

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

OA 16/88 (4)

CAUSE TITLE OF

NAME OF THE PARTIES ... *Pattar Lal* Applicant

Versus

..... *U.D.I. Bar* Respondent

Part A.

Sl.No.	Description of documents	Page
1	<i>Index sheet</i>	<i>41</i>
2	<i>order sheet</i>	<i>42 to 45</i>
3	<i>Judgment order dt. 26-8-92</i>	<i>46 to 47</i>
4	<i>Cont. Petition / Annexure</i>	<i>* 48 to 463</i>
5	<i>Power</i>	<i>464</i>
6	<i>Written statement</i>	<i>465 to 467</i>
7	<i>Rejoinder Affidavit</i>	<i>468 to 473</i>
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Pilbeetkar Dated ... *19-9-11*

Counter Signed.....

m
Signature of the
Dealing Assistant

Section Officer/In charge

CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH,
LUCKNOW.

A4

46

O.A. No.16/88 (L)

Puttu Bal ... Applicant

Vs.

Union of India & Others ... Respondents

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

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

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

The applicant was working as Extra Departmental Branch Post Master. The respondents put the applicant off duty as he was an accused under section 409/420 and 468 of I.P.C. The case against him was that in the capacity of Post Master of Post Office Kewali, Police Station Nagram, committed criminal breach of trust in respect of a Savings Bank Account in the name of Sardar deceased and without making the actual payment he mis-appropriated the said amount. In the criminal case the applicant was acquitted vide order dated 9-11-73 passed by II Additional Sessions Judge, Lucknow, i.e. after ^{some} 4 years of the start of the said proceedings against him. Even thereafter the applicant was not given back his duty. In the meantime departmental proceedings also started against him, which were opposed by the applicant on the ground that now departmental proceedings cannot take place against him. The applicant filed a Writ Petition before the High Court which was dismissed on the

O.A.No.16/ 88(L)

A6

8/5

26/8/92.

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

Judgment has been dictated in the
open Court.

(10/8)

A.M.

V.C.

THE CENTRAL ADMINISTRATIVE TRIBUNAL

IN THE MATTER OF

APPLICATION

DATE OF FILING 1993 (L)

IN THE MATTER OF APPLICANT'S

VERSUS

..... RESPONDENT'S.

..... PARTICULARS J. OF

ART (A)

Check List

- ① ✓ Order Sheet
- ② ✓ Final Judgment Dated
- ③ ✓ Petition Copy With Power
Annexure

A- to A-

A1 to A3 + A6

A4 to A5

A7 to A62

- ④ ✓ Counter with Power

A63 to A65

- ⑤ ✓ Rejoinder Affidavit

A66 to A71

ART (B)

⑥

A- to A-

B72 to B127

ART (C)

⑦

C128 to C129

Chaitanya
Gandhi

05-10-93

Per Hoo Lal is U.O.S

Order Sheet

Hon. A. John AM
 Hon. E. S. Skene. JM

26-7-08 for Admin/Learning

1416

C.A. & R.A. have been filed

12/9/11

now Ajay John

For R.K. Srivastava applicant.
" for Respondent

Ser. V. K. Chaudhary Respondent
files reply today Rajiv

may be filed

9 weeks. These be
hearing

on 22/8/0

2

Am.

Ray

OR

22
In compliance Hon'ble Tribunal
order dated 20.11.2018 no rejoinder
affidavit have been filed so far.
Put up on 2.11.2019 for hearing
frshy

16/5

A2

16/88 (L)

K/M

O.A. No. (24/88(L).

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

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

30/3/89 On the request of the learned counsel for the applicant, the case is adjourned to 10.5.89. Shri V.K. Chaudhary learned counsel for the respondents is present.

(sm)

J.M.

A.M.

CR. Case is ready for final hearing Submitted for hearing 9/5/89

10.5.89

Hon. G.S. Sharma, JM

Hon. K.S. Raman, AM

Sri R.K. Srivastava learned Counsel for the Applicant requests for adjournment. The case is accordingly adjourned to 11.8.1989 for final hearing.

for JM.

JM.

OR Submitted for hearing 10/5/89

10.5.89

for

11.0.09

No sitting. Adj. to 9.11.09 for hearing. Both the counsel are present.

L B.O.C.

9-11-89

Hon. Mr. D.K. Agrawal - JM

Hon. Mr. K. Olayya - AM

On the adjournment application of Mr. VK Chaudhary Counsel for respondent the case is adjourned to 13/2/90 for hearing.

AM

Dep

JM

R

27.7.91

D.R.

16/88

A3

This case has been
taken up today ~~for~~
because 23.7.91 was
holiday. Sri R. K.
Srivastava is present

for the applicant.

This case is listed
for filing amendment
application by 27.9.91.
Applicant to comply
the court's order
dt. 11.4.90. by fixed
date.

27.9.91

D.R.

Both the parties are
absent today. Appli-
cant to comply with
court's order dt. 11.
by 10/12/91.

10.12.91

D.R.

Counsel for O.P. is present.
Applicant is ordered
to comply the court's
order dt. 11.4.90 by
27/2/92.

21/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO 16 /88 (L) ~~XXXXXXXX~~

T.A. NO

Date of Decision 26/8/92

Puttu Lal

PETITIONER.

Shri R.K.Srivastava

Advocate for the Petitioner(S)

V E R S U S

Union of India & Others

RESPONDENT.

Shri V.K. Chaudhury

Advocate for the RESPONDENT(S)

CORAM

The Hon'ble. Mr. Justice U.C.Srivastava, V.C.

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

1. Whether Reporter of local papers may be allowed to see the Judgment? N
2. To be referred to the reporter or not? N
3. Whether their Lord ships wish to see the fair copy of the Judgment? N
4. Whether to be circulated to other benches? N

Vice-Chairman/Member

AS

ground of alternative remedies. The applicant availed the alternative remedy. As the applicant did not get any relief he has filed this application.

2. The respondents have opposed the application. Later on the applicant has filed a rejoinder. The learned Counsel for the respondents states that subsequent to the filing of the rejoinder affidavit the departmental proceedings ended in favour of the applicant and he has been re-in-stated into service. The learned Counsel for the applicant contended that in view of the fact that the applicant has been re-in-stated into service, all criminal, civil and departmental proceedings against him will be nonest, ~~or will be authority of law~~. As such the order by which he was put off duty was also illegal and he will be entitled to allowances for these periods. It has been pointed out that this was not the main relief which was sought for in the main application, in which the applicant claimed benefit of the acquittal and has also prayed that the ^{punishment may not be given to him for which} ~~show cause notice~~ was issued to him.

The application has become infructuous. However, we make no observation in respect of the right of the claim of the applicant to get any allowance or salary during the period he was kept out of duty. It was for the applicant to take appropriate steps in this behalf. It will be open for the applicant to file a fresh application in this behalf.

Member (A)

Vice-Chairman

Dated: 26th August, 1992, Lucknow.

(tgk)

O.A.No.16/ 88(L)

A6

X/5

26/8/92.

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

Judgment has been dictated in the
open Court.

(1/11/92)

A.M.

V.C.

A7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD CIRCUIT BENCH LUCKNOW.

APPLICATION NO. 16 OF 1988 (L)

BETWEEN

Puttu Lal Applicant

AND

Union of India & others Respondents

I N D E X

SL NO	DESCRIPTION OF DOCUMENTS RELIED UPON	PAGE NOS.
1.	Application	1 to 14
2.	<u>ANNEXURE A1</u> Judgment and order dt 9.11.1973 passed by Additional Sessions Judge, Lucknow.	15 to 32
3.	<u>ANNEXURE A2</u> Direction No. V10/Misc- 1/85/1 dated 16.4.1986	33 to 35
4.	<u>ANNEXURE A3</u> True copy of representation dated 22.11.1973	36 -
5.	<u>ANNEXURE A4</u> True copy of notice dated 8.6.1986	37 to 42
6.	<u>ANNEXURE A5</u> True Copy of representation dated 16-6-86	43 -
7.	<u>ANNEXURE A6</u> True Copy of representation dated 16-6-86	44 to 46

Dated: Lucknow
April 27, 1988

Y. J. M. M.
Signature of applicant

FOR USE IN TRIBUNAL'S OFFICE

1. Date of Filing: _____

2. Registration No. _____

Signature
for Registrar.

A8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD CIRCUIT BENCH LUCKNOW

APPLICATION NO. 16 OF 1988 (C)

BETWEEN

PUTTU LAL

....

APPLICANT

AND

UNION OF INDIA & OTHERS

RESPONDENTS

1. DETAILS OF APPLICATION :-

(1) Particulars of the applicant

(i) Name of the applicant : PUTTU LAL

(ii) Name of father/ : Sri Mathura Prasad
husband.

(iii) Age of the applicant : 59 years.

(iv) Designation and : The applicant was last
particulars of office employed on the post
(Name and station) of Post Master at
in which employed or Post Office Kewali under
was employed before Nagram sub-office, Distt
ceasing to be in service LUCKNOW.

(v) Office address : In the present time
nothing

(vi) Address of service of : Puttu Lal son of
Notice Sri Mathura Prasad,
resident of village
Kewali, Post Office,
Kewali (Nagram),
District, Lucknow-

Y. J. M. M.

2. Particulars of respondent:-

I- (i) Name of respondent : The Union of India through Secretary, Communication Department, New Delhi.

(ii) Name of father/ husband : Not applicable

(iii) Age of respondent : - do -

(iv) Designation and Particulars of Office (name and Station) : - do -

(v) Office Address : The Union of India through Secretary, Communication Department, New Delhi.

(vi) Address of service : - do - of notices

II-(i) Name of respondent : Senior Superintendent of Post Offices, Lucknow Division Lucknow.

(ii) Name of father/ husband : Not applicable.

(iii) Age of respondent : - do -

(iv) Designation and particulars of office (name & station) in LUCKNOW. which employed : Senior Superintendent of Post Offices, Lucknow Division

(v) Office Address : - do -

(vi) Address of service : - do - of notice.

Y. J. M.

III-(i) Name of respondent : Assistant Superintendent of
Post Offices, Lucknow
Division Lucknow.

(ii) Name of father/
husband : Not applicable

(iii) Age of respondent : - do -

(iv) Designation and : Assistant Superintendent of
Particulars of Post Offices,
Office (Name & Lucknow Division,
Station) in which Lucknow.
employed

(v) Office address : - do -

(vi) Address of service : - do -
of notice

IV- (i) Name of respondent : Regional Director, Post, Post
Offices Lucknow Division,
Lucknow.

(ii) Name of father/
husband : not applicable

(iii) Age of respondent : - do -

(iv) Designation and : Regional Director Post,
Particulars of Post Offices,
Office (Name & Lucknow Division,
station in which Lucknow.
employed

(v) Office address : - do -

(vi) Address of service : - do -
of notice

contd.

A11

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

A
12

The application is against
the following ~~XXXX XXXX~~
notice :-

- (i) ~~XXXX XXXX~~ Notice No. : Memo No.FX/Mis 79/68-69
contained in AnnexureA4 to
the application.
- (ii) Date : 8.6.1986
- (iii) Passed by : Superintendent of Post
Offices, Lucknow City
Division, Lucknow.
- (iv) Subject in brief : ~~XXXX XXXX~~ notice against
the proposed penalty of
removal under Rule 8 of
Extra Departmental Employees
Service & Conduct Rules,
1964
- 4. Jurisdiction of the : The applicant declares that
Tribunal the subject matter of the
order against which he
wants redressal is within
the jurisdiction of the
of the Tribunal.

