

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~LUCKNOW~~ BENCH

~~OA/TA/RA/CP/MA/PT~~ 148/88 of 20.....

~~Jagannath Pd. Misra~~ Applicant(S)

Versus

~~Union of India~~ Respondent(S)

INDEX SHEET

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Certified that the file is complete in all respects.

~~B. S. C. Weeded & d. B. Roy~~

Signature of S.O.

Signature of Deal. Hand

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

INDEX SHEETCAUSE TITLE 1118 of 1988(C)NAME OF THE PARTIES J. P. Mishra

Applicant

Versus

Respondent

Part A, B & C

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6/4 BR

No extra copy to be served of the opposite parties have been filed.
Submitted for order before D.R.

h
6/4

Hon' Mr. Ajay Johri, A.M.

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

7

10/4/89

Shri P.N. Bajpai, learned counsel for the applicant is present. He files a copy of C.M. dated 18-3-82. An order was passed on 9-3-89 to issue show cause notice to the respondents, why the petition should not be admitted. Somehow, or the other, the copies could not be filed for the purpose. Let the same be filed today in the office, and, thereafter, the respondents be directed to show cause, why the petition ~~may not~~ ^{not} be admitted. List the case for hearing on admission on 4-5-89.

De
J.M.

3
A.M.

(SNS)

o/r

12-4-89

Notice issued to the Respondent by Registered post.

12/4

OR

Notices were issued to the respondents on 12/4/89 under Regd. cover.

Neither reply nor any undelivered reply cover received back from respondents. Submitted for admission.

h
3/5

Hon' Mr. Justice K. Nath, V.C.

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

8

4/5/89

Applicant's counsel is not present and no reply has been filed on behalf of the opposite parties. List this case for admission on 18-5-89.

h
A.M.

R
V.C.

(sns)

OR

No reply nor any undelivered reply cover have been returned back. Submitted for admission.

h
17

9

18/5/89

No sitting. The case is adjourned to 5/7/89 for admission. Counter ~~file~~ reply filed today.

h
(sns)
CM.

OR

No rejoinder filed by the learned counsel for the applicant. Submitted for admission.

(2)

Hon' Mr. Justice K. Nath, V.C.

Hon' Mr. K.J. Romm, A.M.

(H2)

51-7-89

Case called twice. None appears
for the applicant. The application
is dismissed ⁱⁿ ~~on~~ default of the
applicant.

GR
A.M.

GR
V.C.

(SNS)

GR

P.M. (Restoration)

An. No. 199/019(L) has
been filed by the learned
Counsel for the applicant.
On 26.7.09. against the
order dt. 5.7.09.

Submitted for order

10/9

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

(11)

19-9-89

No division bench is sitting today.

put up this case ~~on~~ ²

before division bench.

GR
J.M.

(SNS)

GR

Case is submitted
for order a.m. applicat
- in no. 199/09(L).

Submitted for order

27/9

(21)
18.12.90

No sitting Adj to 8.1.91

(22)
8.1.91

(u)

(A3)

Hon'ble Mr. D.K. Aggarwal Jm
Hon'ble Mr. Le Chayye Am

On the request of Counsel
for the Official Case adjourn N 15.3.91

(23) 15.3.91

Am

Dec
Jm

No sitting Adj to 4.4.91

u

OR

Case is ready
for having an
admission
L.P.A.

4.4.91

Hon. Mr. Justice R. Math VC
Hon. Mr. A.B. Gargh Am

18/3/91

On the request of counsel
for the both the parties
case is adjourned tomorrow.

L
Am.

VC

Re case of
Jy of Judgment
P. S. Jha
20-5-91

Kuldeep Bopai
Adv.
Junior of S.D.S. Pandey
12/6/91

(H4)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.148 of 1988

Jagannath Prasad Misra Applicant

Versus

Union of India and Others Respondents

Hon.Mr.Justice K.Nath, V.C.

Hon. Mr. A.B.Gorthi, Member(A)

(By Hon.Mr.Justice K.Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 seeks compassionate appointment of the applicant's son Anjani Kumar in the Postal Department in consequence of the applicant having been retired for reasons of medical invalidity.

2. The applicant was working as a Postman. His date of birth was 1.4.1928. He suffered from illness. On 10.2.82, and again on 2.3.1982, he applied for retirement on ground of medical incapacity and prayed for appointment of his son in the Department under Rule 38(1) of the Central Civil Services (Pensions) Rules, 1972. The applications remain pending and ultimately on 29.6.83 the Chief Medical Officer of Raebareli issued a certificate stating that the applicant was permanently incapacitated for Govt. service on account of medical incapacity. On that basis the competent authority passed the order of the applicant's retirement from service with effect from 29.6.83 by Annexure-3.

3. The matter of modalities for retirement and compassionate appointment were under the consideration

9

(25)

of the Govt. and certain decisions taken thereon are contained in the circular dated 9.7.86 contained in Annexure-8 and the other circular annexed thereto. In the Office Memorandum of 18.5.82 the different classes of employees were categorised. One of the categories was of persons who were retired on medical grounds after attaining the age of 55 years on or after the date of communication of the revised orders of the Ministry and the decision taken was that in such cases no request for compassionate appointment by relaxing its provisions may be entertained. In the circular of 9.7.86 it was specifically laid down that Govt. servants (other than those who belong to group 'D') who retired on medical grounds on or before attaining the age of 55 years were eligible for availing the concessions of appointment of their sons etc. on compassionate grounds. In other words, Govt. servants who retired on account of medical incapacity after attaining the age of 55 years are not eligible for availing concessions of appointment of their sons etc. on compassionate grounds.

4. The grievance of the applicant is that he had applied for retirement as early as ⁱⁿ February/March, 1982 but the Department kept the matter pending for several months with the result that ~~at~~^{by} when the applicant was declared medically incapacitated on 29.6.83, he had already crossed the age of 55 years. Shri P.N.Bajpai for the applicant contends that if the Department had acted speedily, the incapacitation

2.

(28)

certificate may not have been delayed upto the applicant's age of 55 years and the applicant may have been eligible for the concession. Shri D.S. Randhawa, the learned counsel for the respondents contends that disposal of applications always take some time, and that in any case there could be no question of extending the concession before it was settled by the competent medical authority that the applicant was medically incapacitated.

5. We have carefully heard the learned counsel for both the parties and have gone through the circulars on the record. We are of the opinion that in view of the clear instructions contained in the circular, the bare event of delay in taking a final decision on the medical incapacity of the applicant does not entitle him to a relaxation of the provisions and that benefit cannot be available to those who retired after attaining the age of 55 years. It appears that the applicant had approached the higher authorities and he has not received favourable reply. Be that as it may, the matter is more administrative than judicial; so far as the legal rights are concerned, this Tribunal is not in a position to give the relief sought for by the applicant. This petition is dismissed with no order as to costs.


Member (A)


Vice Chairman

Dated the 5th April, 1991.

RKM

In the Central Administrative Tribunal
Allahabad

Registration no. ~~129~~ of 1988 (C)
140

(A7)

Jagannath Pd. Misra Applicant

Vs.

Union of India & Others Opp. parties,

I N D E X

Sl. no.	Particulars of papers	Page no.	Annexure nos.
1.	Petition	1 - 7	-
2.	Application dt.10.2.82	- 8 -	1
3.	Appn. dt.2.3.82	- 9 -	2
4.	Order dt.1.7.83	- 10 -	3
5.	Appn. dt.6.7.83	- 11 -	4
6.	Appln. for job	12 - 13	5
7.	Appln. to O.P.NO.2	14 - 15	6
8.	Appln. dt.23.2.87	16 - 17	7
9.	G.O. dt.26.8.86	18 - 23	8
10.	- do - dt.1.3.84	24 - 25	9
11.	Vakalat Nama	- 26 -	-

Dated: 5.10.88

P.B. Singh
Counsel for the
Applicant

Noted for
22-11-88
H.M.
C/O Mr. P.N. Singh
6-10-88

In the Central Administrative Tribunal
Allahabad

Registration no. 148 of 1988 (U)



Jagannath Prasad Misra ... Applicant

Vs.

Union of India & Others ... Respondent

Application Under Section 19 of the Adminis-
-trative Tribunal Act-1985

For Use in Tribunal Office

1. Date of filing :
2. Date of Receipt :
3. Registration no. :

Signature.....

Registrar

Date of filing

.....

Or

Date of receipt by post.

.....

Registration No.

.....

In the Central Administrative Tribunal Addl.
Bench, Allahabad (Circuit Bench), Lucknow
Between

Jagan Nath Prasad Misra aged about 60 years
son of Late Lodheshwar Prasad Misra R/o Village
and Post Kathwara District Rai Bareilly.

..... Applicant.

And

1. The Union of India through the Secretary
Ministry of Communication, New Delhi.
2. The Post Master General, Uttar Pradesh ,
Lucknow.
3. The Sub Divisional Inspector, (Postal)
West Sub Division Rae Bareilly.

..... Respondent.

Details of Application

1. Particulars of the applicant:

- (i) Name of applicant. Jagannath Prasad Misra
- (ii) Name of father. Late Lodheshwar Prasad
- (iii) Designation and office in which employed. Ex. Postman. P.O. Kundan gangi, Rai Bareilly.
- (iv) Office Address Do
- (v) Address for service of all notices. Village and Post Kathwara Rai Bareilly

2. Particulars of Respondent.

आगवकसपुनारुपिका

2.

(H10)

- (i) Name ~~of~~ and/or designation of the respondent The Union of India through the Secretary Ministry of Communication New Delhi.
- (ii) Office Address of the respondent 2. The Post Master General U. P, Lucknow.
- (iii) Address for service of all notices. 3. The Sub Divisional Inspector, (Postal) West Sub Division Rai Bareilly.

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

The application is against the following

order :

- | | | |
|-------|-------------------|-----|
| (i) | Order No. | Nil |
| (ii) | Date | Nil |
| (iii) | Passed by | Nil |
| (iv) | Subject in Brief. | Nil |

4. Jurisdiction of the Tribunal.

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

5. Limitation :

The applicant ~~also~~ further declares that the application is within the Limitation prescribed in section 21 of the Administrative Tribunals Act 1985.

