वरने के लिए प्रवंश करते समय नीचे निम्न लिखा-

दिति-अपारदि जानी चाहिए—

(1) जिन संघर्षों में प्रोलेटित उमी लड़ाक़र या स्टेशन में काम करने वाले कर्मचारियों से से की जाती है उसमें एक महीने से अनंतिक अवधि नी रिक्तियों के मामले में स्थानापन द्यावश्यक करते समय उस का लिये के उस अनुभाव या अस्थायी रितियां उस कार्यालय में काम करने वाले कर्मचारियों तक ही नहीं दिया जाता है उसका नाम लिया जाता है, जिसे ही उसी मंत्री मंत्री में अन्यत उपलब्ध किसी विभाग अधीक्षकालय का किसी ऐसे कर्निल कर्मचारी द्वारा अनुक्रमानुसार नियुक्त किया जाए।

Chap. II

TRANSFERS AND POSTINGS

[48-50]

to the Audit Officer concerned and the Director-General in form A. C. G. 61. When a non-gazetted officer is appointed to officiate in a post which entitles him to gazetted rank, a copy of the charge report should also be sent to the head of the office in which the non-gazetted officer was employed.

(A3)

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49. Intimations of the date on which officers like Assistant Divisional Engineers and Assistant and Deputy Assistant Engineers who are merely attached to Circles or Divisions or Assistant and Deputy Superintendents who are merely attached to departmental telegraph offices, leave or join their stations, should be sent in duplicate to the Divisional Engineers, Head of Circles or Superintendents in-charge of departmental telegraph offices, as the case may be.

TRANSFERS TO FILL TEMPORARY VACANCIES

50. Transfers of non-gazetted official to fill up temporary vacancies should be avoided whenever practicable. The following procedure should be followed in making arrangements to fill up vacancies of short duration:

(1) In the cadre in which promotion is made from officials working the *same office* or *station*, officiating arrangements in cases of vacancies of *not more than one month's duration* may be confined to the officials in the section or branch of the office or in the sub-office where the vacancy occurs even if this involves the supersessions of a senior qualified official available elsewhere in the cadre by a junior official who is actually appointed to act.

Harish Chandra Singh

(2) जिन संघर्षों में पदोन्नति किसी मिक्किल के विभिन्न स्टेशनों, उपमंडलों या मंडलों में काम करने वाले कर्मचारियों में से की जाती है वहां—

(क) एक महीने तक की अवधि की रिक्तियों, और

(ख) एक महीने से बार महीने तक की अवधि की रिक्तियों में भेद करना चाहिए।

(i)-(क) के मामले में स्थानाधिकार व्यवस्था उस स्टेशन के कर्मचारियों तक सीमित रखी जाए जहां स्थान रिक्त है, भले ही इसमें अन्य किसी अहताप्राप्त चरित्य कर्मचारी का किसी ऐसे कनिष्ठ कर्मचारी द्वारा अधिकमण होता हो, जिसे कार्य करने के लिए वास्तव में नियुक्त किया जाए। जिस स्टेशन पर एक दूसरे से स्वतंत्र, अनेक कार्यालय दों वहां मजूरी देने वाले अधिकारी के अपने निण्य से स्थानाधिकार पदोन्नति की व्यवस्था के बल उस कार्यालय तक सीमित रखी जा सकती है जहां स्थान छाती है।

(ii)-(ख) के मामले में, पूर्ववर्ती बाहर में दी गई जातों के अनुसार स्थानाधिकार व्यवस्था के बल उस कार्यालय, उपमंडल के कर्मचारियों तक ही सीमित रखी जा सकती है जिसके स्थान रिक्त है।

(3) विशेष परिस्थितियों में जिनमें उपर्युक्त क्रियाविधि का प्र

तरह पालन करना प्रशासनिक दृष्टि से व्यावहारिक या वांछित न हो, मंत्री देने वाला अधिकारी अपने निण्य से प्रशासनिक आवश्यकताओं के अनुसार कार्यालय व्यवस्था (प्रेरित अंतर्गमन्दन) कर सकता है।

(2) In the cadres in which promotion is made from officials working in different stations, subdivisions or divisions in a Circle a distinction should be made between—

(a) Vacancies of not more than one month's duration, and

(b) Vacancies of more than one month's duration but not of more than four month's duration.

(i) In the case of (a), the officiating arrangement may be confined to the officials at the station where the vacancy occurs, even if this involves the super-

session of a senior qualified official by a junior official who is actually appointed to act. In the case of a station where there are more offices than one each independent of the others, the officiating promotion may, at the discretion of the sanctioning authority, be confined to the office where the vacancy occurs.