Y-gmm

5. Limitation

- : The applicant further
declares that the applicat-
ion 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 as under:-

(i) That the applicant was appointed in the month of December, 1961 by opposite party No.2 on the post of Branch Post Master at Kewali Branch Office under Nagram Sub-Office, District Lucknow and since then he had worked with utmost sincerity, honesty and with full devotion to his services till 16.3.1969.

(ii) That on 17.3.1969 a false F.I.R. had been lodged against the applicant under Section 409/420 and 468 I.P.C. in the Police Station Nagram on a report made by Sri R.P. Tripathi, Assistant Superintendent of Post Offices.

(iii) That on the basis of aforesaid F.I.R. a case was registered against the applicant that he in the capacity of post Master of Post Office Kewali, Police Station Nagram committed criminal breach of trust in respect of a Saving Bank Account in the name of Sardar deceased and that without making the actual payment he mis-appropriated the said amount to his own use and thereby he cheated the widow of Sri Sardar.

Ygmin

(iv) That due to the ulterior motive and ill will Sri R.P.Tripathi, Assistant Superintendent of Post Offices, Lucknow has lodged the F.I.R. on false and incorrect facts and on the same day, i.e. on 17.3.1969 he has put the applicant off duty under Rule 8-A of the Extra Departmental Agents Conduct and Service Rules, 1964 while no enquiry was pending against the applicant at that time.

(v) That the applicant along with two other persons, namely, Sri Hanuman Prasad and Sri Ram Dutt Verma have been tried in the Competent Court of Law. i.e. The Court of Additional Sessions Judge, Lucknow in respect of the aforesaid case and was acquitted vide order dated 9.11.1973 passed by the II Additional Sessions Judge, Lucknow, against which ~~no appeal had been preferred~~, a certified copy of which is being annexed hereto as ANNEXURE NO. A1

(vi) That according to Rule 9 of the Extra Departmental Agents Conduct and Service Rules 1964 only the appointing authority or an authority to which the appointing authority is subordinate may put off any employee off duty.

The respondent no 3 was neither

4-7-73

A14

- 7 -

AS

appointing authority of the applicant nor an authority to which the appointing authority of the applicant is subordinate while he is below the rank of appointing authority i. e. respondent No. 2, and had no jurisdiction to put him off duty hence the order passed by respondent No. 3 is without jurisdiction and is illegal.

(vii) That the aforesaid Rule 9 also provides that the Extra Departmental Agents may be put off duty only during the pendency of the enquiry and not when any enquiry is contemplated while the applicant was put off duty in the contemplation of an enquiry as no enquiry was pending at that time against him.

(viii) That vide D.G.P. and T. Letter No. 104-11/77-Disc.II dated February 1979 an Extra Departmental Agent may not remain put off duty for a period 120 days. It is also pertinent to note at this juncture ^{that} another Direction No. V10/Misc-1/85/1 Lucknow dated 16.4.1986 was issued from the Department of Telecommunication, Office of General Manager Telecom U.P. Circle, Lucknow fixing scheduled time regarding

Y-57115

A15
8/16

^{disposal}
expeditions/~~of~~ disciplinary cases, a true ~~photo stat~~ copy of which is being annexed hereto as ANNEXURE NO. A2 to this application.

(ix) That on 29-11-1973 the applicant had moved a representation before respondent No. 2 for putting him back in duty and a copy of which was also sent to the respondent No. 4 and the applicant had approached several times to the respondent No. 2 and 4 and has vehemently ~~xx~~ represented his case before them. A true copy of representation dated 29.11.1973 is being filed herewith as ANNEXURE NO. A3 to this application.

(x) That ~~th~~ although the petitioner has been tried in a competent court of law. i.e. Court of Sessions Judge, Lucknow and from where he was acquitted on 9.11.1973 yet instead of putting him back on duty the respondent No. 2 in utter disregard of the order passed by learned Additional Sessions Judge, Lucknow has proposed to impose the penalty of removal under Rule 8 of the Extra Departmental Agents Conduct and Service Rules 1964 on the basis of the allegation mentioned in the F.I.R dated 17.3.1969 and has given a ~~show cause~~ notice on 8.6.1986 and is proceeding with

49 min

a departmental enquiry in this matter. A true copy of the notice dated 8.6.1986 is being filed herewith as ANNEXURE NO. 4 to this application.

(xi) That after receiving the ~~xxx xxx~~ notice dated 8.6.1986 the applicant has made representations to the respondent No. 2 and ~~xx xxx~~ to respondent No. 4 on 16.6.1986 and has prayed for putting him back in duty, but none of the respondents have come forward to perform their duties. The true copies of the representations dated 16-6-86 are being annexed thereto as Annexures NO. A 5 & A 6 respectively.

(xii) That the respondent No. 2 with an ulterior motive and illwill has acted arbitrarily in utter disregard to the judgment and order dated 9.11.1973 passed by the Additional Sessions Judge, Lucknow holding the departmental enquiry which is illegal and against all the norms of law and after a long time from the date when the applicant was put off duty under Rule 8-A of Extra Departmental Agents conduct and service Rules 1964.

(xiii) That the respondents have proceeded with the departmental enquiry and in case they may not be restrained by this Hon'ble Tribunal, the applicant will suffer with an irreparable loss and injury.

47 mm

A17

~~8/2~~

7. Details of the remedies: The applicant declares that he
Exhausted has availed all the remedies
available to him under the
relevant service rules, etc.
as the applicant has moved the
representation dated 12.11.73
for putting back in duty in
view of the judgment and order
dated 9.11.1973 passed by the
Additional Sessions Judge,
Lucknow which is pending till
date. It is further stated
that on 16.6.1986 the applica-
~~ment~~ nt has again moved repres-
entation (Annexure No. AS4A6)
for putting back on duty after
receiving the ~~show cause~~ notice
dated 8.6.1986.

8. Matters not previously: The applicant further declares
filed or pending in that he had not previously
any other Court filed any application or writ
petition 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 except a-
Writ Petition No. 1835 of 1988
namely Putto Lal vs. Union of
India and others in the Hon'ble-

Y. G. M. M.

High Court of Judicature at Allahabad
Lucknow Bench, Lucknow which has been
dismissed on the ground of alternative
remedy on 21.2.1988 by the Division
Bench. It is stated that no such
application, writ petition or suit is
pending before any of them.

9. Reliefs : In view of the facts mentioned in para-6
Sought above the applicant prays for the
following reliefs :-

(I) a direction may be issued to the
respondents thereby setti-ng aside
the ~~show cause~~ notice dated 8.6.1986
contained in Annexure No.A4 to this
application.

Grounds on which (a) Because the applicant had been
the relief is tried in a competent court of law
being sought and was acquitted vide order dated
9.11.1973 passed by the Second
Additional District Judge, Lucknow
and ~~the~~ the departmental enquiry
is illegal and against all the
norms of law.

(b) Because the respondents are bound
to comply with the order dated
9.11.1973 passed by the competent
Court of law.

(c) Because the respondent No.3 had
no jurisdiction to put the

4-2-1988

applicant off duty.

8/20

(d). Because the applicant had a legitimate right to be put back on duty vide order dated 9.11.1973 passed by the learned Additional Sessions Judge.

(e). Because the action of the respondents is unconstitutional and hit by Article 14 and 16 of the Constitution of India and is violative of the principles of natural justice.

(f). Because the respondents cannot held the departmental enquiry after a long time from the date of putting off duty and the same is not tenable under law.

II. a direction may be issued directing the respondent no. 2 not to pass the order of removal in persuance of the notice dated 8.6.1986 contained in Annexure No. A-4 to the applicant and not to hold the departmental enquiry and to put the applicant back in duty giving all the benefits and back wages to him with effect from 17.3.1969.

(The grounds mentioned in the above para of relief no. 1 are being pressed for this relief also.).

III. such other order or direction which may be deemed just and warranted may also be passed.

IV. the costs of the application may also be awarded to the applicant against the respondents.

49/2/17

10. Interim order, : Pending final decision on the
if any, prayed application, the applicant seeks
for issue of the following interim
reliefs:-

(a) That for the facts, circumstances
and reasons mentioned in paragraph
Nos. 6 and 9 of the application, it
is most respectfully prayed that
the opposite parties/respondents
may kindly be restrained from further
proceeding the departmental enquiry
in pursuance of the notice dated
8.6.1986 contained in Annexure No 44
to this application.

11. In the event of
application being
sent through
registered post, it
may be stated whether
the applicant desires
to have oral hearing at the
admission stage and if so
he shall attach a self
addressed Post Card/Inland
letter at which intimation
regarding the date of
hearing could be sent.

Not applicable.

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

(a) name of the bank on which
drawn.

— do —

4/9/86

A21

8/22

(b) Demand Draft No.

or

(a) Number of Indian Postal Order(s)

DD 829971
4

(b) Name of the Issuing Post Office.

Post office High Court Branch Lucknow.

(c) Date of issue of Postal Order(s)

26-4-88

(d) Post office at which payable.

Head Post Office Allahabad

13. List of enclosures:-

(1) Judgment and order dated 9.11.1973 passed by Additional Sessions Judge, Lucknow.

(2) Direction No. V10/Misc.-1/85/1 dated 16.4.1986

(3) True copy of representation dated 11.11.1973

(4) True copy of notice dated 8.6.1986

(5) True Copy of representation dated 16-6-86

(6) True Copy of

dated- 16-6-86

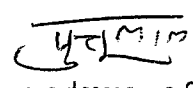
(7) Vakalatnama.

VERIFICATION

I, Putto Lal son of Sri Mathura Prasad, aged about 59 years, resident of village Kewali, Post Office Kewali, Nagram, district Lucknow do hereby verify that the contents of paras 1 to ~~6, 7, 8, 9, 10, 11, 12, 13~~ 7, 8, 9, 10, 11, 12, 13 are true to my personal knowledge and paras ~~6, 7, 8, 9, 10, 11, 12, 13~~ are believed to be true on the basis of legal advice and that I have not suppressed any material fact.

Dated : Lucknow

April 27, 1988


Signature of applicant.

A22

In the Central Administrative Tribunal ^{4/13}
Allahabad Circuit Bench Lucknow

Application No. 91988

Between

Puttoo Lal _____ Applicant

And

Union of India and
Others _____ Respondent

Annexure No- A1

A23

A/2u

Ord. 17
19-1-74

IN THE COURT OF THE ADDL. SESSIONS JUDGE, LUCKNOW.

Present:- Sri R.N.Sinha,
Addl. Sessions Judge.

S.T.No. 198 of 1973.

Ord.No. 17.
19.1.1974.

Words:-4700.
Sri Ahmad Husain.

State.-----Complainant.

-Versus-

1. Putto Lal
2. Hanuman Prasad
3. Ram Dutt Verma.-----Accused.

Under Sec. 409/420/468 I.P.C.
P.S. Nagram Distt. Lucknow.

Copy of JUDGMENT passed by Sri R.N.Sinha, Addl.
Sessions Judge, Lucknow dated 9.11.1973.

J U D G M E N T

1. The accused Ram Dutt and Hanuman Prasad have been charged under Sec. 420 read with Sec. 109 I.P.C. while the accused Puttoo Lal has been charged under Sections 409/420 and 468 I.P.C. The case against the accused Puttoo Lal is that in the capacity of Post Master of Post Office Keoli, P.S. Nagram, he committed criminal breach of trust in respect of a Saving Bank Account in the name of Sardar, deceased and that without making the actual payment he mis-appropriated the

said amount to his own use and thereby he cheated the widow of Sardar. The case against Ram Dutt and Hanuman Prasad that they abetted in the cheating by identifying the thumb impression of Smt. Maika, widow of Sardar, made on the withdrawal form.