6. Facts of the case :

The fact of the case are given below :-

- (a) That the petitioner was posted on the post of post man in Post Office Kundanganj District Rai Bareilly, He was working on his

सुनील कुमार मिश्रा

(All)

post with entire satisfaction of the authorities. There was no complaint against him from any ~~xxx~~ corner.

(b) That the applicant fell seriously ill and proceeded on medical leave. In the last the applicant applied for retirement on the ground of medical under Rule 38 of CCS(Pension) Rules 1972 on 10.2.82 to the Respondent No. 3. The copy of application is annexure No. 1 to this application.

(c) That the applicant moved another application for his retirement on medical ground on ~~2x2x~~ 2.3.1982. The copy of the application is annexure No. 2 to this application.

(d) That the matter of retirement of the petitioner remained pending till the month of June 1983 and he was permitted to retire by the Opp. Party No. 2 on 29.6.83. The copy of order is annexure 3 to this application.

(e) That there was provision to give the service to the sons /daughters/near relations of the Govt. servants in Group 'C' and 'D' posts who are retired on medical grounds. The applicant was entitled to get the benefit of this rule. He had applied to the authorities to give the employment to his son named Anjani Kumar Misra.

(f) That the applicant requested to the Opp. Party No. 2 and 3 several times in writing and also taken the personal interview but no attention has been paid. The first application was given on 9.7.83. Its copy is filed herewith as Annexure 4 to this application.

अनंजनी कुमारी मिश्रा

4.

A12

(g) That the applicant has requested to the Opp. Parties several times from time to time the applications are filed herewith as Annexure- 5 to 7 to this application.

(h) That the Govt. had issued the orders from time to time for giving the employment to the sons/ daughters of the persons who are retired on medical grounds. The last G.O. has been issued on 26.8.86. The copies of certain orders issued previously on the subject are also attached with this G.O. The applicant is filing the copy of the G.O. as Annexure 8 to this application.

(i) That the provisions of the G.O. are fully applicable in case of the applicant. The applicant is entitled to get the benefits of these orders. The son of the applicant is qualified for the post of group 'D' posts of the department.

(j) That the age of the applicant was below 55 years on the date of submitting the application for retirement but the action was not taken by the authorities and he was actually retired after completing the age of 55 years. According to the G.O.'s which were in existence on the date of retirement the applicant was not entitled to get the benefit of the orders. In fact the applicant was entitled to get the benefit in the light of the clarification made through the G.O. dated 1.3.84. The copy of the G.O. is annexure 9 to this applicant.

सुनिश्चित किया गया

(A13)

(k) That the delay in the retirement of the petitioner was made by the department. The petitioner was not referred to the C.M.O. for his opinion in respect of the illness of the applicant. It was obtained very late. The C.M.O. has given his opinion on 23.6.83. The applicant was retired on 29.6.83. The date of birth of the petitioner is 1.4.1928. He had applied for his retirement at the age of 54 years but at the retirement he was 55 years and three months old.

(l) That according to the G.O. dated 26.8.86 the benefit is permissible to the person upto the age of 57 years. The applicant requested in his applications pointing out the provisions of the G.O. but the applications and representations of the petitioner have been kept undisposed off uptill now. No reply has been given by the authorities till today.

(m) That the son of the applicant is entitled to get the services and he is also entitled to get the benefit of seniority and salary since July 1983 when the first application was moved.

(n) That the condition of the family of the applicant is not good. There are 14 family members including the son named Anjani Kumar. There are no earning member in the family. The authorities are bound to consider the situation of the family of the applicant but it has not been done.

7. Reliefs sought:

In view of the facts mentioned in

अभिमानादि

(A/W)

para 6 above the applicant prays for the following reliefs:-

i. That the apposite parties may kindly be directed to allow the applicant the benefit of the G.O. annexure 8 to the application and to give the job to his son named Anjani Kumar in group 'D' of the department. The benefit of seniority and salary may be allowed since July 1983 or the date fixed by this Hon'ble Tribunal.

ii. That the costs of the application may be allowed to the petitioner.

iii. That the any other reliefs which this Hon'ble tribunal deems fit and proper may also be awarded to the applicant.

8. Interim Order, if prayed for:
No Interim Reliefs is payed.

9. Details of the remedies exhausted:-
The applicant declares that he has availed of all the remedies available to him under the relevant service rules.

The applications and representations are annexure 4 to 7.

10. Matter not pending with any other court.
The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Bank Draft/Postal Order in respect of the application Fee:

1. Name of Bank:

श्रीमान, श्रीमान

(15)

2. Demand Draft No.

Or.

1. Number of Indian Postal Order No. ^{DD}/₅ 065144
2. Name of issuing Post Office Highcourt Bench Lko.
3. Date of Issue 5-10-88
4. Post Office at which payable. G.P.O Allahabad.

12. Details of Index.

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:

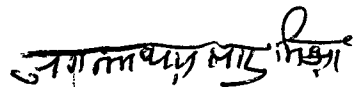
1. Application dt. 10.2.82.
2. Application Dt. 2.3.82.
3. Order dt. 29.6.83
4. Application Dt. 8.7.83
5. Application (5 to 7)
6. G.O.
7. G.O. dt. 1.3.84.

In Verification

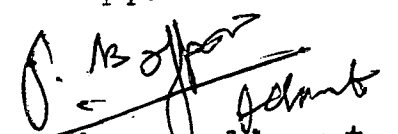
I, ~~XXXX~~ Jagannath Prasad Misra aged about 60 years S/O Late Lodheshwar Prasad Misra R/O Vill. & P.O. Kathwara Distt. Raibareilly do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place:- Lucknow.

Dated:-



Signature of the Applicant.



Counsel for the applicant.

8
(116)

समक्ष माननीय प्रशासनिक अधिकरण, एडीशनल जेज, इलाहाबाद ।

जगन्नाथ प्रसाद मिश्र

प्राथी,

बनाम

यूनियन आफ इण्डिया

विपक्षीयगण।

अनैकजर नं०- "।"

श्रीमान डाक निरीक्षक, रायबरेली पश्चिमो

द्वारा:- शाखा डाकाल, कुन्दलगंज, रायबरेली ।

महोदय,

निवेदन है कि प्राथी का स्वास्थ्य ठीक नहीं चल रहा रहा, बराबर इलाज करता रहता हूँ। मैं ऐसे बिमारियाँ हूँ जिसके कारण मैं विभाग में सरकारी कार्य करने से असमर्थ हूँ।

अतः श्रीमान जो से प्राथीना है कि प्राथी को तुरन्त

इनवेलिड पेंशन दिलाने को कृपा करें।

अति कृपा होगी।

प्राथी,

ह०/-

जगन्नाथ प्रसाद मिश्र
पोस्ट मैन, कुन्दलगंज,
10.2.82

सत्य प्रतिलिपि

जगन्नाथ प्रसाद मिश्र

True Copy

K. Raju
10.2.82

6.10.88

समस्त माननीय प्रशासनिक अधिकरण एडोशनल बेंच, इलाहाबाद।

(A17)

जगन्नाथ प्रसाद मिश्र

प्राथी.

बनाम

यूनियन आफ इण्डिया

विवक्षीगण।

अनैवजर नं०-2

श्रीमान डाक निरोधक रायबरेली प्रशिक्षण

द्वारा शाखा डाकपाल कुन्दलगंज,
रायबरेली।

महोदय,

निवेदन है कि प्राथी का स्वास्थ्य अधिक खराब हो जाने के कारण प्राथी सरकारी कार्य करने में असमर्थ है। प्राथी ने दि० 10.08.82 को आपके कार्यालय में एक प्रार्थना पत्र दिया था कि मेरा स्वास्थ्य खराब होने के कारण मैं सरकारी कार्य करने में असमर्थ हूँ, अतः मुझे सेवा मुक्त किया जाय। परन्तु काफी दिनों के बाद भी मुझे कोई उत्तर नहीं मिला और न मुझे सेवा मुक्त किया गया।

अतः श्रद्धान्वित जी से प्रार्थना है कि प्राथी को शीघ्र से से शौघ वा मुक्त करने की कृपा करें। अति कृपा होगी।

प्राथी,

ह०/-

जगन्नाथ प्रसाद मिश्र
स्टेशन, कुन्दलगंज,
रायबरेली।

2.3.82

सत्य प्रतिलिपि

55-----

जगन्नाथ प्रसाद मिश्र

True Copy

K. B. B. B.

6.10.88

Central
In the Administrative Tribunal Addl. Bench All.
Circuit Bench, Lucknow.

Jagannath

vs.
The Union of India

Applicant.

Opp. vs.
(718)

Annexure to 3.

INDIA POSTS AND TELEGRAPH DEPARTMENT.

o/o Sub Divisional Inspector,
(Postal) West Sub Divn.
Rae Bareilly 229001.

Memo No. B-2/Jagannath P. Mishra dt. 29.6.83.

Shri Jagannath P. Mishra, Assistant V.M. Zaidan Jan.
Rae Bareilly who has been declared permanently incapacitated
for Government Service vide invalidation certificate
granted by M.O. Rae Bareilly vide his No. P.O.-1/83
dated 29.6.83, is hereby ordered to retire from Govt. Service
-O.C.O.F. 29.6.83 A/N.

Sub Divisional Inspector,
(Postal) West Sub Divn.
Rae Bareilly 229001.

Copy to :-

1. Shri Jagannath P. Mishra, Vill & Post, Kathwar
Rae Bareilly for information.
2. The Postmaster Rae Bareilly H.O. for info
n/a.
3. Supdt. Of Post Offices, Rae Bareilly to
and n/a.
4. Office copy.
- 5-6-7- 8 per.