(ii) In the case of (b), the officiating arrangement may be confined to the officials in the Office, Sub-division or Division where the vacancy occurs, on the same conditions as in the preceding clause.

(3) In special circumstances in which strict adherence to the above procedure may not be practicable or desirable from the administrative point of view, the sanctioning authority may at his discretion make acting arrangements according to administrative requirements.

The Central Administrative
Tribunal, Allahabad
OA Regd. No 1292 of 1988
R N Kakkar & Anr. vs others
Dejouinder
T. Copy.

Before The Central Administrative Tribunal, Allahabad-1

O.A. Regn. No. 1292 of 1988

Ram Nath Kakkar versus Union Of India & Others

Rejoinder

Applicant's comment on each para of the reply affidavit filed by the learned Respondents is submitted below. The paras requiring no comment have been omitted.

1) Contents of Para 3(a) of the Reply Affidavit (RA in brief hereafter) are denied. Even in the local arrangement the applicant should have been given opportunity to officiate in HSG Cadre because he was senior

R to A.P.Srivastava.

2) Contents of Para 3(b) are wrong hence denied.

At the time the arrangements of posting in HSG Cadre were made the applicant had been working as A.P.M. Head Post Office Sultanpur and ~~not~~ as SPM Deara.

3) Contents of para 3(c) are wrong hence denied.

The applicant is atleast senior to Shri A.P.Srivastava who was posted to work in the local arrangement.

4) In reply to para 5 of RA it is submitted that the applicant in filing the application had sought condonation of delay on medical grounds and the learned respondents were asked to show reasons as to why the condonation of delay may not be allowed. They have failed to show any reason for the same.

5) Contents of Para 6 are wrong hence denied. If

it was justified to post Shri Anant Prasad Srivastava in HSG Grade I, the applicant who was senior to Shree A.P.Srivastava should have been given preference over him. It is wrong to say that the applicant at that time was working at Deara. The respondents will be requested to produce the EP Bill of Sultanpur H.O. for the relevant period to establish their contention.

R

6) ⁷ Contents of Para 6 of RA are wrong hence denied. The arrangement lasted till the applicant retired. The applicant might have been too junior to have been posted in HSG Cadre on circle Basis, but he was the senior most in Sultanpur for being posted in HSG Cadre in local arrangement. At least he was senior to Shri A.P.Srivastava for being posted in HSG Cadre.

7) Contents of Para 8 of RA are denied the representation was personally handed over by the applicant to the learned Supdt. in his office at Sultanpur. Likewise the applicant had personally submitted his appeal addressed to DPS Lucknow to the head Clerk of the office of Supdt. Posts Sultanpur for being forwarded to the learned DPS. Had there been any intention to cover up delay an application for condoning delay would not have been filed.

8) Contents of Para 9 are denied in view of what has been said above in para 5 of this rejoinder.

9) Contents of para 10 are wrong hence denied. The arrangement lasted till the applicant had been in service.

10) Contents of Para 11 are denied. The applicants have miserably failed to controvert the allegations raised by the applicant in his petition ; as such the applicant is entitled to get the reliefs sought for.

In Verification

I, R.N.Kakkar, the applicant do hereby verify that the contents of this paras 1 to 10 above are true to the best of my knowledge and belief. Nothing material has been suppressed. So help me GOD.

dated : 22-2-91

रमनीकुमार
Rejoinderist


(R.K.Tewari)
Advocate for the Applicant
154, Purshottamnagar, Allahabad-16

Central Administrative Tribunal
Allahabad Bench

I N D E X

Registration No. CA-1292 of 1988.

Ram Nath Kapoor

Applicant

V.R.S

U.D.I. & Others

Respondents

S.I. No.	Particulars of document(s)	Page No.
1	check list	
2	Order Sheet	
3	original Petition	1-18
4	Vakelat name petitioner	19 Counsel
5	counter	
6	rejoinder	

Registered / A9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

23-A, Thornhill Road
Allahabad. 211 001

Registration No. 1292 of 1988.

No. CAT/Alld/Jud/

Dated :

Kam Nath Kakkar

APPLICANT(S)

D.P.S. Alcl. VERSUS *cel. calcar.*

VERSUS

RESPONDENT(S)

① D.P.S. Allahabadi.

① 410.95/Parangli the Secretary, Ministry of
Communications, New Delhi. I

Please take notice that the applicant above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 28th day of Dec.

1988 For filing reply, as to why the petition be not admitted for hearing, and as to why the application for condonation, filed in filing the application, be not allowed.

If, no, appearance is made on your behalf, your pleader or by some one duly authorised to Act and plead on your in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal
this 29th day of Nov. 1982

FOR Deputy Registrar (Jud.)

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