2. Sardar, deceased husband of Smt. Maika and resident of village Karsanda, P.S. Nagram had a Saving Bank Account in the Branch Post Office, Keoli being account no. 785297. Puttoo Lal, accused was the Branch Post Master of Keoli Post Office. Sardar died leaving a balance of Rs. 3,618.50 P. in the said account Smt. Maika, the widow of Sardar wanted to withdraw this amount. Withdrawal form, Ex. Ka. 3 was filled-up on 14.2.69. Smt. Maika put her thumb impression on it and the same was identified by Ram Sagar Azad, P.W. 6. Sri Ram Verma also identified the thumb impression. The form was then submitted to the Post Office and Raj Kumar Awasthi, P.W. 7 sent the withdrawal form to the General Post Office for sanction. After the payment was sanctioned, the withdrawal form was returned to the Nagram Post Office and then this withdrawal form was sent to Keoli Branch Post Office with a covering letter, Ext. Kha. 2 dated 7.3.69 written by Raj Kumar Awasthi to the accused, Puttoo Lal.

3. It is alleged that on 15.3.69, Smt. Maika and her son Hari Prasad along with three other persons Dookali Prasad, P.W. 3, Chatrapal and Shiva Prasad, they all went to Keoli Post Office and demanded payment of the amount from the Branch Post Master, Puttoo Lal-accused. Dookali, Chatrapal and Shiv Pd. had gone with Smt. Maika to identify her thumb impression. The accused Puttoo Lal asked Smt. Maika to put her thumb impression on the withdrawal form as proof of the receipt of the amount. Smt. Maika put her thumb impression on the same. The accused Puttoo Lal then asked her to wait for sometime to receive the payment.

4. It is alleged that Smt. Maika and other persons waited for sometime and when they again demanded, the money the accused told them that payment has already been made and so they should go away. Smt. Maika requested the accused to make the payment but the accused refused to listen. Ultimately, Smt. Maika and others all returned from Keoli. Hari Prasad then went to Nagram and made a complaint to the Post Master, Nagram. He also sent an written complaint to the Senior Superintendent of Post Offices, Lucknow.

returned to Sardar on the basis of the withdrawal form, Ex.Kha.1. The accused Puttoo Lal further says that subsequently, Sardar changed his mind and did not withdraw the money from his account. Sardar thus took Rs.3000/- from the accused and did not pay him. The accused Puttoo Lal then filed the Criminal complaint in the Nyaya Panchayat, Kapra, Madarpur on 7.9.67 against Sardar, Deokali and Chatrapal. The accused has filed a copy of this complaint which is Ext.Kha.3. The accused has further said that in the meantime, Sardar died and so the Nyaya Panchayat dismissed the case on 25.2.68, copy of judgment, Ex.Kha.4, with the observation that as Sardar is dead and as the matter is beyond the jurisdiction of Panchayat, the records be consigned and the complainant be directed to file his case in the higher court. Puttoo Lal, accused has said that his amount of Rs.300/- was due from Sardar which his widow Smt.Maika was not paying. When the withdrawal form, Ex.Ka.3 was submitted by Maika on 15.3.69, Smt. Maika got her thumb impression on it, identified by the witnesses, Ram Dutt and Hanuman Pd. i.e. the other accused of this case and then the entire amount of Rs.3618.50 P. was paid in cash to her and no amount was detained by him. After the payment of this amount, the accused Puttoo Lal demanded his money of Rs.300/- due from Smt. Maika. Smt. Maika was hesitating to part with this money but the accused somehow persuaded and got this Rs.300/- back from Smt. Maika. The accused says that during this enmity, the complaint was made against him.

8. It may be pointed out that in the present case, there can be no documentary evidence to prove that the amount was actually paid or not paid by the accused, Puttoo Lal to Smt. Maika. The withdrawal form, Ex.Ka.3 admittedly contains her thumb impression certifying receipt of money and the prosecution case is that after this thumb impression, the amount was not paid to her by the accused, Puttoo Lal. So, the case of the accused, Puttoo Lal stands on altogether different footing than the case of the other two accused, Ram Dutt and Hanuman Pd. The case against these two accused is that they abetted the cheating by identifying the thumb impression of Smt.Maika on the withdrawal form Ex.Ka.3. Now, admittedly, the withdrawal form, Ex.Kha-3 bears the thumb-mark of Smt.Maika. The identification of this thumb mark was done by the two accused Ram Dutt and Hanuman Pd. So it cannot be said that these two accused made wrong identification. Thus, there

in Rs. 3395/- Deokali has admitted in the cross-examination that withdrawal form, Ex.kha.1 as filed in by him and thumb-marked by Sardar and has also been identified by him. He has no doubt changed his statement subsequently but it appears that he did not do so only when he realised the gravity of the situation. At any rate, it is proved from the withdrawal form Ex.kha.1 that Sardar had submitted it on 5.6.67 for withdrawing certain amount and that Deokali was present at that time. Now, the accused Puttoo Lal says that the amount of the withdrawal form could not be paid to Sardar to that day as Sardar was in hurry, he took Rs. 300/- from the accused with the promise to pay it back when the amount is received in the Post Office. No doubt, there is no corroboration of the statement of the accused on this point but the circumstances certainly prove this case of the accused. These circumstances are the withdrawal form, Ex.kha.1 with the thumb-mark of Sardar and the identification of Deokali and the other circumstance is the complaint filed by Puttoo Lal, accused in the Nyaya Panchayat, copy is Ex.kha.3. This complaint was made by Puttoo Lal in the life time of Sardar and in this complaint, Puttoo Lal had alleged that on 5.6.67, Sardar in the company of Deokali and Chatrapal came to him, submitted a withdrawal form and took Rs. 300/- from him with the promise to return the same. A reading of this complaint Ex.kha.3 very clearly shows that the accused took this case as far back as on 7.9.67 about 3 months after the submission of the withdrawal form Ex.kha.1 when Sardar took Rs. 300/- from him. It cannot be said that this complaint was made by Puttoo Lal as a push bandi. It can hardly be said that Puttoo Lal could have anticipated that after two years or so of this complaint, he would be charged for the offence of criminal breach of trust. Thus, I have reason to accept that this complaint was made bonafide by the accused, Puttoo Lal. The fact that Sardar was alive on the date of this complaint, also proves the bonafides of the allegations made therein. We also find that this complaint was consigned by the order of the Nyaya Panchayat dated 25.2.68 as the Nyaya Panchayat found that the matter was beyond its jurisdiction and also because Sardar had died by then. The order of the Nyaya Panchayat dated 25.2.68, copy, Ex.kha.4 was also passed much before the submission of the withdrawal form, Ex.kha.3, i.e. from the date of the occurrence of this case. Thus, the order of the Nyaya Panchayat proves beyond doubt that Puttoo Lal had advanced Rs. 300/- to Sardar on the basis of the withdrawal form Ex.kha.1 and when Sardar

report and the police station refused to lodge the report and they directed them to go to the post office. I am not prepared to accept the contention that P.S. Nagam would have refused to register a case if Smt. Maika and others would have approached them. Then, if at all the police station refused to register a case, a complaint could have been made to the higher authorities. Admittedly, Hari Pd. and Deokali ^{came} ~~came~~ to Lucknow in this connection, the same day but they did not make any complaint to the police or to the higher authorities of the police. They were so particular about sending a telegram that they spent Rs. 9.25 in sending a telegram from the Central Telegram Office, Lucknow but they did not bother to make a report to the police authorities or to the postal authorities. Hari Pd. and Deokali had come to the General Post Office and they did not try to see the post master although they sent a telegram to the Senior Superintendent of the Post offices. Even the telegram alleged to have been sent under receipt, Lx.ka.1 has not been produced before the Court and so we do not know what was written in it. Thus, we do not know if any complaint was made against the accused, Puttoo Lal to the postal authorities. Hari Prasad has said that while he came to Lucknow, he did not see any Officer in the Postal department. Deokali, P.W.3 however who had accompanied Hari Pd. has said that he saw the Senior Supdt. of Post Offices, in Lucknow in the night at 11 P.M. His statement is however nothing but lie. This man is highly interested in Maika. His antecedents are not free from doubt as he has been prosecuted by the police in a large number of cases. He is no doubt the Pradhan of the village but this can be no qualification for his bonafides when admittedly his antecedents are not good. At any rate, there is nothing to prove that after the refusal of the accused, Puttoo Lal, in complaint made by Maika, Hari Pd. or any other person. This conduct, therefore, clearly establishes that a false case has been made out.

14. The report, Lx.ka.2 made by Sri R. P. Tripathi, P.W.5 also does not prove the prosecution case. This report was made after making certain enquiries made by Mr. Tripathi in the nature of a departmental enquiry. Thus, the contents of this report can hardly be admissible in the evidence. The persons who were examined by Mr. Tripathi have not been produced before

Neoli but were residents of Marsand, a different village. Smt. Naika has admitted that the accused, Attotool told her that she should come with two witnesses of village Neoli and not of any other village. The accused Mr. Dutt and Manuman Red. who identified the thumb mark of Smt. Naika are residents of village Neoli. It is thus, quite probable that the accused might have refused to accept the identification of persons who are residents of different village and that is why, Smt. Naika persuaded the accused, Mr. Dutt and Manuman Red. who were residents of village Neoli to identify her signature. It is all the more probable because one Ashrafi who is the son-in-law of Smt. Naika is resident of village Neoli. He was present in the post office at that time, but the accused refused to accept his identification as he happened to be a near relation of Smt. Naika.

17. The witnesses examined by the prosecution are Hari Prasad, P.W.1 and his mother Smt. Naika, P.W.2. These two witnesses are highly interested witnesses for reasons already observed above as they were reluctant to pay Rs. 300/- back to the accused, Attotool. The testimony of mother and son is, therefore, doubtful and liable to be rejected. P.W.3 is another witness who is ill and hostile to the accused. Attotool is the accused and filed a complaint against him and secured a warrant for his arrest. This man is highly interested in the case as he has close relations with him. Then, he has been prosecuted in number of cases by the police. So, his testimony is also full of doubts. The other witnesses examined in this case are of no help to the prosecution as they do not prove that there was any cheating or breach of trust by the accused.

18. It appears that the case has been concocted at the instance of Neoli and Smt. Naika. Strangely enough, the persons who refused to have accompanied Naika to the post office on 15.3.69 for the purpose of identification are all connected and interested. I have already observed above about Neoli. The other persons Shiva Red. who accompanied them to the post office has been so connected with Neoli in all the criminal cases in which Neoli was prosecuted by the police. Chitrpal, another person is a partner in the business with Neoli. Thus, it appears that a false complaint was made and the names of these very persons were cited as witnesses who could support the case of the accused in the interest of the accused.

A29

:15:

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

C.M. Application No. _____ of 1988

12/30

Puttoo Lal Applicant.

AND

Union of India & others Respondent.

ANNEXRE NO. A 1

IN THE COURT OF THE ADDL. SESSIONS JUDGE, LUCKNOW.

Present: Sri R.N. Sinha,
Addl. Sessions Judge,

S.T.No. 198 of 1973.

State Complainant.

Versus.

1. Puttoo Lal
2. Hanuman Prasad
3. Ram Dutt Verma Accused.

Under Sec. 409/420/468 I.P.C.
P.S. Nagam Distt. Lucknow .