जगन्नाथ मिश्रा

True Copy

K. Ray

6.10.83

केन्द्रीय
समस्त आदरणीय प्रशासनिक अधिकरण, एडोशनल बैंक, इलाहाबाद।

(10)

जगन्नाथ प्रसाद मिश्र

प्राथी,

बनाम

यूनियन आफ इण्डिया

विपक्षी गण

अनेकर नं०-4"

सेवा में,

श्रीमान् संचार मंत्री
भारत सरकार, नई दिल्ली।

महोदय,

सेवा में सविनय निवेदन है कि प्राथी कुन्दनगंज जिला-
रानखबरेलो ब्लॉक में पोस्टमैन के दायर कार्य कर रहा था। प्राथी
का भी समय से बीमार रहा करता था। प्राथी का स्वास्थ्य इतना
खराब हो गया है कि वह पोस्टमैन के दायर कार्य करने के योग्य
नहीं है। प्राथी को कार्य करने के अयोग्य पाकर विभाग के समय से
पूर्व "इनवेलिड" रिटायर कर दिया है।

प्राथी के पास जोविका का नौकरो के अतिरिक्त और
कोई अन्य साधन नहीं है प्राथी के परिवार में 15 सदस्य है जिनमें कोई
नौकरो नहीं कर रहा है। प्राथी बहुत ही गरीब व्यक्ति है। प्राथी
पाँच बेटों ४5४ बेटियों से डाक विभाग में रह कर ईमानदारी से
सरकार को सेवा करता रहा है।

अतः श्रीमान् जो से प्राथीना है कि प्राथी के लड़के
अन्जना कुमार को नौकरो के नियमों में ढिलाई करके नौकरो देने
को कृपा करें।

प्राथी,

ह०/-

जगन्नाथ प्रसाद मिश्र

दिनांक 8.7.1983

ग्राम व पोस्ट - कठबारा
जिला - रायबरेली।

सत्य प्रतिलिपि

जगन्नाथ प्रसाद मिश्र

True copy
K. B. Jha
6.10.83

सम्प्रदाय सन्तोष केन्द्रोप प्रशासनिक अधिकरण, एडमिशनल बेंच, इलाहाबाद।

(A20)

जगन्नाथ प्रसाद मिश्र

दावेदार

बनाम

यूनियन आफ इण्डिया

/दरवेद विपक्षीगण।

अनैकर नं० "5"

सेवा में,

श्रीमान संसार सुंदी
भारत सरकार नई दिल्ली

महोदय,

सविनय निवेदन है कि प्रार्थी छाछा डाक्टर कुन्दनगज जिला रायबरेली प्रखण्ड में ग्राम डाकिया के नद पर कार्य कर रहा था प्रार्थी का स्वास्थ्य लगभग 1970 से खराब चला करता था और वह मजबूरन बौच-बौच में अवकाश ले लेता था, धीरे-धीरे स्वास्थ्य इतना अधिका खराब हो गया कि इलाज से कोई लाभ नहीं हो पाया। तब प्रार्थी ने यह सोचकर कि वह निष्ठवान कार्यकर्ता को तरह राजस्वसे कार्य करने का सम्पादन नहीं कर पायेगा ऐसी स्थिति में प्रार्थी ने 10-82 को श्रीमान डाक निरोक्षक पश्चिमो को इनवेलिड पेंशन दिलाने के लिए एक प्रार्थना पत्र दिया। लगभग 3 सप्ताह तक इन्तजार करने के बाद प्रार्थी ने दूसरा स्मृति पत्र इन: श्रीमान डाक निरोक्षक रायबरेली पश्चिमो को दिया कि उसे सेवा सुवत करने को क्या को जाय परन्तु इन प्रार्थना पत्रों पर किसी प्रकार का विचार नहीं हुआ और प्रार्थी मजबूरीवश परिवार के बालन के लिए बौच-बौज में डियूटो कर जाता रहा। दरिदर कई बार मौखिक निवेदन करने के बाद श्रीमान डाक निरोक्षक पश्चिमो ने मजबूर जब प्रार्थी को मरणासन स्थिति हो गई तो अपने पत्र संख्या दिनांक 26.6.83 द्वारा सो.टो.ओ रायबरेली से स्वास्थ्य निरीक्षण हेतु लिखा तब प्रार्थी को सो.एम.ओ रायबरेली ने अपने पत्रांक ई 10-83 दिनांक 29.6.83 के द्वारा सेवा योग्य न होने का जोषण को और सेवा निवृत्ति करने को संस्थिति को। विभाग को इस होला हवाला के कारण प्रार्थी को काफी कष्ट उठाना पड़ा और उसे सेवा निवृत्ति देर से प्राप्त हो सकी।

श्रीमान जो प्रार्थी स्मरण दिलाना चाहता है कि 1970 में जब भी प्रार्थी चिकित्सा अवकाश पर रहा है उसके स्थान पर उसका पुत्र अंजनो कुमार दैनिक वेतन भोगो पोस्ट मैन के रूप में कार्य करता रहा है और उसे पोस्टमैन के रूप में कार्य करने का परिपक्व अनुभव है और उनको शैक्षिक योग्यता पूर्ण है। प्रार्थी ने दो प्रार्थना पत्र पोस्ट मास्टर जनरल

जगन्नाथप्रसाद मिश्र

228

A21

यू०५१० सराफिल लखनऊ को क्रमशः 27.12.86 एवं 10.3.86 को अपने पुत्र अंजना कुमार की विभाग में समायोजन के लिए दिये प्ररन्त कोई जवाब नहीं दिया गया और न प्रार्थी के पुत्र का समायोजन किया गया जबकि ऐसा करने के राजकोय आदेश है।

श्रीमान जो प्रार्थी एक अल्प वेतन भोगी कर्मचारी था और सम्पूर्ण भरण पोषण को जिम्मेदारों उत्तों पर था, रिटायर होने और पुत्र के समायोजित न हो पाने के कारण परिवार को स्थिति दयनीय होगई है और प्रार्थी का इलाज भी बन्द हो गया है जबकि वृद्धावस्था में इसको प्रबल आवश्यकता है।

अतः श्रीमान जो को सेवा में यह प्रार्थना पत्र प्रस्तुत करता हुआ आश्वान है कि उसको दैनिक परिस्थितियों को ध्यान में रख कर प्रार्थी के पुत्र को विभाग में समायोजित कराने का आदेश प्रारित करने को कृपा करें।

महान कृपा होगी।

प्रार्थी,

ह०/-

संलग्नक फोटो कापों

- 1- प्रार्थना पत्र 10.2.82
- 2- स्मृति पत्र 2.3.82
- 3- चिकित्सा प्रमाण पत्र 29.6.83
- 4- विधायी आदेश पत्र 29.6.83
- 5- रसीद रजिस्टरी 27.12.86
- 6- रसीद रजिस्ट्री 10.3.86

जगन्नाथ सुसाद मिश्रा
रिटायर्ड ऑफिसमैन,
10- कठवारा
थाना-हरचन्दपुर, रायबरेली।

सत्य प्रतिलिपि

जगन्नाथ सुसाद मिश्रा

True Copy
R. B. Singh
6.10.88

समक्ष आदरणीय केन्द्रीय प्रशासनिक अधिकरण एजेंशनल बेंज, इलाहाबाद।

जगन्नाथ प्रसाद मिश्रा

प्राथी,

बनाम

यूनियर आफ इण्डिया

दिवक्षीगण।

अनैकर नं०-"6"

प्रेषक,

श्री जगन्नाथ प्रसाद मिश्रा,
विभागीय रिटायर्ड निरुद्ध,
ग्राम व नं० कठवारा रायबरेली।

सेवा में,

रिटमास्टर जनरल,
30x0 लखनऊ।

विषय:- श्री अंजनी कुमार मिश्रा की नियुक्ति ग्रुप "डी" में

नियम:- Appointment of sons in Group (BO
who are retired on Medical Ground
under rule-38 of CCS (Pension) rule-1972

श्रीमान जी,

उपरोक्त विषय के अन्तर्गत आ. से करबू निवेदन है कि :-

1. डाकवर में कार्यरत था, मेरा स्वास्थ्य ठीक नहीं चल रहा था और धीरे-धीरे व्यय अधिक था। इस मेरी परेशानी को देखकर लोगों ने सुझाव दिया था कि आप मैंने इनवेलिड पेंशन के अन्तर्गत रिटायरमेंट ले लें और परिवार का बालन पोषण हेतु अपने पुत्र श्री अंजनी कुमार को डाक विभाग में करने के लिए सरकार से प्रार्थना करें।

2. चूंकि मैं काफी बीमार था सरकार का कार्य करने में असमर्थ था। इसलिए उपरोक्त सुझाव को मैंने उचित समझा इसलिए कि परिवार का बालन पोषण भी आवश्यक है।

3. इसलिए मैंने अपने श्रीमान डाक निरोक्षक रायबरेली से प्रार्थना किया और विभाग ने मुझे सहारा भी दिया था एक प्रार्थना पत्र मैंने दिनांक 10.2.82 को श्रीमान डाक निरोक्षक पश्चिमो रायबरेली के पास द्वारा आजा डाकना कन्दनगंज, रायबरेली को भेजा था विभाग से मुझे आवासन मिलता रहा।

4. चूंकि कार्य करने से पूर्णतया मजबूर था।

5. इसलिए कुछ दिन कार्य करने के श्र्वात स्वास्थ्य अधिक खराब हो गया अतएव 28.6.82 से 8.7.82 तक इलाज होता रहा

जगन्नाथ प्रसाद मिश्रा

15
A23

१२१

और अवकाश पर था।

१७१ कुछ दिन कार्य करने के पश्चात् पुनः 23.7.82 से बीमार पड़ गया इलाज होता रहा और अवकाश पर था यदि कुछ तत्खिलत ठोक हो जातो था जो जीविका चलाने अर्थात् अन्नो द्रव्यो विसो प्रकार कर लेता था।

१७२ मैंने पुनः दिनांक 2.3.82 को एक प्रार्थना पत्र शाखा डाकाल कुन्दनगंज के द्वारा श्रीमान डाक निरोक्षक पश्चिमो रायबरेलो के पास इन वैलिडेशन पत्र भेजा था।

१७३ श्रीमान जो विभाग द्वारा किसी कारणवश समय टलता रहा और अन्ततोगत्वा श्रीमान डाक निरोक्षक पश्चिमो रायबरेलो और महोदय ने अपने पत्रांक बी-2 जगन्नाथ प्रसाद दिनांक 26.6.83 के अन्तर्गत मेरे स्वाथा को जांच कराने हेतु आदेश जारी किया और चौफ मेडिकल आफिसर रायबरेलो ने भी 29.6.83 को स्वास्था जांच किया इस प्रकार से प्रकट है कि विभाग ने मेरे स्वास्था को जांच देर से करवाया।