Copy of judgment passed by Sri R.N. Sinha, Addl.
Sessions Judge, Lucknow dated 9.11.1973.

JUDGMENT

1. The accused Ram Dutt and Hanuman Prasad have
been charged under sec. 420 read with sec. 409 I.P.C.

-2-

while the accused puttoo Lal has been charged under Sections 409/420 and 468 I.P.C. The case against the accused Puttoo Lal is that in the capacity of post Master of Post Office Keoli, P.S. Nagram, he committed criminal breach of trust in respect of a saving Bank Account in the name of Sardar, deceased and that without making the actual payment he mis-appropriated the said amount to his own use and thereby he cheated the widow of Sardar. The case against Ram Dutt and Hanuman Prasad that they abetted in the cheating by identifying the thumb impression of Smt. Maika, ~~was~~ widow of Sardar made on the withdrawal form.

2. Sardar, deceased husband of Smt. Maika and resident of village Karsanda, P.S. Nagram had a Saving Bank Account in the Branch Post Office, Keoli being account no. 785297. Puttoo Lal accused was the Branch post Master of Keoli Post Office, Sardar died leaving a balance of Rs. 3,618.50 P. in the said account Smt. Maika, the widow of Sardar wanted to withdraw this amount-Withdrawal form, Ex.Ka.3 was filled-up on 14.2.69. Smt. Maika put her thumb-impression on it and the same was identified by Ram Sagar Azad, P.W.6 Sri Ram Verma also identified the thumb impression. The form was then submitted to the post Office and Raj Kumar Awasthi, P.W.7 sent the withdrawal form to the General Post Office for sanction. After the payment was sanctioned, the withdrawal form was returned to the Nagram Post Office and then this withdrawal form was sent to Keoli Branch Post Office

with a covering letter, Ext.Kha.2 dated 7.3.69 written by Raj Kumar Awasthi to the accused, Puttoo Lal.

3. It is alleged that on 15.3.69, Smt. Maika and her son Hari Prasad alongwith three other persons Deokali Prasad , P.W.3, Chatrapal and Shiva Prasad, they all went to Keoli Post Office and demanded payment of the amount from the Branch Post Master, Puttoo Lal-accused. Deokali, Chatrapal and Shiv Pd. had gone with Smt. Maika to identify her thumb impression. The accused Puttoo Lal asked Smt. Maika to put her thumb impression on the withdrawal form as proof of the receipt of the amount. Smt. Maika but her thumb impression on the same. The accused Puttoo Lal then asked her to wait for sometime to receive the payment.

4. It is alleged that Smt. Maika and other persons waited for sometime and when they again demanded, the money the accused told them that payment has already been made and so they should go away. Smt. Maika requested the accused to make the payment but the accused refused to listen. Ultimately, Smt. Maika and others all returned from Keoli, Hari Prasad then went to Nagram and made a complaint to the post Master , Nagaram , He also sent an written complaint to the Senior Superintendent of Post offices, Lucknow, and also sent a telegram under receipt, Ext.Ka.1 dated 15.3.69.

5. On the receipt of the complaint, matter was

investigated by Asstt. Superintendent of Post Offices who subsequently found that the accused Puttoo Lal had not made the payment to Maika and instead of getting the thumb impression identified by the witness who accompanied her, the accused got thumb impressions identified by Hanuman Pd. and Ram Dutt, the other two accused of this case. Sri R.P. Tripathi, Asstt. Supdt. of Post Officers, (P.W.5) in this case) then made a report to the P.S. Nagram on 17.3.69, Ex.Ka.2, On this report, F.I.R. Ex.Ka.5 was prepared. Case was registered and was investigated first by S.I. Ram Lal and then by Mohd. Inayat Ullah, S.I. in the special Investigation Staff, P.W.8. The Investigating Officer submitted the charge sheet against the three accused namely, Puttoo Lal, Branch Post Master and the two identifying witnesses, Ram Dutt and Hanuman Prasad.

6. All the accused pleaded not guilty to the charge and said that they have been implicated falsely due to enmity. The accused Ram Dutt and Hanuman Pd. said that on 15.3.69. Smt. Maika asked them to identify her thumb impression on the withdrawal form, Ex.Ka.3 and so they identified her thumb impression before the Branch, Post Master, Puttoo Lal and the payment of the entire amount of Rs. 3618.50 P. was made in cash by Puttoo Lal to Smt. Maika.

7. The accused, Puttoo Lal denied all the allegations

and said that as a matter of fact, Sardar, deceased had come to him with Deokali Pd. on 3.6.67. Sardar told him that he was in need of money. And he also submitted a withdrawal form. Ex.Kha.1, duly filled in and thumb-mark by him. The withdrawal form was written by Deokali, who also identified the thumb impression of Sardar. Since this withdrawal form related to an amount of Rs. 3395/-, the payment could not be made at once by the Branch Post Master i.e. the accused Puttoo Lal and as Sardar was badly in need of money, he submitted the withdrawal form. Ex.Ka.1 to the accused Puttoo Lal and requested Puttoo Lal to give him Rs. 300/- which he urgently needed with a promise that he would pay this ~~xxxx~~ money back to Puttoo Lal when the amount of this withdrawal form is received. The accused has said that he paid Rs. 300/- to Sardar in the hope that he would get it back when the amount of the Savings Bank account is returned to Sardar on the basis of the withdrawal form, Ex.Kha.1. The accused Puttoo Lal further says that subsequently, Sardar changed his mind and did not withdraw the money from his account. Sardar thus took Rs. 3000/- from the accused and did not pay him. The accused Puttoo Lal then filed the Criminal complaint in the Nyaya Panchayat, Kapra, Madarpur on 7.9.67 against Sardar, Deokali and Chatrapal. The accused has filed a copy of this complaint which is Ext.Kha.3. The accused has further said that in the meantime, Sardar died and so the Nyaya Panchayat dismissed the case on 25.2.68, copy of judgment, Ex.Kha.4, with the observation that as

Sardar is dead and as the matter is beyond the jurisdiction of Panchayat, the records be consigned and the complainant be directed to file his case in the higher court. Puttoo Lal, accused has said that his amount of Rs. 300/- was due from Sardar which his widow Smt. Maika was not paying. When the ^{withdrawal} ~~withdrawal~~ form, Ex.Ka.3 was submitted by Maika on 15.3.69, Smt. Maika got her thumb impression on it, identified by the witnesses, Ram Dutt and Hanuman Pd. i.e. the other accused of this case and then the entire amount of Rs. 3618.50 P. was paid in cash to her and no amount was detained by him. After the payment of this amount, the accused Puttoo Lal demanded his money of Rs. 300/- due from Smt. Maika. Smt. Maika was hesitating to part with this money but the accused somehow persuaded and got this Rs. 300/- back from Smt. Maika. The accused says that during this enmity, the complaint was made against him.

8. It may be pointed out that in the present case, there can be no documentary evidence to prove that the amount was actually paid or not paid by the accused, Puttoo Lal to Smt. Maika. The withdrawal form, Ex.Ka.3 admittedly contains her thumb impression certifying receipt of money and the prosecution case is that after this thumb impression, the amount was not paid to hereby the accused, Puttoo Lal. So, the case of the accused, Puttoo Lal stands on altogether different footing than the case of the other two accused, Ram Dutt and Hanuman Pd. The case against these two accused is that they abetted the cheating by identifying the

thumb impression of Smt. Maika on the withdrawal form Ex.Ka.3. Now, admittedly, the withdrawal form, Ex.Kha-3 bears the thumb-mark of Smt. Maika. The identification of this thumb-mark ~~xxxSmtx~~ was done by the two accused Ram Dutt and Hanuman Pd. So it cannot be said that these two accused made wrong identification. Thus, there can be no charge against these two accused for abetment of the cheating because it is not the prosecution case that these two accused identified the thumb impression of Smt. Maika in collusion with Puttoo Lal. Not a word has been said by the prosecution witnesses to the effect that these two accused had made conspiracy with Puttoo Lal to cheat Smt. Maika of the money. It is also not said that against the wishes of Smt. Maika, these two accused made their identification. The P.Ws. examined in this case have said that Ram Dutt and Hanuman Pd. identified the thumb impression Smt. Maika without the instructions of Smt. Maika or at the instance of the accused, Puttoo Lal. All that the P.Ws. say is that they went to Keoli Post Office where Smt. Maika put her thumb-mark on the withdrawal form, she was made to wait for a few hours and then asked to go away. None of the witnesses say that the accused, Puttoo Lal refused to permit Deokali Prasad, Chartapal Shiva Prasad to identify the thumb impression of Smt. Smt. Maika. Deokali who has been examined as P.W.3 does not say that he offered himself to identify the thumb impression of Smt. Maika. Thus, there is not an iota of evidence to prove that the thumb impression of Smt. Maika was wrongly identified by Ram Dutt and Hanuman Pd. accused at

-809

the instance of the accused, Puttoo Lal. There is also no evidence to prove that these two accused wanted to help the accused, Puttoo Lal in cheating of the amount. Thus, there is nothing against these two accused. In fact, they identified the thumb impression of Smt. Maika in good-faith and in the absence of anything to the contrary, it must be presumed that they did this at the instance of Smt. Maika. In my opinion, therefore, no offence is proved against any of these two accused.

9. As I have already observed above, the prosecution cannot adduce any documentary evidence to prove that the account was not actually paid and was detained by the branch Post Master, Puttoo Lal, on this point, there can be only oral evidence. But this oral evidence has to be examined in the light of facts, circumstances and probabilities and corroboration is also needed. Before coming to the evidence of the prosecution witnesses, I would like to examine the case taken up by the accused Puttoo Lal. His case is that withdrawal from Ex.Ka.1 duly filled in by Deokali Pd. thumb marked by Dardar and with the identification of this thumb mark by Deokali was submitted to him on 5.5.67 for withdrawing Rs. 3395- Deokali has admitted in the cross-examination that withdrawal form, Ext.Kha.1 as filed in by him and thumb marked by Sardar and has also been identified by him. He has no doubt changed his statement subsequently but it appears

that he did not do it only when he realised the gravity of the situation. At any rate, it is proved from the withdrawal form Ex.Kha.1 that Sardar had submitted it on 5.6.67 for withdrawing certain amount and that Deokali was present at that time. Now, the accused Puttoo Lal says that the amount of the withdrawal form could not be paid to Sardar to that day as Sardar was in hurry, he took Rs. 300/- from the accused with the promise to pay it back when the amount is received in the Post Office. No doubt, there is no corroboration of the statement of the accused on this point but the circumstances certainly prove this case of the accused. These circumstances are the withdrawal form, Ext. Kha.1 with the thumb mark of Sardar and the identification of Deokali and the other circumstance is the complaint filed by Puttoo Lal, accused in the Nyay Panchayat, copy is Ex.Kha.3. This complaint was made by Puttoo Lal in the life time of Sardar and in this complaint, Puttoo Lal had alleged that on 5.6.67, Sardar in the company of Deokali and Chatrapal came to him, submitted a withdrawal form and took Rs. 300/- from him with the promise to return the same. A reading of this complaint Ex.Kha.3, very clearly show that the accused took this case as far back as on 7.9.67 about 3 months after the submission of the withdrawal form Ex.Kha.1 when Sardar took Rs.300/- from him. It cannot be said that this complaint was made by Puttoo Lal as a Pesh bandi. It can hardly be said that Puttoo Lal could have anticipated that after two years or so of this complaint, he would be charged for the offence of criminal breach of trust. Thus, I have reason to accept that this complaint was made bonafide by the accused, Puttoo Lal. The fact that

-10-

Sardar was alive on the date of this complaint, also proves the bonafides of the allegations made therein. We also find that this complaint was consigned by the order of the Nyaya Panchayat dated 25.2.68 as the Nyaya Panchayat found that the matter was beyond its jurisdiction and also because Sardar had died by then. The order of the Nyaya Panchayat 25.2.68, copy, Ex.Kha.4 was also passed much before the submission of the withdrawal form, Ex.Kha-3, i.e. from the date of the occurrence of this case. Thus, the order of the Nyaya Panchayat proves beyond doubt that Puttoo Lal had advanced Rs. 300/- to Sardar on the basis of the withdrawal form Ex.Kha.1 and when Sardar refused to pay back the amount, Puttoo Lal filed the complaint in the Naya Panchayat.