१७४ विभाग ने मुझे 28.6.83 को इनवैलिडेशन के अन्तर्गत रिटायर कर दिया और मेरे पुत्र श्री अंजनो कुमार को विभाग में नियुक्ति नहीं हो सकी श्री अंजनो कुमार की शिक्षा योग्यता जू0हा0 उत्तीर्ण है जिनकी उम्र लगभग 38 साल है परिवार में कुल 16 सदस्य हैं, परिवार परिवार का पूर्ण भार मेरे पुत्र अंजनो कुमार पर है परिवार का जीविकानार्जन में बड़ी कठिनाई का सामना करना पड़ता है।

अतः श्रीमान जो से प्रार्थना है कि उपरोक्त नियम के अन्तर्गत मेरे पुत्र श्री अंजनो कुमार को ग्रुप "डी" में भरती करने को कृपा करें। क्योंकि कि प्रार्थना ने प्रार्थना पत्र पहले सहो प्रस्तुत कर रहा है।

प्रार्थना,

ह0/-

दिनांक:

जगन्नाथ प्रसाद मिश्र

सत्य प्रतिलिपि

जगन्नाथप्रसाद मिश्र

True Copy

K. Singh

6.10.88

सम्माननीय केन्द्रीय प्रशासनिक अधिकरण ऐडोशनल, बेंच, इलाहाबाद

724

जगन्नाथ प्रसाद मिश्र

प्राथम्य,

बनाम

यूनियर आफ इण्डिया

विपक्षी गण।

अनैक्य नं०-7

To,

Mr. Arjun Singh,
Communication Minister,
Govt. of India,
New Delhi.

Sub: Appointment of sons of Govt. in
Group (b) post who are retired
on Medical ground, under rule
38 of CCS (Pension) Rules
1972.

श्रीमान,

प्राथम्य शाखा डाकधर कुन्दनगंज रायबरेली में पोस्टमैन के पद पर कार्यरत था, प्राथम्य का स्वास्थ्य अधिक खराब हो जाने के कारण सरकारी कार्य करने में विल्कुल असमर्थ हो गया था। प्राथम्य ने दिनांक 10.2.1982 को डाक निरोक्षक रायबरेली मिश्रचिमि एक प्रार्थना पत्र शाखा डाकपाल कुन्दनगंज रायबरेली द्वारा इस आदेश का दिया था कि हमारा स्वास्थ्य खराब रहा करता है अब हम सरकारी कार्य करने से विल्कुल मजबूर व लाचार हैं। कृपया मुझे आप से मुझे मेडिकल ग्राउन्ड के आधार पर सेवा से मुक्त कर दिया जाये।

श्रीमान बड़े दूख के साथ आपको सूचित करना पड़ता है कि मेरे प्रार्थना पत्र का कोई उत्तर नहीं दिया गया और न मुझे सेवा मुक्त हो किया गया। जब प्रार्थना पत्र के काफी समय गुजर गये तो दूसरा प्रार्थना पत्र दिनांक 2.3.82 को फिर डाक निरोक्षक रायबरेली को शाखा डाकपाल कुन्दनगंज डाक ऑफिस रायबरेली द्वारा दिया फिर भी मुझे कोई विभागीय आश्वासन नहीं दिया गया। आखिर में डाक निरोक्षक रायबरेली रायबरेली पत्र सं० बी-2/ जगन्नाथ प्रसाद दिनांक 26.6.83 को चिट्ठी मेरे पास स्वास्थ्य जांच के लिए आई कि सो०एम० ओ० रायबरेली के पास हाजिर होकर स्वास्थ्य परीक्षा कराई प्राथम्य दिनांक 29.6.83 को सो०एम०ओ० रायबरेली के पास हाजिर होकर स्वास्थ्य परीक्षा कराया और मेडिकल अनफिट कर दिया गया इससे साफ जाहिर हो रहा है कि विभाग ने मेरे स्वास्थ्य को जांच बहुत देर से कराया। विभाग ने मुझे इन्वेलिड पेंशन के अर्जित रिटायर कर दिया था लेकिन मेरे चि० अंजना कुमार को विभाग में नियुक्त नहीं को गया।

जगन्नाथप्रसाद मिश्र

18

In the Central Administrative Tribunal Addl. Bench Alld.
Jagannath vs The Union of India

Annexure No. 8

Copy of letter No:268-242/86-TW dated 26, August, 1986 from Shri V. RAMASWAMY, ASSTT. DIRECTOR GENERAL (STN) addressed to All Heads of Telecom, Circles/Telephone Districts & etc. (A26)

Subject:- Appointments of Sons/daughters/near relatives of Government servants in Group 'C' & 'D' posts who are retired on medical grounds under Rule-38 of CCS (Pension) Rules, 1972.

Sir,

I am directed to forward herewith a copy of Deptt. of Personnel & Training's O.M. NO:35014/1/85-Estt(D), dated the 9th April, 1986, alongwith one copy each of their earlier O.M. NO:14014/10/80-Estt(D), dated 18th March, 1982 and O.M.NO:14014/6/83-Estt(D) dated 1-3-84 (these two O.Ms. were circulated to you vide this office letter No:24/105/83-SPB-I dated 30.3.83 and 26-3-86 respectively) for your information and guidance.

2. These orders may be brought to the notice of all concerned promptly for compliance. They will come into force from 1st April, 1986 as mentioned therein. Past cases should not be reopened. However, cases which are pending finalization may be decided in the light of these orders.

3. Hindi version will follow.

Copy of O.M. NO:35014/1/85-Estt(D) dated 9-7-86

Sub:- Appointments of sons/daughters/near relatives of Government servants in Group 'C' & 'D' posts who are retired on medical grounds under Rule 30 of CCS (Pension) Rules, 1972.

The undersigned is directed to refer to Department of Personnel and A.R.'s O.M.NO:14014/10/80-Estt(D), dated 10th March, 1982 as amended vide O.M.NO:14014/6/83-Estt(D), dated 1st March, 1984 (Copies enclosed) on the above subject, according to which, only such of the Government servants who retire on medical grounds on or before attaining the age of 55 years are eligible for availing of the concession of appointment their sons/daughters/near relatives on compassionate grounds. The reason ~~here~~ for granting the concession to these retiring on medical grounds was that they had to leave service substantially prematurely and as the normal age of retirement on superannuation is 58 years, it was considered necessary to lay down the eligibility limit for Government servants retiring on medical grounds to avail of the concession for their wards, as 55 years.

2. The staff side of the National Council (JE-1) had suggested that in the case of Group 'D' employees this limit should be 67 years as their normal age superannuation is 68 years. The request made by the Staff Side of the National Council (JCM) has been examined and it has been decided in partial modification of this Department's O.M. dated 10.3.82 that in case of Group 'D' employees the benefit of compassionate appointment may be extended only when they are retiring on medical grounds before attaining the age of 57 years.

3. These instructions will be effective from 1.5.86 contents of this office memorandum may please be brought to the notice of all attached and Subordinate Offices also immediately.

Sd/-(K.S.R. Krishna Rao)
Deputy Secretary to the Government
of India.

Contd...2....

सहायक सचिव

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Copy of O.M.NO:14014/6/83-Estt(D) 1st March 1984.

Subject:- Appointment of sons/daughters/near relatives of Government servants in Group 'C' and 'D' posts who are retired on medical grounds under Rules-38 of CCS (Pension) Rules, 1972.

The undersigned is directed to refer to this Deptt.'s O.M.NO:14014/10/80-Estt(D) dated the 18th March, 1982 Communicating the decision of the Government that the benefit of compassionate appointment of a son/daughter/near relatives should not be extended to cases where the Govt. Servants have retired on medical grounds after attaining the age of 55 years.

2. It has been represented that some Ministries took unduly long time in circulating this Department's O.M. dated 18.5.1982 and that it would be harsh in case this concession is denied to Government servants who retired on medical grounds and applied for compassionate appointments of their wards, before the revised instructions were circulated by the Ministries/Department concerned

3. Requests for compassionate appointments in cases of retirements on medical grounds after attaining the age of 55 years, which may be pending with Ministries/Heads of the Department will fall in one or the other categorised as follows:-

- i) Those who retired on medical grounds after attaining the age of 55 years prior to the date of issue of the O.M. dated 10.3.1982 but the requests for compassionate appointments were pending decision on 18.3.1982.
- ii) Those who retired on medical grounds after attaining the age of 55 years on or after 10.3.1982, but before the revised orders had been circulated by the Ministry concerned to their sub-Ministry formations.
- iii) Those who retired on medical grounds after attaining the age of 55 years on or after the date of communication of the revised orders by the Ministry concerned.

The matter has been carefully considered and it has been decided and that the Ministries may take decision in the above cases on the following lines:-

- (i) In the first category, where the retirement took place before 18.3.82 Ministries/Heads of Departments may take a decision without applying the restriction imposed in the O.M. dated 18.3.82.
- (ii) In the second category of cases, Ministries may examine the requested on merits of each case and make a reference to this Department only in those cases where they consider that it would be a fit case for recommending relaxation of the provisions of the O.M. dt. 18-3-82.
- iii) In the third category of cases attracting the provisions of O.M. dated 18-3-82 no request for compassionate appointment by relaxing its provision may be entertained.

There is no objection for reviewing the decisions already taken in the above mentioned cases on the lines indicated now.

sd/
DIRECTOR Tele : No.371225.

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अभिमानिनी

the Directorate are invariably accompanied with a certificate that vacancies within the 3 % reservation are available.

8. Kindly acknowledge receipt.

Copy of O.M. No. 14034/1/77-Estt(D), dt. 23.5.78, from Deptt. of Personnel and A.R.

S: :- Compassionate appointments of son/daughter/near relatives of deceased Govt. servant - Consolidated instructions.

The undersigned is directed to say that the scheme of compassionate appointments has been reviewed and in supersession of earlier O.M. on the subject the following consolidated instructions are circulated for information and compliance.