10. Again, we find, that Hari Prasad son of Sardar and Smt. Maika widow of Sardar have admitted that accused, Puttoo Lal was demanding Rs. 300/- from them. Smt. Maika has admitted that he never enquired from Puttoo Lal why he was demanding this money. This shows that Smt. Maika knew that the money was due from her husband to the accused. It may also be noted that Maika and Hari Pd. always wanted that the money of the = Savings Bank Account should be paid to them not through Keoli, post office, but through Nagam post office. This they did only because they wanted to avoid the payment of Rs. 300/- to Puttoo Lal. Under the circumstance, it is proved beyond doubt that Rs. 300/- the

due from Sardar to the accused, Puttoo Lal.

11. It may also be observed that Deokali, P.W.3 is such an interested witness that ~~xxx~~ he had gone to the extent of pleading ignorance to the fact that Puttoo Lal had filed a case against him and Sardar and Chatrapal in the Nayaya Panchayat. I am not prepared to believe that this witness Deokali had no knowledge of the case filed by Puttoo Lal in the Nayaya Panchayat, which case was pending before the Nayaya Panchayat for about 6 months. He is, therefore, purposeely concealing this fact and the reason is quite obvious as he is very close to Sardar and his widow Smt. Maika.

12. If ~~an~~ we examine the evidence of the prosecution witnesses, in the light of the circumstances pointed out above, we reach to the irresistible conclusion that the prosecution case is false. In fact, Rs- 300/- was due from Sardar and his widow Smt. Maika and son Hari Prasad wanted to avoid this payment and since the accused, Puttoo Lal succeeded in getting this amount, as false case was made out against him.

13. It is important to mention that we do not know whether Smt. Maika actually did not receive the money on 15.3.69 as alleged by the prosecution. We complaint appears to have been made by her to the police or to

-12-

the higher authorities or even to the postal authorities. It is said that when the accused refused to make the payment, they all went to P.S. Nagram to lodge the report and the police station refused to lodge the report and they directed them to go the post office. I am not prepared to accept the contention that P.S. Nagram ~~xxxxxx~~ would have ^{refused to register} ~~approached~~ ~~them~~ a case if Smt. Maika and others would have approached them. Then, if at all the police station refused to register a case, a complaint could have been made to the higher authorities, Admittedly, Hari Pd. and Deokali came to Lucknow in this connection, the same day but they did not make any complaint to the police or to the higher authorities of the police, They were so particular about sending a telegram that they ~~xxx~~ spent Rs.9.25 P. in sending a telegram from the Central Telegram Office, Lucknow but they did not bother to make a report to the police authorities or to the postal authorities, Hari Pd. and Deokali had come to the General Post Office and they did not try to see the post master although they sent a telegram to the Senior Superintendent of the post office. Even the telegram alleged to have been sent under receipt, ^L ~~xt~~.Ka.1 has not been produced before the court and so we do not know what was written in it. Thus, we do not know if any complaint was made against the accused, Puttoo Lal to the postal authorities, Hari Pd. has said that while became to Lucknow, he did not see any Officer in the postal department. Deokali, P.W.3 however who had accompanied

Hari Pd. has said that he saw the senior Supdt. of post office, in Lucknow in the night at 11 P.M. His statement is however nothing but lie. This man is highly interested in Maika. His antecedents are not free from doubt as he has been prosecuted by the police in a large number of cases. He is no doubt the Pradhan of the village but this can be no qualification for his bonafides when admittedly his antecedents are not good. At any rate, there is nothing to prove that after the refusal of the accused, Puttoo Lal, in complaint made by Maika, Hari Pd. or ^{any} other person. This conduct, therefore, clearly establishes that a false case has been made out.

14. The report, Ex.Ka.2 made by Sri R.P.Tripathi, P.W.5 also does not prove the prosecution case. This report was made after making certain enquiries made by Mr. Tripathi in the nature of a departmental enquiry. Thus, the contents of this report hardly be admissible in the evidence. The persons who were examined by Mr. Tripathi have not been produced before this Court. So, the conclusion which Mr. Tripathi reached at cannot be accepted by this court as it was a departmental enquiry.

15. Hari Prasad has said that the entire amount was paid to his mother subsequently by Nagram Post Office. It has been ~~extrem~~ stressed on behalf of the

prosecution that this circumstance proves that the accused did not make the payment on the basis of the withdrawal form on 13.3.69. I am not prepared to accept this contention for a number of reasons. We do not know whether actually the amount was paid to Smt. Maika by the Nagam postoffice as alleged by Hari Pd. as no record had been produced to prove this fact. Secondly, mere payment of the amount would not mean that it was not paid by the accused. Thirdly even if it be assumed that the payment was not made by the accused on the said date, there can be no offence unless, it is proved that the accused detained this amount for his personal use and appropriated the same to his own use. There can be a number of reasons for non-payment of the amount and it is possible that the department might have subsequently paid the amount. Whatever be the fact, this circumstance can never prove that the payment was not made by the accused Puttoo Lal.

16. I have already observed above that there is nothing on record to prove that the accused Puttoo Lal cheated Smt. Maika of the amount involved in the withdrawal form, Ex.Ka.3. There is nothing to prove that the identifying witnesses, Ram Dutt and Hanuman Prasad identified the thumb-impression of Smt. Maika on the withdrawal form Ex.Ka.3 at the instance of the accused, Puttoo Lal. All that the prosecution witnesses say is that the withdrawal form was submitted and the accused did not make the payment. It and

has come in the statement of Hari Prasad, Smt. Maika and Deokali and it is also borne out from the letter, Ex. Kha. 2 7.3.69 written by R.K. Awasthi, P.W. 7 post master of Nagram post office that for withdrawal of the amount, it was necessary that there should be two good identifications and the identifying witnesses must be residents of village Keoli and must be known to the accused, Puttoo Lal. R.K. Awasthi has admitted that he has instructed the accused, Puttoo Lal by letter, Ex. Kha-2 that the payment should be made on proper identification. The witnesses, Deokali, Chatrapal and Shiva Pd. all residents of Karsanda, who are said to have gone with Smt. Maika to Keoli post office were not residents of Keoli but were residents of Karsanda, a different village Smt. Maika has admitted that the accused, Puttoo Lal told her that she should come with two witnesses of village Keoli and not of any other village. The accused Ram Dutt and Hanuman Pd. who identified the thumb mark of Smt. Maika are residents of village Keoli. It is thus, quite probable that the accused might have refused to accept the identification of persons who are residents of different village and that is why Smt. Maika persuaded the accused, Ram Dutt and Hanuman Pd. who were residents of village Keoli to identify her signatures. It is all the more probable because one Asharfi who is the son-in-law of Smt. Maika is resident of village Keoli. He was present in the post office at that time, but the accused refused to accept his identification as he happened to be a near relation of Smt. Maika.

Hari Prasad, P.W.1 and her mother Smt. Maika, P.W.2. These two witnesses are highly interested witnesses for reasons already observed above as they were reluctant to pay Rs. 300/- back to the accused, Puttoo Lal. The testimony of mother and son is, therefore, doubtful and liable to be rejected. Deokali, P.W.3 is another witness who is alleged to be enmity to the accused Puttoo Lal as the accused had filed a complaint against him and Sardar in the Nayaya Panchayat. Then, this man is highly interested in Maika as he has close relations with her. Then, he has been prosecuted in a number of cases by the police. So, his testimony is also full of doubts. The other witnesses examined in this case are of no help to the prosecution as they do not prove that there was any cheating or breach of trust by ... of the accused.

18. It appears that the case has been concocted at the instance of Deokali and Smt. Maika. Strangely enough, the persons who are said to have accompanied Maika to the post office on 15.3.69 for the purpose of identification are all connected and interested. I have already observed above about Deokali. The other persons Shiva Pd. who accompanied them to the post office has been co-accused with Deokali in all the criminal cases in which Deokali was prosecuted by the police. Chatrapal, another person is a appears that a false complaint was made and the names of those very persons were cited as witnesses

who could sup..... because ... their interest in Deokali.

19. From the above discussion, it is clear that no case is made out against any of the accused. It appears that the withdrawal form Ex.Ka.3 was submitted by Smt. Maika with her thumb mark which was identified by the accused, Ram Dutt and Hanuman Prasad and the payment of the entire amount was made at the same day by to the accused. At any rate, the prosecution has failed to prove that the accused, Puttoo Lal did not pay the amount and commit criminal breach of trust of this amount or that he cheated Maika by inducing her to put her thumb mark on the withdrawal form and by getting the signatures of two identifying witnesses. It is also not proved that any of the two other accused, Ram Dutt and Hanuman Prasad helped in any manner in the alleged cheating. Thus, no charge is proved against any of the accused.

ORDER

20. I hold each of the accused Puttoo Lal, Ram Dutt and Hauman Prasad not guilty for the offences for which they have been tried and I acquit each one of them. They are on bail. Their bail bonds are cancelled.

21. There is no material exhibit in this case.

Sd/- (R.N. Sinha)
 IIInd Temp.Civil & Sess. Judge,
 Lucknow.
 9.11.73.

Judgment signed dated and pronounced in
the open court ~~on~~ today.

Sd/- (R.N. Sinha)
IInd Temp. Civil & Sessions , Judge
Lucknow.
9.11.73.

True Copy

attested

Prasad
27-4-88

In the Central Administrative Tribunal Allahabad
Circuit Bench, Lucknow.

X/48

A.M. Application No. of

BETWEEN

Puttoo Lal Applicant.

AND

Union of India and others Respondent.

ANNEXURE NO. A2

department of telecommunication
OFFICE OF GENERAL MANAGER TELECOM UP. CIRCLE, LUCKNOW

To,

All Officers of Circle office.

All Directors Telecom

All D.M. Telephones

All DETS/DEPs/SDOT/SDOP/

SSTT/STT/AEs/

Incharge CTO & DTOs

CS Cto, Agra & Lucknow.

No. VID/Misc-1/86/1 Dated at Lucknow, the 16.4.1986.

Subject: Disposal of disciplinary cases within
scheduled time.

Regarding expeditious disposal of disciplinary
cases, the following time ~~xxx~~ schedule received under
Directorate letter No. 68/1/85-Vig, II dated 6.2.85
was forwarded to you vide this office letter
No. VID/R-1/Ch-IV/1 dated 25.4.85 but even then

avoidable delays are taking place in disposal of disciplinary cases.

It is the personal responsibility of the concerned disciplinary authority to keep a constant watch on the disposal of disciplinary cases initiated by him, in the public interest as well as on the humanitarian considerations of the officials/Officers involved.