1. General Scheme.
2. Ministries/Departments are competent to appoint in relaxation of the procedure of recruitment through the staff selection commission or Employment Exchange, the son/daughter/near relative of a Government servant who dies in harness, leaving his family in immediate need of assistance in the event of there being no other earning member in the family to a post of Lower Division Clerk or any other group C/Post of comparable rank or Group D post, after the proposal for such appointment has been approved by the Joint Secretary Incharge of the Administration or Secretary Incharge of the Administration or Secretary in the Ministry/Department concerned. In attached and subordinate offices the power of compassionate appointment may be exercised by the Head of the Department under Supplementary Rule No. 2(10).
2. Quota of posts.
3. Reservation upto 3 % of posts falling vacant in a calendar year in a particular cadre can be made for making appointments on compassionate grounds. The departments will keep the staff selection Commission informed of the number of vacancies reserved in a year and will also report all vacancies including 3 % of such vacancies to the Commission who will continue to make arrangements to sponsor qualified candidates against these vacancies. The Department may make their own arrangement to fill up 3% of the vacancies by appointment of persons on compassionate grounds. For computation of vacancies there shall be a block of two calendar years beginning with the calendar year 1978. If there are unutilised vacancies at the end of the block of two years, these unutilised vacancies would lapse at the end of the block. If however, there is an excess of applicants over the reserved vacancies in a particular block of years, such cases may be considered in the subsequent block of years and appointments made later.

Contd. ... 4.

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The limit of 3 % is subject to the condition that the overall percentage of non-competitive appointments including reservation of posts in favour of SCs and STs, physically handicapped persons etc. does not exceed 50 % of the vacancies in any cadre in a year.

3. Eligibility.

4. Ministries/Departments are aware that applicants for compassionate appointment should be appointed only if they are eligible and suitable for the posts in all respects under the provisions of the Recruitment Rules. Cases where the condition of the family is very hard and appointment can be made only by relaxation of educational qualifications, may continue to be referred to this Department as hitherto. Such relaxation in educational qualification is allowed only on a temporary basis for a period of one to two years within which the dependent has to acquire the prescribed qualification and if he fails to do, his services are liable to be terminated. Where the Ministries/Departments deem it imperative in the context of the impecunious condition of the family they may relax the age limit in accordance with the general orders No. 4/1/55-RPS, dated 12.2.1955.

4. Where the death took place long ago.

5. It will no longer be necessary for Departments to refer to Department of Personnel and Administrative Reforms cases of compassionate appointments of the wards of Government servant, merely because a long time, say 5 years has lapsed since the death of the Government servant. The Ministries/Departments may consider such cases themselves on merit but while admitting claims of such applications Ministries/Departments may please keep in view the important fact that the concept of compassionate appointment is largely related to the need for immediate assistance to the family on the passing away of the Government servant in harness. When several years have passed after the death of the Government servant, it appears prima-facie that the family has been able to manage somehow all these years and had some means of subsistence. Since the percentage of posts earmarked for this purpose is restricted, Ministries/Departments will no doubt deal with such requests with a great deal of circumspection to give due allocation to more deserving cases, if any. The decision in such cases of belated appointments may be taken after the Secretary has approved of the proposal.

5. When there is an earning member.

6. Indeserving cases even where there is an earning member in the family, a son/daughter/near relative of a Government servant who dies in harness leaving his family in indigent circumstances may be considered for appointment to the post without reference to the Employment Exchange.

P.T.O.

समानाधिकार मित्र

All such appointments are however to be made with the prior approval of the Secretary of the Ministry/Department concerned, who before approving the appointment, satisfies himself that the grant of the concession is justified, having regard to the number of dependents left by the deceased Government servant, the assets and liabilities left by him, the income of the earning member as also his liabilities. It is however, observed that in the past some cases were referred to this Department wherein it was stated that an earning son or daughter in the family was either unwilling to look after, or neglecting the rest of the family including the mother, brothers and sisters etc. and as such the case for the compassionate appointments of another son/daughter was being sponsored. In this light, it is necessary to clarify that notwithstanding the fact that it is the endeavour of Government to provide employment for the son/daughter of a Government servant who dies in harness leaving his family in indigent circumstances, the primary source of succour to the members of the family of the deceased employee must still be the next of kin who are earning. If the next of kin i.e. son/daughter unmarried daughter chooses to neglect the family, the Government is not obliged to come to the rescue of such families. It has to be remembered that if the Government were to provide compassionate appointment even in such cases, any number of cases may come up for earning members in a family feigning to show neglect of the family with a view to securing employment for another member of the family.

1730

6. Government servants retired on medical grounds.

7. In exceptional cases when a Department is satisfied that the condition of the family is indigent and in great distress, the benefit of compassionate appointment may be extended to the employment of son/daughter/near relative of Government servant retired on medical grounds under rule 38 of the Central Civil Services (Pension Rules) 1972 for corresponding provisions in the Central Civil Regulations.

7. Selective approach.

8. It is also necessary to emphasise here that since the quota for such appointments is very limited and in the context of the large number of competing demands, Ministries/Departments may please adopt a highly selective approach, and it will neither be prudent, nor in consonance with the spirit of these orders, if the quota of posts is exhausted in early parts of the block of two years and thereafter more deserving requests have to be turned down for want of a vacancy. The efforts should be spread the utilisation of vacancies to the extent possible over the entire block period. It is also necessary to ensure that more deserving cases in subordinate and field offices are not ignored and less deserving cases of Headquarters given preference because of proximity to decision taking level.

P.T.O.

Summary 1/31

3. Appointment to the post of peon etc.

9. In view of the existing ban on filling up of posts of peons and Jamadars, as far as possible compassionate appointments should be made only against Group 'D' posts on the filling of which there is no ban at present. Where however there are no vacancies in such posts, compassionate appointments could be made against posts of Peons/Messengers, provided that regular vacancies exist and persons concerned are eligible and suitable for the job.

9. Deaths during re-employment or extension in services:

It is hereby clarified that a son/daughter near relative of a Govt. servant who dies during the period of extension in service or re-employment are not eligible for the concession under the scheme of compassionate appointments.

10. Request for change in post.

Once a person has accepted a compassionate appointment to a particular post, the set of circumstances which led to his initial appointment, should be deemed to have ceased to exist and thereafter the person who has accepted compassionate appointment in a particular post should strive in his career like his colleagues for future advancement and claims for appointment to higher post on consideration of compassion should invariably be rejected.

11. Recruitment Rules.

Ministries/Departments may please take steps to amend Recruitment rules in order to make specific provision in the rules for earmarking upto 3 % of the posts in a cadre for making compassionate appointments under the Scheme.

12. General

The general proforma may continue to be used by Ministries/Departments for processing the cases of compassionate appointments.

Hindi version will be despatched separately

No. R.ctt/R-42/4

Dated at Lucknow-226001, the 17.8.1978.

action to :-

Copy forwarded for information and necessary

- 1). All D.Es. TA/ D.Es.P. in U.P. Circle,
- 2). All I/c CTOs and DTOs,
- 3). All SSTTs/SIT
- 4). Chief S. updt. CTO Lucknow/A. Ra.
- 5). The CAO (TA) Peerpur House, Lucknow.
- 6). The DMT L/D Lucknow/Allahabad.
- 7). The Circle Secretaries A.I. T.E.E. Union, Class III and Class IV, A.I.A.O.A (FNPTO) Genl. Sec. C.O. Lucknow.
- 8). The D.M.T. Lucknow/Kanpur.

(C.P. Saxena) A.D.T. (Rect.)

For General Manager, Telecom, U.P.

उत्तर प्रदेश सरकार

True Copy
K. Singh
G.O. 22

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In the Honble Central Administrative Tribunal
Allahabad

Jagannath

vs. Mr. Unnigandhi

Annexure No 8

APPOINTMENTS OF SONS/DAUGHTER/NEAR RELATIVE
OF GOVT. SERVANTS IN GROUP 'C' AND 'D' POSTS
WHO ARE RETIRED ON MEDICAL GROUNDS UNDER RULE
36 OF CCS (PENSION) RULES 1972.

NO. 14014/6/83-Estt. (D) dated 1st March 1984.

The undersigned is directed to refer to this Deptt's
O.M. No. 14014/10/80-Estt. (D) dated the 18th March 1982
communicating the decision of the Government that the
benefit of compassionate appointment of a son/daughter/near
relative should not be extended to cases where the Govt.
servants have retired on medical grounds after attaining the
age of 55 years.

It has been represented that some Ministries took unduly
long time in circulating this Departments O.M. dated 18.3.82
and that it would be harsh in case this concession is denied
to Govt. servants who retired on medical grounds and applied
for compassionate appointments of their wards, before the
revised instructions were circulated by the Ministries/Depts.
concerned.

3. Requests for compassionate appointments in cases
of retirements on medical grounds after attaining the age
of 55 years which may be pending with Ministries/Head
of the Deptt. will fall in one or the other categories as
follows:-

- (i) Those who retired on medical grounds after attaining
the age of 55 years prior to the date of issue of the
O.M. dated 18.3.82 but the request for compassionate
appointments were pending decision on 18.3.82.
- (ii) Those who retired on medical grounds after attaining
the age of 55 years on or after the date of communi-
cation of the revised orders by the Ministry concerned.

The matter has been carefully considered and it has been
decided that the Ministries may take decision in the above
cases on the following lines:-

- (i) In the first category, where the retirement took place
before 18.3.82, Ministries/Heads of Deptt. may take
a decision without applying the restriction imposed
in the O.M. dated 18.3.82.
- (ii) In the second category of cases, Ministries, may
examine the requests on merits of each case and make
a reference to this department only in those cases
where they consider that it would be a fit case for
recommending relaxation of the provisions of the O.M.
dated 18.3.82.

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(iii) In the third category of cases attracting the provisions of O.M. dated 18.3.82 no request for compassionate appointment by relaxing its provision may be entertained.

There is no objection for reviewing the decision already taken in the above mentioned cases on the lines indicated now.