You are again requested to follow the instructions scrupulously and in case if there is any laxity from any corner, the same must be intimated to the undersigned by name and also to the Asstt. Director Telecom(Personal) O/O G.M.T., U.P. Circle Lucknow by name invariably so that suitable action may be taken.

Time schedule is reproduce below:-

- | | |
|---|-----------|
| 1. Completion of preliminary enquiry for competent authority to take a decision for initiating disciplinary action. | 2 months. |
| 2. Reference to C.V.C.
(In respect of gazetted officers) | 2 Months |
| 3. Issue of charge sheet | 2 Months. |
| 4. Time for getting defence statements
(at the most where extension is given, otherwise it is 10 days). | 1 Months. |
| 5. For Minor penalty cases | 1 Months. |
| 6. For holding enquiries | 3 Months. |
| 7. For taking a decision on enquiry report | 1 Months. |
| 8. Reference to UPSC
(In respect of gazetted officers) | 3 months. |

9. For taking final decision

1 months.

Receipt of this letter may kindly be
acknowledged.

Sd/- G.N.Srivastava
(G.N.Srivastava)
Vigilance Officer
For G.M.T., UP. Circle, Lucknow.

Copy is forwarded to shri O.P.Dohare ADT(P), O/O
C.M.Telecom, UP. circle Lucknow for information with
reference to his letter No. U/M- 20/JCM /April/86
dated -4-86 and taking action on receipt of reports
from the disciplinary authorities, as deemed fit.

— True Copy attested
K. Anil Kumar
27-4-80

इन दि सेन्दल एडमिनिस्ट्रेटिव ट्रिब्यूनल इलाहाबाद

सर्किट बेन्च लखनऊ

अप्लीकेशन नं० सन् 1988

बिटविन

पुत्तु लाल ----- अप्लीकेंट

एन्ड

यूनिजन आफ इन्डिया एण्ड अदर्स ----- रेस्पाण्डेन्ट

अनेकजर नं० A3

सेवा में,

दिनांक 29 - 11 - 73

श्रीमान पुबल डाक अधीक्षक महोदय

लखनऊ प्रुण्ड लखनऊ

विषय:-

इस्युटी पाने के सम्बन्ध में प्रार्थनापत्र

महोदय

प्रार्थी निम्नलिखित निवेदन श्रीमान जी की सेवा में
प्रस्तुत करता है :-

॥१॥

यह कि श्री आर० पी० त्रिपाठी सहायक डाक अधीक्षक ने एक
छूटा एफ० आई० आर० करके प्रार्थी को दिनांक 17-3-69
पुट आफ इस्युटी बिना किसी अधिकार के कर दिया था।

॥२॥

यह कि श्री आर० एन० सिन्हा ऐडोशनल सेशन जज लखनऊ ने
अपने कोर्ट से मुकदमों की सुनवाई करते हुए प्रार्थी को दिनांक
9-11-73 को अपने आदेश द्वारा एक्जुटल कर दिया है।

॥३॥

यह कि प्रार्थी बिगत कई वर्षों से सेवा में न रहने के कारण भू-
मरी के कगार पर पहुँच चुका है। प्रार्थी के पास जीबिकोपार्जन
का कोई और साधन नहीं है।

अतः श्रीमान जी से प्रार्थना है प्रार्थी को अबिलम्ब सेवा में

बापस लेने की कृपा करें तथा पुटआफ इस्युटी होने के दिवस से
प्रार्थी को सेवा में बिना किसी व्यवधान के निरन्तर मानीव
जाय।

प्रार्थी

प्रतिलिपि आवश्यक कार्यवाही हेतु प्रेषित:-

श्रीमान श्री चीफ डाक निदेशक

डाक सेवा में, लखनऊ क्षेत्र लखनऊ

पुत्तुलाल

शाखा डाकपाल

कबली नगराम लखनऊ

True Copy attached
27-4-88

AS1

In the Central Administrative Administrative
Tribunal Allahabad Circuit Bench
Lucknow.

1/5/1

Between

Puttoo Lal

Applicant

And

Union of India
and others

Respondents

Annexure A-4

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

OFFICE OF THE SR. SUDT. OF POST OFFICES, LUCKNOW CITY DIVISION.

Memo No. पुनःपुनः/मिस० 79/68-69 dt. 5-6-1986.

Shri

पुनः लाल शुभ शास्त्री (पुनः आनंद शुभ)

is hereby informed that it is proposed to impose the penalty of removal under rule 8 of Extra Departmental Employees' service and conduct Rules, 1964 on the basis of the allegations set out in the enclosed statement of allegations. Before taking such action the undersigned desires to give and hereby gives to the said Sri

पुनः लाल an opportunity to make any representation he may wish to make against the action proposed to be taken against him. The representation would be taken into consideration before the final order are passed. If no representation is received in reply to this memorandum within the time stipulated it will be assumed that Sri पुनः लाल

has no explanation to offer and orders will be passed exparte.

2. Shri पुनः लाल is accordingly hereby requested to submit his representation if any in written so as to reach the undersigned within a fortnight.

3. Receipt of this memorandum may be acknowledged.

nam
Sr. Supt. of Post Offices.
Lucknow City Division,
Lucknow-226001.

Recd. A.D.

1. Shri

पुनः लाल

शास्त्री (पुनः आनंद शुभ)
(नमः शास्त्री) (नमः शास्त्री) शास्त्री नमः शास्त्री
(नमः शास्त्री)

2. Vigilance. Statement.

डाक विभाग-भारत सरकार
संलग्न परिशिष्ट संख्या :- 1

श्री मृत् लाल भूतर्प अति० विभागीय शाखा डाकमाल केवली शाखा डाकधार
लखनऊ ॥पुट आफ डिप्टी॥ के विस्तृता लगाये गये आरोपों के आर्टिकल्स का
विवरण :-

दिनांक 15/3/69 को श्रीमती मैलापत्नी स्व० श्री सरदार अपनी
पति की मृत्यु के पश्चात् केवलीशाखा डाकधार स्थित बचत बैंक खाता संख्या
785297 के अन्तर्गत अधिप्रा धनराशि रु03618/50 की निकासी हेतु केवली शाखा
डाकधार लखनऊ उपस्थित हुई। परन्तु श्री मृत् लाल अति० विभागीय डाकमाल
केवली लखनऊ ने उचित शिनाखत के आधार पर नियमानुसार भुगतान श्रीमती
मैला को नहीं किया एवं उक्तधनराशि का दुस्प्रयोग किया।
इस प्रकार श्री मृत् लाल ने शाखा डाकधार की नियमावली के
नियम 134॥ 1४ ॥ का उल्लंघन किया।

पूर्व डाक अधीक्षक
लखनऊ मंडल, लखनऊ-3

संलग्न परिशिष्ट संख्या -2

श्री पुत्त लाल भूतपूर्व अतिरिक्त विभागीय शाखा डाकमाल केवली शाखा डाकघर लखनऊ
 § पुट आफ डिप्टी § के विरुद्ध लगाये गये आरोपों के समर्थन में आरोप पत्र ।

केवली शाखा डाकघर लखनऊ स्थित बचत बैंक खाता संख्या 785297 श्री
 सरकार के नाम था उनकी मृत्यु के पश्चात् उनकी पत्नी श्रीमती मैला को उक्त खाते के
 अन्तर्गत अवशेष रा० 3618/50 का भुगतान प्राप्त करने हेतु अधिपत्र किया गया । दिनांक
 15/3/69 को श्रीमती मैला उक्त धनराशि का भुगतान प्राप्त करने हेतु अपने पुत्र श्री हर
 प्रसाद एवं तीन अन्य व्यक्तियों सर्वश्री देववली प्रसाद एवं श्रीमाल के साथ केवली
 डाकघर उपस्थित हुई। श्री पुत्त लाल शाखा डाकमाल केवली शाखा डाकघर लखनऊ
 प्रसाद पर कार्य करते हुए वारंट आफ पेमेन्ट पर श्रीमती मैला का निशानी अंगूठा लगवाया
 परन्तु श्रीमती मैला के साथ में लगे हुए व्यक्तियों की गवाही नहीं कराई । यद्यपि श्री
 पुत्त लाल उन्हें जानते थे । एवं श्रीमती मैला को उक्त धनराशि 3618/50 का भुगतान
 नहीं किया ।

इस प्रकार श्री पुत्त लाल निम्न विभागीय दृष्टियों हेतु उत्तर दायी पाये गये :-

- 1- ऐसे व्यक्ति की गवाही स्वीकार की जो दावा करता श्रीमती मैला को नहीं जानते
 थे जैसा कि श्री हनुमान प्रसाद व श्री राम दत्त वर्मा ने अपने अपने बयान दिनांक XXX

16/3/69 के अन्तर्गत व्यक्त किया है ।

2- गवाह श्री राम दत्त वर्मा के बयान के अनुसार उनकी मौजूदगी में उक्त धानराशि का भुगतान नहीं किया गया । जैसा कि उनके बयान दि० 16/3/69 में स्पष्ट है कि उक्त श्री राम दत्त वर्मा ने अपने उक्त बयान में यह भी कहा है कि वह दावाकर्ता श्रीमती मैका को नहीं जानते थे ।

3- कीथत श्री पुत्त लाल का कथन है कि वह श्रीमती मैका का नि० अंगूठा लगावा कर उक्त धानराशि का भुगतान श्री हनुमान प्रसाद गवाह की उपस्थिति में किया जैसा कि उन्होंने अपने बयान दिनांक 16/3/69 के अन्तर्गत स्पष्ट किया है । नि० अंगूठे का इन्डोस्मेन्ट श्री राम दत्त द्वारा लिखावाया गया । परन्तु गवाह श्री हनुमान प्रसाद एवं श्री राम दत्त वर्मा दोनों ने अपने बयान दिनांक 16/3/69 के अन्तर्गत कहा है कि वे श्रीमती मैका को नहीं जानते थे ।

सर्वश्री देववली प्रसाद शिव प्रसाद, क्षात्रपाल एवं हर प्रसाद जो श्रीमती मैका के साथ गये थे, ने अपने बयान दि० 16/3/69 के अन्तर्गत व्यक्त किया है कि श्री पुत्त लाल ने उक्त धानराशि का भुगतान श्रीमती मैका को नहीं किया ।

उपरोक्त तथ्यों के आधार पर यह सिद्ध हो जाता है कि कीथत श्री पुत्त लाल ने उक्त धान राशि र० 3618/50 का भुगतान श्रीमती मैका को न करके स्वयं गबन किया ।

इस प्रकार श्री पुत्त लाल ने ई०डी० कर्मचारी आचरण एवं सेवा नियम 1964 के नियम 17 का उल्लंघन किया ।

100-1
पुवर-डाक अधीक्षक,
बुलानज मंडल, लखनऊ-3

संलग्न पत्रिका संख्या 3

श्री पुत्तू लाल भूतर्ष अति० विभागीय शाखा डाकमाल केवली शाखा डाकधार लखनऊ पुट आफ डिप्टी के विरुद्ध लगाये गये आरोपों के अन्तर्गत उपलब्ध में आये अभिलेखों की सूची ।