उत्तराखण्ड राज्य

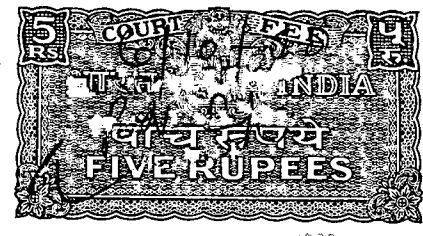
True copy
K. B. Jha
6/10/82

ब अवालत धीमान
वादी अपीलान्त
प्रतिवादी रैस्पान्डेन्ट

In the Central Administrative Tribunal, Add Bench, Allahabad.
Circuit Bench ~~At~~ Lucknow सहायक

वकालतनामा

Jagannath Prasad



(अपीलान्त) 34

the Ministry of India पनाम

प्रतिवादी (रैस्पान्डेन्ट)

सं० मुकद्दमा

सन्

पेशी की ता०

१९ ६०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री प्रयाग नारायण बाजपेयी
एडवोकेट एवं श्री कार्तिकेय बाजपेयी एडवोकेट भैरौ जी रोड,
लखनऊ महोदय

नाम अदाकत
मुकद्दमा नं०
राम फरीकान

जो अपना वकील नियुक्त करके प्रतिज्ञा (इफरार) करता हूं और लिखे
देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील
द्वारा जो कुछ पेंरवी व जबाब देही व प्रश्नोंतर करें या कोई फागज दाखिल
करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल
करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर
से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा
उठावें या कोई रुपया जमा करें या हमारी धिपक्षी (फरीकसानो) का
दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (बस्तखती)
रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वए
सब कार्यवाही हमको संबंधी स्वीकार है और होगा मैं यह भी स्वीकार
करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पेंरोफार को भेजता
एहंगा अगर मुकद्दमा अदम पेंरवी में एक तरफा मेरे खिलाफ फैसला हो
जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह
पफालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted
P. W. Bayler
Ad.

Accepted
K. B. B. B.
साक्षी (पचाह)

हस्ताक्षर जगन्नाथ प्रसाद

साक्षी (पचाह)

पिलाप

प्रहीमा

सन् १९ ६०

In the Hon'ble Central Administrative Tribunal
Additional Bench, Allahabad
Circuit Bench,
Lucknow.

O.A. No. 148 of 1988 (L)

(135)



Jagannath Prasad Misra ... Applicant
Versus
Union of India and others ... Respondents

Counter Affidavit on behalf of Respondents

I, Shri M.J. Siddiqui, aged about 58 years
son of late Shaikh Ramatullah, resident of 54, Satnagar,
Rae-Bareilly, do hereby solemnly affirm and state as under :-

- 1) That the deponent is Superintendent of Post Office, Rae-Bareilly and he is competent to affirm this Affidavit on behalf of the Respondents in the above noted claim application.
- 2) That the deponent has read and understood the contents of the claim application and he is well conversant with the facts of the case deposed hereinafter.
- 3) That the contents of paras 1 to 4 of the application being the matter of record need no reply.
- 4) That the position as stated in para 5 regarding limitation is denied and it is submitted that this application has been filed beyond the prescribed period of one year from the date of final order dated 2-3-1984 by which his representation was rejected by the Post Master

In witness whereof
Kamer for
H. Deep on
behalf of
deponent.



Signature

936

General, U.P. Circle, Lucknow vide his letter No. Recruitment/M5/156/8,83/7, dated 2-3-1984. A true copy of the aforesaid letter is filed herewith as Annexure No. C-1 to this Counter Affidavit.

- 5) That the contents of para 6(a) being the matter of record need no reply.
- 6) That in reply to the contents of para 6(b) & (c) of the application, it is submitted that the alleged applications dated 10-2-1982 and 2-3-1982 as contained in Annexure Nos. 1 and 2 respectively of the application appear to have not been received in the deponent Office according to record available. Further sub-Rule (1)(2) of Rule 38 of the Central Civil Services (Pensions) Rule 1972 in respect of "Invalid Pension" is reproduced as under :-

"38(1) : Invalid pension may be granted if a Government servant retires invalid pension from the service on account of any one bodily or mentally infirmity which permanently incapacitates him for the service.

(2) A Government servant applying for a invalid pension shall submit a medical certificate of incapacity from the following medical authority, namely :-

(a) A Medical Board in the case of Gazetted Government servant and of a non-Gazetted Government servant whose pay, as defined in Rule 9(21) of the fundamental Rules exists seven hundred and fifty rupees per mensem.

(b) Civil Surgeon or a District Medical Officer or Medical Officer of equivalent status in other cases.

In this connection, it is further submitted that the

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date of application is not relevant as the crucial question for the purpose of the case is when actually he retires from the services "on account of any bodily or mentally infirmity which permanently incapacitates him for the service". In the present case, the Chief Medical Officer declared the applicant Shri J.P. Misra, medically invalid with effect from 29-6-1983 and as consequent of the same, ~~has~~ was made to retire on 29-6-1983 when he completed 55 years and about 3 months. As ²this date of birth according to his service record is 1-4-1928. Still further, it is submitted that the applicant's son Shri Anjani Kumar Misra has already been working on the post of Extra Departmental Runner, ²Johwasarki (Harchandpur) Rae-Bareli.

- 7) That the contents of para 6(d) of the applicant a-re denied and it is submitted that there was no question of the matter of retirement of the petitioner remaining pending. In fact, the retirement could be made only from the date when he was declared medically invalid by the competent medical authority. Since he was declared medically invalid on 29-6-1983, he was ordered to retire with effect from 29-6-1983. It is significant to mention that the invalidation certificate was granted by the Chief Medical Officer, Rae-Bareli vide his letter No.1/83, dated 29-6-1983 and accordingly the applicant was ordered to retire from Government service from 29-6-1983.
- 8) That the contentions raised in para 6(e) of the application are denied and it is submitted that the applicant's son Shri Anjani Kumar Misra was not entitled to be employed on the ground that his father



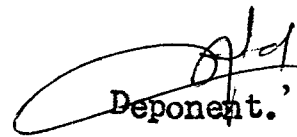
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cases, it has been specifically mentioned that "in the third category of cases attracting the provision of the Office Memo., dated 18-3-1982, no request on compassionate appointment by relaxing its provision may be entertained". Thus the G.O. dated 1-3-1984 also does not support the case of the applicant.

- 12) That the allegations of delay on the part of the Department is denied and it is submitted that the applicant was ordered to retire as soon² as the certificate of medical invalidation was received from the Chief Medical Officer, Rae-Bareli. It is significant to mention that medical invalidation certificate was granted by the Chief Medical Officer on 29-6-1983 and the applicant was ordered to retire with effect from the same date, i.e. 29-6-1983.
- 13) That the contentions as raised in para 6(1) is emphatically denied and it is submitted that the applicant who belong to Group 'C' cannot claim the benefit which is available to the persons who retire from Group 'D' services.
- 14) That the contentions as raised in para 6(m) of the application are emphatically denied and it is submitted that he is not entitled to benefit under any G.O. mentioned by him in this application or any other instructions of the Department and the Government.
- 15) That the contents of para 6(n) of the application are not relevant for deciding the material question involved in the case. By the way, it is also submitted that the applicant's son Shri Anjani Kumar Misra has been working as Extra Departmental Runner, Johwasarki (Harchandpur), Rae-Bareli since 24-2-1975.

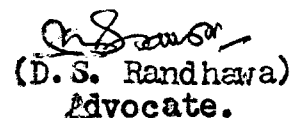
VERIFICATION


I, the above named deponent do hereby verify that the contents of para 1 and 2 of this affidavit are true to my own knowledge and the contents of paras 3 to 20 are true to my knowledge derived from the official records and the contents of para 21 of this affidavit is believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed. So help me God.


Deponent.

²
Dated: May 18, 1989.

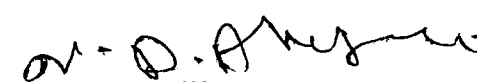
I identify the deponent who is personally known to me has signed before me.


(D. S. Randhawa)
Advocate.


Dated: May 18² 1989.

Solemnly affirmed before me on 18-5-89
10-35 at A.M./P.M. by the deponent Shri M. D. Siddhanti
..... who is identified by Shri D. S. Randhawa
Advocate, High Court of Judicature at
Allahabad, Lucknow Bench, Lucknow.

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


D. B. ANILJAN
OATH COMMISSIONER
High Court Lucknow Bench Lucknow
No 96/1142
Date 18/5/89

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

The Postmaster-General
U.P. Circle Lucknow

To

Sri/Smt. *[Handwritten Name]*
Vill. *[Handwritten Name]* K. Ashwari
.....
.....
.....

Post Office
15 MAR 1934
Rae Bareilly Dn.
Rte 100 No. 225001

No. Rectt/M-5/156 183 17 Dated at Lucknow, the

Sub:-

E/O *[Handwritten Name]* Son/Daughter of Late *[Handwritten Name]*
.....on compassionate grounds.

The case for appointment of your Son/Daughter
has been considered by the Circle committee and the appointment
in cadre of.....has approved/rejected.....

2. Sanction will be issued shortly after completion
of certain formalities in this office.

(O.P. Malhotra)

Asstt. Director (Rectt.)

[Circular Stamp]
13/4/34
389

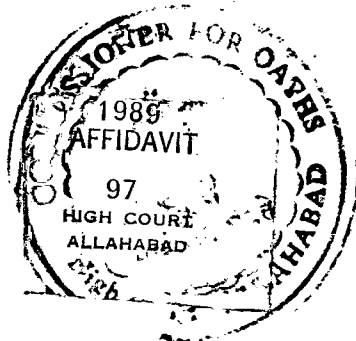
[Handwritten Note]
J. P. Office, Rae Bareilly
B/ Corr-21 / Amjani Khanna
information

In the Central Administrative Tribunal , Addl.
Bench, Allahabad (Circuit Bench),
Lucknow.

O. A. No. 148 of 1988

F.F. :- 16.1.90

AM

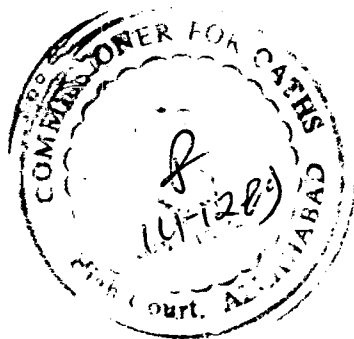


Jagan Nath Prasad Misra Applicant.
Versus
The Union of India & others Opp. Parties.