- ✓ जाँच रिपोर्ट दिनांक 17/3/69 जो कि श्री आरोपी विभागीय भूतर्ष सुपायक अधीक्षक डाकधार लखनऊ पुट ऑफ डिप्टी प्रस्तुत की
- 2- श्री मु० छातीलक पारखी का बयान दिनांक 17/3/69
 - 3- श्रीमती मैकका का बयान दिनांक 21/3/69
 - 4- श्री हनु प्रसाद का बयान दि० 21/3/69
 - 5- श्री देवकी प्रसाद का बयान दि० 16/3/69
 - 6- श्री शिव प्रसाद का बयान दि० 16/3/69
 - 7- श्री क्षत्रपाल का बयान दि० 16/3/69
 - 8- श्री बड़ी प्रसाद वर्मा का बयान दिनांक 16/3/69
 - 9- श्री अशफ़ी लाल का बयान दि० 21/3/69
 - 10- श्री बा० लाल का बयान दि० 16/3/69
 - 11- श्री लाल बहादुर का बयान दि० 16/3/69
 - 12- श्री हनुमान प्रसाद के बयान दि० 16/3/69 की सत्य प्रतिलिपि ।
 - 13- श्री राग दत्त वर्मा के बयान दि० 16/3/69 की सत्य प्रतिलिपि
 - 14- श्री पुत्तू लाल शाखा डाकमाल केवली का बयान दि० 16/3/69

पुवर-जाँच अधीक्षक,
लखनऊ गंडल, लखनऊ-3

संलग्न परिशिष्ट संख्या -4

श्री पुत्र लाल भूतपूर्व अति० विभागीय शाखा डाकमाल केवली शाखा डाकघर लखनऊ
पुत्र आफ डिप्टी के विरुद्ध लगाये गये आरोपों के उपलक्ष में गवाहों की सूची ।

=====

- 1- श्री राम प्रसाद त्रिपाठी भूतपूर्व सहायक अधीक्षक डाकघर लखनऊ पुरांड लखनऊ
- 2- श्रीमती मैकडोपत्नी स्वा० श्री सरदार ग्राम कर संडा पो० आ० केवली नगराम
लखनऊ ।
- 3- श्री गु० छालिक पत्नी ग्राम व पो० केवली लखनऊ
- 4- श्री हनुमान प्रसाद पुत्र श्री भवानी दीन ग्राम व पो० केवली लखनऊ ।
- 5- श्री राम दत्त वर्मा पुत्र श्री महावीर प्रसाद ग्राम व पो० आ० केवली लखनऊ
- 6- श्री हर प्रसाद पुत्र श्री सरदार ग्राम करसंडा पोस्ट केवली , लखनऊ ।
- 7- श्री देवकली प्रसाद पुत्र श्री भगवान ई बक्स ग्राम करसंडा पो० केवली , लखनऊ ।
- 8- श्री शिवा प्रसाद ग्राम करसंडा पो० आ० केवली लखनऊ
- 9- श्री क्षत्रपाल पुत्र श्री गुर प्रसाद ग्राम करसंडा पो० आ० केवली , लखनऊ ।
- 10- श्री बड़ी प्रसाद पुत्र महावीर प्रसाद ग्राम व पो० केवली , लखनऊ ।
- 11- श्री अक्षर लाल ग्राम व पोस्ट केवली , लखनऊ
- 12- श्री बाबू लाल पुत्र ननक ग्राम व पो० केवली , लखनऊ
- 13- श्री बालू बहादुर पुत्र ननक ग्राम व पोस्ट केवली , लखनऊ ।

nam
पूर्व डाक अधीक्षक,
लखनऊ मंडल, लखनऊ-3

True Copy attested
22-4-88

A58

इन दि सेन्दूल एडमिस्ट्रेटिव ट्रिब्यूनल इलाहाबाद
सर्किट बेन्च लखनऊ ।

अप्लीकेशन नं० सन् 1988

बिटबिन

पुत्तलाल

----- अप्लीकैन्ट

एन्ड

युनिजन आफ इन्डिया एण्ड अदर्स ----- रेस्पान्डेन्ट

8/10

अनैक्जर नं० A5

श्री मान्नु पुबेर डाक अधीक्षक लखनऊ, लखनऊ लखनऊ ।

महोदय,

आपने जो अपने सैड्या एफ-एक्सामिस 179/6869 लखनऊ
दिनांक 8-6-86 से ग्राथी के उपर अपराध आरोप लगाए है, वह
बिलकुल असत्य व निराधार है। तथा कोर्ट द्वारा भी गलत साबित हो चुके
है।

उत्तर सेवा में भेषित है ।

ग्राथी पुत्तलाल

पुत्तलाल भूतपूर्व

शाखा डाक बाल

केबली - नगराम

लखनऊ

16-6-86

True Copy attested
27-4-88

इन द सेन्ट्रल रेडिमिनिस्ट्रेटिव ट्रिब्यूनल, एलाहाबाद

सर्किट बेन्च लखनऊ ।

सी एम अप्ली० नं०

आफ 88

विधि

पुत्तलाल

अप्लीकेन्ट

एण्ड

ग्रुनियन आफ इण्डिया एण्ड अदर्स

----- रिस्पान्डेन्ट

अनेगजर नम्बर A-6

प्रतिवेदन विरुद्ध पुट आफ ड्यूटी के प्रति

श्रीमान क्षेत्रीय डाक निदेशक

डाक सेवार, लखनऊ क्षेत्र

लखनऊ ।

विषय: - ड्यूटी पाने के सम्बंध में ।

संदर्भ: - एफ० एक्स० । मिस 79/ 88-69 लखनऊ दिनांक 8-6-86
के सम्बंध में ।

महोदय,

प्रार्थी आप की सेवा में विनम्र निवेदन सहित निम्न नि आवेदन करता है। आशा है कि इस भीषण महंगाई को ध्यान में रखते हुए निष्पक्ष शीघ्र निर्णय करके प्रार्थी को लाभान्वित करने की महान कृपा करेंगे ।

।:- यह कि प्रार्थी को नियुक्ति शाखा डाक पाल केवली नगराम लखनऊ के पद पर दिसम्बर 1961 में प्रवर डाक अधीक्षक के कर कमलों द्वारा हुई थी ।

॥2॥

- 2:- यह कि बचत बैंक खाता संख्या 785297 प्रार्थी के शाखा डाक घर में खुला था ।
- 3:- यह कि उपरोक्त खाता संख्या के हिसाबदार श्री सरदार ने दिनांक 5-6-67 को अपना नि०अं एस० बी०7 पर लगा कर देवक्ली प्रसाद के माध्यम से ₹3395/- का प्रस्तुत किया और यह निवेदन किया कि हमें धन की बहुत सख्त जरूरत है। काफी कहने पर ग्राम निवासी होने के नाते उसकी विनय को ध्यान में रखते हुए मैंने 300/- रुपया उधार अपने पास से दे दिया जैसा कि कोर्ट की नकल पेज नं०3 के पैरा संख्या 7 से स्पष्ट है।
- 4:- यह कि सरदार हिसाबदार का काम किसी तरह से चल गया और उसके दिमाग में रुपया न निकालने का परिवर्तन हो गया जिसके पक्षस्थ हमने अपने रुपये की वापसी का दावा न्याय पंचायत में 7-9-67 को श्री सरदार हिसाबदार देवक्ली व उत्तर पाल लेखक गवाह के कर दिया ।
- 5:- यह कि दौरान मुकद्दमा न्याय पंचायत के हिसाबदार के मृत्यु हो गई । मुकद्दमा खारिज हो गया ।
- 6:- स्व० सरदार की पत्नी नका में उक्त खाते में जमा धनराशि का दावा पत्र की पूर्ति करा कर अपना धन सेक्शन कराया ।
- 7:- यह कि उक्त धन का 3618-50 का भुगतान मैंने 15-3-89 को पोस्टऑफिस नाने परसन से प्राप्तर गवाही व पहचान के बाद भुगतान कर दिया और पहले वाला रुपया ले लिया ।
- 8:- यह कि उक्त रुपये की वापसी न करने की नियत से वह मेरे विरुद्ध मेरे दुश्मनों के कहने पर शिकायत कर दी ।
- 9:- यह कि श्री आर पी त्रिपाठी सहायक डाक अधीक्षक ने जाँच किया

॥३॥

तथा प्राथी उक्त पद से हटा दिया गया। जब कि प्रवर डाक अधीक्षक को ही मुझे हटाने का अधिकार था और एफ० आई० आर थाना नगराम में लाज करा दिया।

10:- यह कि श्री आर एन सिन्हा एडीशनल सेसन जज लखनऊ के अपने कोर्ट से मुकद्दमे की सुनवाई करते हुए प्राथी को 9-11-73 को अपने आदेशपत्र संख्या 17 द्वारा एक्जुटल ॥ बरी कर दिया ॥

11:- यह कि विव्दान एडीशनल सेसन जज लखनऊ के आदेश को प्रवर डाक अधीक्षक ने अब तक नहीं माना और न मुझे जगह दी ॥ पुट बैक ॥ किया बल्कि पुनः रूल 8 की जाँच करने के आदेश दे दिये।

12:- यह कि प्राथी की उम्र 59 वर्ष की हो रही है और बीस वर्ष हुए प्राथी को अलग किये है इस लिये निवेदन करता है कि विभागीय जाँच में काफी समय लगेगा और प्राथी की उम्र पूरी हो जावेगी। प्राथी नौकरी के लायक नहीं रहेगा। उक्त जाँच को पूर्ति के पूर्व कोर्ट के जजमेन्ट को मानते हुए प्राथी को अविलम्ब जवाइन करने को कृपा करे। अन्यथा प्राथी को न्याय के लिए पुनः अदालत की मान हानि का व पूरे वेतन छुर्वा 20 वर्ष का दावा अदालत में दाखिल करने के लिए विवश होना पड़ेगा।

दिनांक

प्राथी:-

॥ पुत्र लाल ॥

भूतपूर्व शाखा डाकपाल
केवली नगराम लखनऊ।

नोट:- कोर्ट के जजमेन्ट को फोटोस्टेट प्रति संलग्न है।

True Copy attested
27-4-88

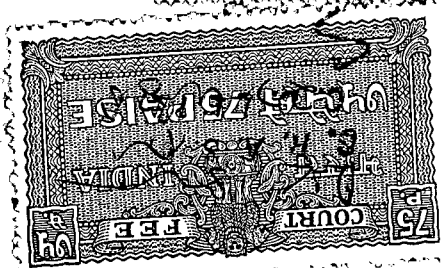
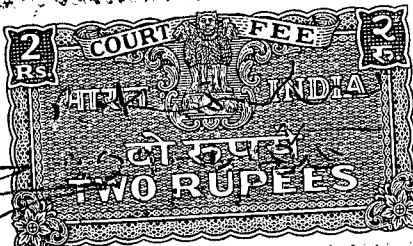
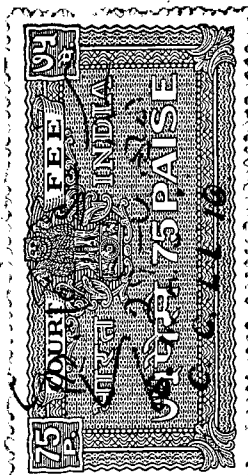
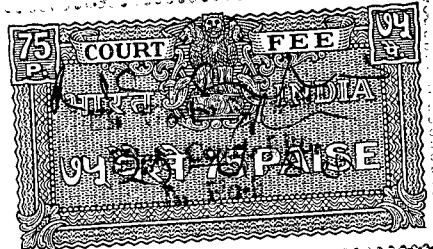
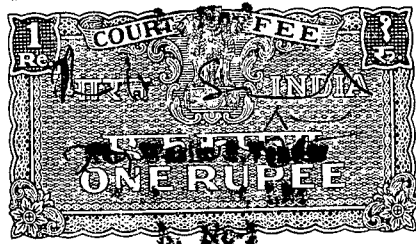
A62

In the Central Administrative Tribunal Allahabad Circuit Bench
 व. अदालत श्रीमान महोदय

आवेदनी (सूचक)
 रानिवादी (मराअलेह)

का

वकालतनामा



Puttu Lal

Union of India and others वगैर

नं० मुकद्दमा सन् १६ पेशी की ता०
 ऊपर लिखे मुकद्दमा में अपनी ओर से SRI RAKESH KUMAR
 SRI VASTAVA, ADVOCATE एडवोकेट
 Avadh Bar Association High Court Lucknow महोदय

वकील

नाम अदालत

नं० मुकद्दमा

नाम फरीक

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और
 लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य
 वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य
 कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी
 जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल
 दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
 हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें
 या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का
 दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती)
 रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की
 गई यह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं
 यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी
 अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में
 एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी
 मेरी वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया
 है कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन्

Accepted
 27-1-20
 (Rakesh Kumar Shrivastava)

Before the Central Administrative Tribunal, Circuit Bench,
Lucknow.

A.O. No. 16 of 1988 (1)

A63

Puttoo Lal ...

... Applicant.

Verus,

Union Of India and others; ... Respondants.

Written Statement
COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDANTS.

I, D. R. MARAK aged about 35 years, son of
Sri R. M. SANGMA at present posted as Senior
Superintendent of Post Offices Lucknow Division Lucknow do
hereby ~~solemnly affirm and~~ state as under :-

1. That the deponent is the respondent No. 2 in the above application and is filing this counter affidavit on behalf of all the respondents.
2. That the deponent has read and understood the contents of the application filed by the applicant as well as the facts deposed to here in under in reply there of;
3. That the contents of para 6(i) of the application are correct as stated hence denied and in reply it is submitted that ~~xxx~~ it is wrong to say that the applicant worked with utmost sincerity and dishonesty.
4. That in reply to the contents of para 6 (ii) of the application it is submitted that the applicant was acquitted in the Criminal case on technical grounds due to non proving of Charges as per strict rule of law of evidence. The matter is still under ~~xxx~~ departmental enquiry.
5. That the contents of para 6 (iii) of the application are no comments.

[Signature]
प्रवर डाक अधीक्षक लखनऊ प्रमंडल

Senior Supdt. of Post Office,
Lucknow Division-226003

6. That the contents of para 6 (iv) of the application are not correct hence denied and in reply it is submitted that when some complaint of not paying money even after obtaining signatures came into light an F.I.R was rightly lodged by Sri R.P. Tripathi in his discharge of his official duty and the applicant was rightly put off from duty due to his involvement in a criminal case. The deponent is advised to state that the applicant can not challenge the action of putting him off the duty after more than 19 years. X/6

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

8. That in reply to the contents of para 6(vi) of the application it is submitted that in cases involving fraud of embezzlement even E.D. Agent may be put off from by the Inspector of post offices.

9. That in reply to the contents of para 6(vii) of the application it is submitted that the putting off of the applicant was essential due to his involvement in case of fraud.

10. That in reply to the contents of para 6 (viii) of the application it is submitted that circular letters mentioned in this para of the application are of subsequent dates and has no application in the case of the applicant. It was not possible to reinstate the applicant after the expiry of 120 days as criminal proceedings were pending against him.

11. That in reply to the contents of para 6(ix) of the application it is submitted that disciplinary enquiry against the applicant are still pending and are in progress thus it is not possible to reinstate him.

प्रवर हाक अधीक्षक लखनऊ प्रभाग
Senior Supdt. of Post Offices
Lucknow Division-226003

12. That the contents of para 6(x) of the application are not correct as stated hence denied and in reply it is submitted that there is no bar in conducting departmental enquiry after acquittal in criminal trial.

13. That the contents of paras 6 (xi) to (xiii) of the

A65

of the application are not correct as stated hence denied and in reply it is submitted that there is no ill will or ulterior motive on the part of the respondents and disciplinary enquiry is being conducted against the applicant strictly in accordance with rules in the interest of the govt.

14. That the application of the applicant is premature as final orders under rule 8 of the Service rules for the extra departmental staff in postal department has not yet passed and even if any penalty is imposed under this rule the applicant will have a right to file an appeal under rule 10 of the said rules.

15. That the applicant is not entitled to get the reliefs claimed in the instant application and the grounds taken by him in support of the reliefs claimed are not tenable in the eyes of law.

16. That the application of the applicant is thus liable to be dismissed with costs.

Lucknow ;Dated;
June 1988.

Senior Supdt. of Post Offices
Lucknow Division-226003 Deponent.

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 & 2 are true to my own knowledge and those of paras 3 & 13 are believed to be true on the basis of the official records and information received and those of paras 14 & 15 are believed to be true on the basis of legal advice. Signed and verified on day of June 1988 in the Court Premises at Lucknow.

Lucknow;Dated:
June, 1988.

Senior Supdt. of Post Offices
Lucknow Division-226003

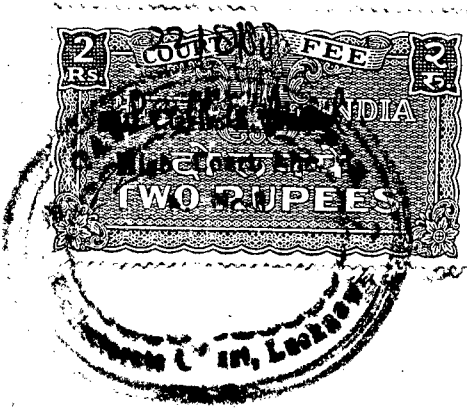
I identify the deponent who has signed before me.

(V.K. Chauhan)
Advocate,

In the Central Administrative Tribunal Allahabad
Circuit Bench : Lucknow.

A66

Application No. O.A 16-88(L)



B E T W E E N

Puttu Lal

..... Applicant

Versus

Union of India and others

..... Respondents

Rejoinder Affidavit on behalf of the Applicant

I, Puttu Lal aged about 59 years son of Sri Mathura Prasad resident of village Keeli post office: Keeli (Nagram) district Lucknow do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant himself in the above noted case and as such he is well conversant with the facts and circumstances of the case deposed to hereinafter.
2. That the deponent has read over the entire counter affidavit on behalf of the respondents and has fully understood the contents of the same and as such he is giving parawise reply to



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A67

the counter affidavit filed on behalf of the respondents.

3. That the contents of para 1 and 2 of the counter affidavit need no reply.
4. That the contents of para 3 of the counter affidavit are denied and those of para 6(1) of the application are reiterated to be correct in this regard.
5. That in reply to para 4 of the counter affidavit it is stated that the facts and allegations mentioned in the charge sheet in respect of the impugned departmental enquiry has already been examined by court of competent jurisdiction and the court has given a finding that they are not true and is not permissible to hold the impugned departmental enquiry under law.
6. That the contents of para 5 of the counter affidavit need no reply.
7. That the contents of para 6 of the counter affidavit are not admitted . It is stated that all points raised in this para towards the involvement in the criminal case has already been considered and examined by the court of Addl. Sessions Judge Lucknow which has held that at any rate the prosecution has failed to prove that the accused puttulal did not pay the amount and commit breach of trust of this amount or that he cheated Maika by inducing decision of the criminal case and the putting

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her thumb impression marked on the withdrawal form and by getting the signatures of 2 identifying witnesses and the deponent was not found guilty ^{X/10} of charges. It is further submitted that putting of duty being suspension of the employee is a continuing cause of action and there is no matter of delay on the part of deponent and it may be challenged at any time as the deponent has a continuing claim to be put back in duty.

8. That the contents of para 7 of the counter affidavit needs no comments.
9. That the contents of para 8 of the counter affidavit are denied as the same have not any concern with the present matter and in this regard para 6(vi) of the application are reiterated to be correct.
10. That the contents of para 9 of the counter affidavit are denied and in this regard para 6 (vii) of the application are reiterated to be correct.
11. That the contents of para 10 of the counter affidavit as alleged or not admitted as there were also several circulars issued by the Director General of post and Telegraph applicable in the case of deponent and it was incumbent upon the respondents to put the deponent back in duty immediately after the decision of the criminal case and the putting of duty for a long period is high handedness and is arbitrary actions of the respondents.



4/7/11

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12. That in reply to para 11 of the counter affidavit it is stated that the representation has been moved by the deponent on 29.11.83 much earlier from the initiation of departmental enquiry and which might have been disposed off by the respondent No. 2 in the month of December 1973 in order to putting the applicant back in duty and as such the deponent became a claimant of his arrears of salary w.e.f. 17.3.1969 , with interest at the rate of 18% per annum.
13. That the contents of para 12 of the counter affidavit are not correct hence denied . please see the additional pleas.
14. That the contents of para 13 of the counter affidavit are denied and this regard paras 6(xi) to (xiii) are reiterated to be correct.
15. That the contents of para 14 of the counter affidavit are not admitted and in this respect it is stated that there is no alternative efficacious remedy left to open to the deponent against the notice dated 3.6.1986 except to file the present application , under E.D.A. conduct and service rules.
16. That the contents of para 15 to 18 of the counter affidavit are not correct hence denied . It is submitted that the grounds taken in the application in support of the reliefs claimed are tenable under law and the deponent is entitled to get all the of them throughout with costs.



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Additional Pleas

17. That the deponent has been honourably acquitted by the court of competent jurisdiction i.e. the court of Addl. Sessions Judge Lucknow in respect of all the charges mentioned in the charge sheet contained in Annexure No. 4 to the application and impugned departmental enquiry initiated through notice dated 8.6.86 is illegal, arbitrary and against all the norms of law. A/22
18. That it was incumbent upon the respondent no. 2 to put back the deponent in duty properly after the acquittal of the case and in not doing so they have made harassment to the deponent and the attitudes adopted by respondent no. 2 to 4 highly recalled for and the deponent is entitled to get the entire arrears of his salary alongwith other consequential benefits and backwages with interest at the rate of 18% per annum w.e.f. 17.3.68.
19. rule 82
That Chapter I i.e. Discipline Rules For Departmental Staff of ~~xxxxxx~~ the POSTS AND TELEGRAPHS MANUAL Volume III contains the necessary provision for not holding the impugned departmental enquiry which runs as under :-

" It is not permissible to hold departmental enquiry in respect of a charge based on the same facts or allegations which have already been examined by Court of Competent Jurisdiction and the court has given a finding that they are not true. If, however, the Court has merely expressed a doubt as to the correctness of the allegations there may be no objection to hold departmental inquiry on the same allegation, if better proof than that was produced

:6:

before the court or was then available is forthcoming. If the Court has held that the allegations are proved but they do not constitute the criminal offence with which the Government Servant was charged, then also it would be permissible to hold a departmental enquiry on the basis of the same allegations."

20. That it is pertinent to mention here that the facts and allegations of the charge in respect of the impugned departmental enquiry has already been examined by the court of Additional Sessions Judge Lucknow and which has given a finding that they are not true.

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Lucknow.

Memorandum to the deponent that the
deponent has been informed before the
Additional Sessions Judge Lucknow.

Dated: 22 Aug. 1988

Deponent.

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 20 of this counter affidavit are true to my personal knowledge.

Signed and verified today this 22 day of Aug. 1988 in court compound Lucknow.

Lucknow / Dated: 22 Aug. 1988

Deponent

Notarially attested before me
A. D. S. of District
R. K. Sharma
22/08/88