Rejoinder Affidavit.

I, Jagan Nath Prasad Misra aged about 60 years son of Late Lachheshwar Prasad Misra R/o village and Post Kathuara District Rai Barailly do hereby solemnly affirm as under :-

1. That the contents of para 1 to 3 of the C.A. are admitted.
2. That the contents of para 4 of the C.A. are denied. It is wrong to say that the application is time barred. It is well within time. Further there is day today cause action to the petitioner for filing of the petition. The Annexure C-1 was never served on the deponent. It is clear from the perusal of this annexure it is clear that the appointment of the son of the applicant deponent has been approved. The Opp. Parties have concealed the facts and have not brought the annexure C-1 in the knowledge of the deponent.



गणेशप्रसाद मिश्रा

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3. That the contents of para 5 of the C.A. are admitted.

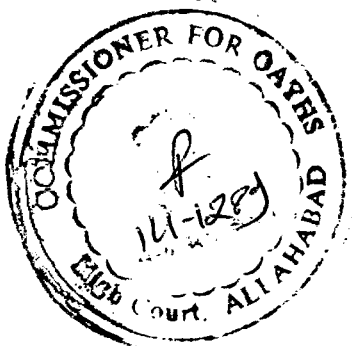
4. That the contents of para 6 of the C.A. are denied. The applications were moved and must be in the office of the Opp. Parties. The applications were submitted through proper channel. The applications duly received are filed herewith as annexure No. R.A.- 1 and 2 to this rejoinder Affidavit. Please see Addl. pleas

5. That the contents of para 7 of the C.A. are denied. The application was moved by the deponent in time but he was not referred to the C.M.O. for his opinion by the department and there was no fault on the part of the deponent. The matter remained pending with the department. Further the contents of para 6 (d) of the application are reiterated.

6. That the contents of para 8 of the C.A. are denied. The son of the applicant was entitled to get the appointment as prayed. The contents of para 6 (e) of the application are reiterated.

7. That the contents of para 9 of the C.A. are denied. The contents of para 6 (f) and (g) of the application are reiterated.

8. That the contents of para 10 of the C.A. are denied. The contents of para 6 (h) & (i) of the C.A. are denied. All the relevant G. O. and orders are already on record which will tell the truth. The G. O. Annexure No. 8 is fully applicable and the son of the deponent is entitled to get the regular services.



गुमानसहित

(A38)

who was a Government servant in Group 'C' and who was made to retire on medical invalidation.

- 9) That the contents of para 6(f) & (g) of the application are not admitted.
- 10) That the contents of para 6(h) & (i) of the application, it is ²submitted that there is no G.O. order or any other instructions of the Department or the Govt. which may entitle the applicant to the benefit claimed by him vide G.O. dated 26-8-1986 as contained in Annexure No.8 of the application also does not entitle the applicant to the benefit in any manner. The aforesaid G.O. dated 26-8-1986 providing "that in case of Group 'D' employees, the benefit of compassionate appointment may be extended only when they are retiring on medical grounds before attaining the age of 57 years". At ³this juncture, it is necessary to point out that the applicant Shri J.P. Misra retired from services of Group 'C' and not Group 'D'. It may be clarified that Group 'D' employees are made to retire at the age of 60 years, whereas Group 'C' employees are made to retire at the age of 58 years and the benefit of providing compassionate appointment to the sons/daughters/near relatives of the Government of Group 'C' is available when the Government servant retires on the ground of medical invalidation before attaining the age of 55 years, whereas some benefit accrue to the Group 'D' employee when retires on medical invalidation before attaining the age of 57 years. Thus the applicant who belongs to Group 'C' could take the benefit of compassionate appointment of his son if he had retired on the grounds of medical invalidation before attaining the age of 55 years. But the applicant

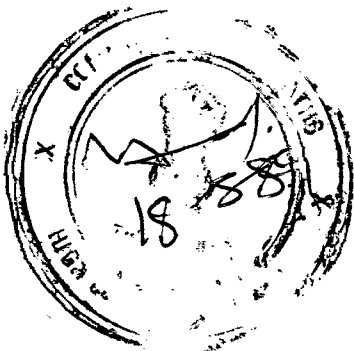


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A39

was made to retire on the grounds of medical invalidation after the age of 55 years and as such, his son is not entitled to the benefit of compassionate appointment. In this regard, it may be mentioned that even if the son of the applicant is qualified for the post of Group 'D', it is immaterial for the purpose of giving him the benefit of compassionate appointment because his father retired from Group 'C' services.

- 11) That in reply to the contents of para 6(j), it is submitted that the Opposite Parties could not order to retire the applicant on the grounds of medical invalidation unless he was declared so by the competent medical authority. Further, it is submitted that there is no G.O. whatsoever, under which the applicant can be entitled to the benefit claimed by him. In this regard, it is emphatically asserted that the applicant is not entitled to the benefit claimed by him even in the light of the clarification made through the G.O., dated 1-3-1984, which is contained in Annexure No.9 of the application. In the aforesaid G.O. dated 1-3-1984, there are 3 categories of persons who claim compassionate appointment on medical grounds after attaining the age of 55 years. The third category refers to this "who retire on medical grounds after attaining the age of 55 years on or after the date of communication of the revised Order by the Ministry's concerned". In this connection, it may be mentioned that the applicant retired on 29-6-1983 after attaining the age of 55 years and his date of retirement was after the communication of the revised order by the Ministry's concerned. Now with regard to the third category of



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Alb

The deponent was retired from the post of Post Man which is a class 'D' post. The opp. parties want to misguide the Hon'ble Tribunal. The benefit was liable to be granted but it has not been done. The deponent is entitled to get the benefit as provided under the rules. The opp. parties want to deprive the son of the deponent from getting the appointment as required under the rules.

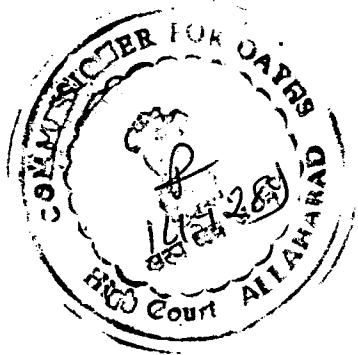
9. That the contents of para 12 of the C.A. are denied. The opp. parties have again tried to misguide the Hon'ble Tribunal in the para under reply. The deponent appeared before the C.M.C. when he was directed. The matter remains pending since March 1982.

10. That the contents of para 13 of the C.A. are denied. The deponent belongs to group 'D' posts and not group 'C' post as per directions.

11. That the contents of para 14 of the C.A. are denied. The deponent is entitled to get the benefit of the G.O. as prayed. The orders are already on record.

12. That the contents of para 15 of the C.A. are denied. The contents of para 6 (n) of the petition are reiterated. The son of the deponent is working as Runner and will not affect the merit of the case. The son of the deponent is entitled to get the regular appointment.

13. That the contents of para 16 of the C.A. are denied. The contents of para 17 of the application are reiterated. The deponent is entitled to get the reliefs claimed and the



Gopal Singh

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4.

Application is liable to be allowed with costs. The son of the dependent is entitled to get the reliefs claimed.

14. That the contents of para 17 of the C.A. are admitted.

15. That the contents of para 18 of the C.A. are denied. The contents of para 9 of the application are reiterated.

16. That the contents of para 19 of the C.A. are ~~denied~~ admitted.

17. That the contents of para 20 of the C.A. are ~~denied~~ admitted.

18. That the contents of para 21 of the C.A. are denied. The dependent is entitled to get the benefit of the G. O. and the orders mentioned in the application. He is further entitled to get the appointment of his son on the regular post of post man or any other post of class IV or higher.

19. That the son of the dependent is working as Extra departmental runner which has no concern with the regular appointment on the grounds mentioned in the application.

20. That the opp. parties want to misguide the Hon'ble Tribunal. They have failed to file the reply of the show cause notice issued by this Hon'ble Tribunal.

21. That the application is liable to be allowed.

Dated :- 12.89

Ganapati Prasad
Dependent.



(Ald)

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 2, 3, 4, 9, 14, 16 and 17 of the ~~affidavit~~ rejoinder Affidavit are true to my knowledge and the contents of para 5 to 8, 15, and 18 to 21 of the E.A. are true to my belief. Nothing has been concealed and no part of it is false, so help me GOD.

Signed and verified today this 14th of December 1989 in the compound of the Hon'ble High court at Lucknow.

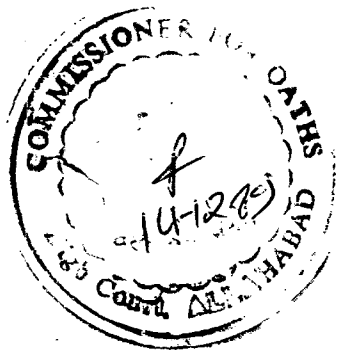
(Signature)
Deponent.

I identify the deponent who has signed before me.

(P. N. Bajpai)
Advocate.

Solemnly affirmed before me on 14-12-89 at 10-36 A.M./P.M. by Sri J. P. Misra the deponent who is identified by Sri P. N. Bajpai, Advocate High Court at Allahabad. (Lko. Bench) Lucknow.

I have satisfied myself by examining the deponent who understands the contents of the affidavit which has been read over and explained by me.



(Signature)
(Raj) Kumar Mishra
DATE: 14-12-89
J. P. Misra
Lko. Bench

No. 971175
Date 14-12-89

49

In the Administrative Tribunal Central Bench
Allahabad

Circuit Bench - Lucknow.
C.M. Am. No. 1997 of 1988

O.A. No. 148 of 1988

Restoration no. of 1989

04

Filed before
h
26/7
Noted for
19/9/89
K. B. L.
20/7/04

Jagannath Pd. Mishra, aged about 60 years
Son of late Lodheshwar Prasad Mishra R/O Village
and post Katheura District Rae Bareilly.

...Applicant.

Vs.

1. The Union of India through the Secretary Ministry of Communication, New Delhi.
2. The post Master General, Uttar Pradesh, Lucknow.
3. The Sub Divisional Inspector, (Postal) West sub Division Rae Bareilly.

... Respondent.

In Re:-

O.A. No. 148 of 1988

Decided on 5.7.89

Jaggannath Prasad Mishra ... Applicant

Vs.

The Union of India and others ... Opp. parties.

Application for restoration of
the Application

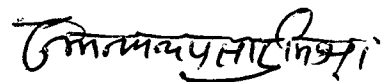
....

The Applicant respectfully begs to submit
as under:-

G. M. Singh

2.

X. For the facts, reasons, circumstances and mentioned in the Affidavit filed herewith it is most respectfully prayed that the Application O.A. No.148 of 1988~~9~~ may kindly be restored at its original number, and may be disposed off according to law.



Applicant

Dated: 7.1989

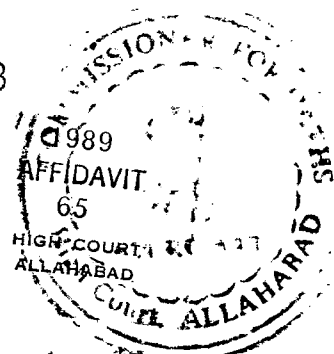
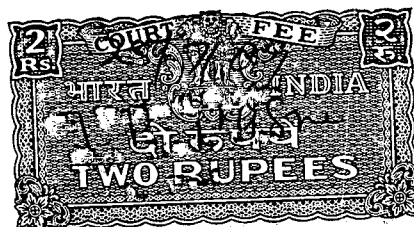


COUNSEL FOR THE APPLICANT.

(26) 51

in the Administrative Tribunal Central Bench
Allahabad

O.P. No.148 of 1988



Jagannath Prasad Mishra

....Applicant

Vs.

The Union of India & Others ... Opp. parties.

Affidavit.

I , Jagannath Pd. Mishra, aged about 60 years son of late Lodheshwar Prasad Misra R/O Village and post Katheura District Rae Bareilly do hereby solemnly affirm as under:-

1. That the above noted application was fixed for arguments at the admission stage on 5.7.1989.
2. That the application has been dismissed in default of the applicant and his counsel on 5.7.89.
3. That the applicant is an old man and remains generally ill. He was not in a position to come to Lucknow on 5.7.89 the date fixed in the case. He has informed his counsel for his illness, but the information could not reach in time.
4. That the Counsel for the Petitioner was busy in the Hon'ble High Court and he could not come to the Hon'ble Tribunal till the case was dismissed in default of the applicant.
5. That the Counsel for the applicant reached in the Tribunal after the lunch, then he had come to know regarding the dismissal of



Ganesh Chandra Mishra

the case in default.

6. That the Counsel for the Applicant send the information to the information to the deponent who has come to Lucknow and got this application prepared.

7- That the Application may not be dismissed in default at the admission stage as there is provision of filing the application by post. The Presence of the Counsel is not necessary at the admission stage.

8. That the Applicant and his Counsel were not absent from the ~~Supreme~~ Tribunal when the case was called out, knowingly., in fact the absence was due to the reasons stated above.

9. That the applicant will suffer a great irreparable loss, if the application will not be restored at its original number.

10. That the Applicant and his ~~apex~~ Counsel are begging to excuse them for the absence on the date fixed.

11. That in the interest of justice the case is liable to be restored.

Dated: 25-7-1989

Shri J.P. Mishra
Deponent.

Verification.

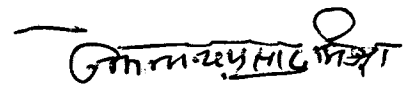
I, J.P. Mishra the above named deponent do hereby verify that the contents of paras 1 to 6 of this Affidavit are true to my knowledge and the contents of paras 7 to 11 are true to my belief. Nothing material has been concealed and no part of it is false, so help me God.

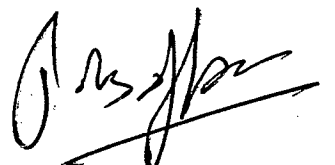


2.

X. For the facts, reasons, circumstances and mentioned in the Affidavit filed herewith it is most respectfully prayed that the Application O.A. No. 148 of 1988 may kindly be restored at its original number, and may be disposed off according to law.

Dated: 7.1989


applicant


COUNSEL FOR THE APPLICANT.

3.

signed and verified today this the
day of July, in the Court Compound at Lucknow.

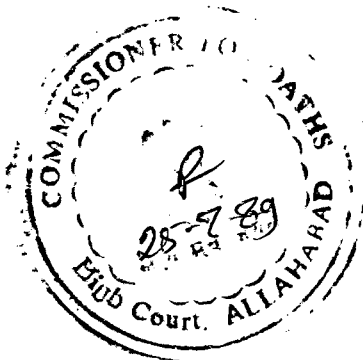
(53)
(CD)
Amayik Mishra
Deponent.

I identify the deponent who has signed
before me. *personally know some*

P. N. Bajpai
(P.N. Bajpai)
Advocate.

solemnly affirmed before me on 28-day of
July, 1989, at 11-30 A.M./P.M. by Sri J.P.
Mishra the above named deponent who is identified
by Sri P.N. Bajpai, Advocate, High Court of
Judicature at Allahabad (Lucknow Bench)
Lucknow.

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



Raj. Kumar Me
Commissioner of Affidavits
High Court, Allahabad
Lucknow Bench
No. 65/12-8
Date 28-7-89

(29) 59

In the Administrative Tribunal Central Bench
Allahad

Circuit Bench- Lucknow.
C.M. An. No. 199/09 CC

O.A. No. 148 of 1988

Restoration no. of 1989

Jagannath Pd. Mishra, aged about 60 years
Son of late Lodheshwar Prasad Misra R/O Village
and post Kathoura District Rae Bareilly.

.. Applicant.

Vs.

1. The Union of India through the secretary
Ministry of Communication, New Delhi.
2. The post Master General, Uttar Pradesh,
Lucknow.
3. The Sub Divisional Inspector, (Postal)
West sub Division Rae Bareilly.

... Respondent.

In Re:-

O.A. No. 148 of 1988

Decided on 5.7.89

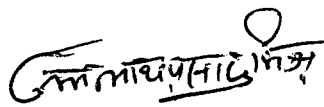
Jaggannath Prasad Mishra ... Applicant

Vs.

The Union of India and others ... Opp. parties.

Application for restoration of
the Application

....

 The Applicant respectfully begs to submit
as under:-

C18 56

In the Administrative Tribunal Central Bench
Allahabad

O.P. No.148 of 1988

Jagannath Prasad MishraApplicant

Vs.

The Union of India & Others Opp. parties.

Affidavit.

I, Jagannath Pd. Mishra, aged about 60 years son of late Lodheshwar Prasad Misra R/O Village and post Katheura District Rae Bareilly do hereby solemnly affirm as under:-

1. That the above noted application was fixed for arguments at the admission stage on 5.7.1989.
2. That the application has been dismissed in default of the applicant and his counsel on 5.7.89.
3. That the applicant is an old man and remains generally ill. He was not in a position to come to Lucknow on 5.7.89 the date fixed in the case. He has informed his counsel for his illness, but the information could not reach in time.
4. That the Counsel for the petitioner was busy in the Hon'ble High Court and he could not come to the Hon'ble Tribunal till the case was dismissed in default of the applicant.
5. That the Counsel for the applicant reached in the Tribunal after the lunch, then he had come to know regarding the dismissal of

Pranmaya Prasad Mishra

the case in default.

6. That the Counsel for the Applicant send the information to the information to the deponent who has come to Lucknow and got this application prepared.

7- That the Application may not be dismissed in default at the admission stage as there is provision of filing the application by post. The Presence of the Counsel is not necessary at the admission stage.

8. That the Applicant and his Counsel were not absent from the ~~Admission~~ Tribunal when the case was called out, knowingly., in fact the absence was due to the reasons stated above.

9. That the applicant will suffer a great irreparable loss, if the application will not be restored at its original number.

10. That the Applicant and his ~~apptx~~ Counsel are begging to excuse them for the absence on the date fixed.

11. That in the interest of justice the case is liable to be restored.

Dated: 7.1989

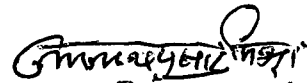
Pranay Kumar
Deponent.

Verification.

I, J.P. Mishra the above named deponent do hereby verify that the contents of paras 1 to 6 of this Affidavit are true to my knowledge and the contents of paras 7 to 11 are true to my belief. Nothing material has been concealed and no part of it is false, so help me God.

3.

Signed and verified today this the
day of July, in the Court Compound at Lucknow.


Deponent.

I identify the deponent who has signed
before me.

(P.N.Bajpai)
Advocate.

Solemnly affirmed before me on day of
July, 189, at A.M./P.M. by Sri J.P.
Mishra the above named deponent who is identified
by Sri P.N. Bajpai, Advocate, High Court of
Judicature at Allahabad (Lucknow Bench)
Lucknow.

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

216/59

In the Central Administrative Tribunal :

Additional Bench: Allahabad.

Circuit Bench: Lucknow.

C. M 25/

O.A.No. 32 of 1989.(L)

M.P.Shukla.

Applicant.

Versus.

The Union of India and ors.

Opp-Parties.

Application for amendment of the application.

The applicant respectfully begs to submit as under:-

1. That the abo enoted application was filed for getting the ration allowance and the clothing allowance. The prayer for promotion was also made. The Hon'ble Tribunal at the time of arguments at the admission stage did not allow the applicant to ~~renew~~ file one application for several relief, hence the counsel for the applicant had pressed the application for the allowances only.

2. That the Hon'ble Tribunal had directed the applicant to move the application for amendment to delete the paras relating to the promotion and the relief of promotion. Therefore the applicant is filing this application. He wants to amend the application as under:-

(a). That the present paras 6(11) to 6(16) may be allowed to be deleted and the paras 6(17) to 6(19) may be allowed to be renumbered

2.

as para no. 11 to 13.

(b). That the present relief 7(c) may be allowed to be deleted and the present relief number (d) and (e) may be allowed to be recumbered as (c) and (d).

3. That the amindement proposed in this application will not change the nature of the application.

Wherefore it is respectfully prayed that the applicant may be allowed to amend his application as mentioned in para 2 of this application.

DATED: 19.9.1989. Counsel for the applicant