

Central Administrative Tribunal
Lucknow Bench

Cause Title C.A. 124/1993 of 1993

Name of the Parties

R.K. Nag

Applicant

Versus

Union of India

Respondents.

Part A - P.C.

Sl. No.

Description of documents

Date

1.

Check List

191 192 ✓

2.

Order Sheet.

193 197 ✓

3.

Judgement (1929-542)

198 190 ✓

4.

Petition Copy

191 194 ✓

5.

Annexure.

6.

Power

1925 ✓

7.

Counter Affidavit.

1926 1937 ✓

8.

Rejoinder Affidavit.

1938 1945 ✓

Supplementary P.A.

1946 1952 ✓

Supplementary R.A.

1953 1959 ✓

Amended plaint

1959 1960 ✓

Power

1969 to 1970

B - File

1969 1974

1975

C - File

Extra copy of amended plaint

(1)

Be it for that the file has been closed out / distributed

closed out on 30-3-12

1975

30 (3) 12

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No.

189 of 1988 (L)

APPLICANT (s)

Ramesh Kumar Nag.

RESPONDENT(s)

U O 9 (Director of Post & Telegraph
Lucknow.

Particulars to be examined

Endorsement as to result of Examination

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

(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?

yes

yes

yes

Two sets only.

no

-

-

yes.

yes.

yes

yes

yes by the advocate.

B. 40/- + R. 10/-
CC 091873 W 519311
4 459 dt. 21/10/88
dt. 21.10.88

7/90

Particulars to be ExaminedEndorsement as to result of Examination

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

D.R. (J)
25/10/88
S.O. (J)

If approved, be listed before the Hon'ble Bench
 on 27. X. 1988
D.R. (J) 25/10/88

(1) (A3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./T.A. No. 189 1988(L)

R. K. Nag

Applicant(s)

Versus

U O & Co

Respondent(s)

Sr. No.	Date	Orders
(1)	27-11-88	<p>Hon. D.S. Misra, A.M. Hon. G.S. Sharma, J.M.</p> <p>Admit. Issue notices. One month for C.A. & two weeks for R.A.</p> <p>As regards the prayer for interim relief, issue notice to respondents to show cause as to why this prayer be not granted fixing 22-11-88.</p> <p style="text-align: right;">Jrish 22/11</p>
(2)	22-11-88	<p>No sitting. Adjourned to 25-11-88 for order.</p> <p style="text-align: right;">h 22/11</p>

(2)

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./T.A. No. 189 1988 (L).

Ramesh Kumar Nay Applicant(s)

Versus

D.P.T.O. Respondent(s)

Sr. No.	Date	Orders
(4)	22/12/88	No sitting, Adjourned to 24/2/89 for hearing.
	17/2/89	<u>OR</u> In compliance with Honble court's order, at 25.11.00, no reply filed so far. Submitted. <u>Resm</u> 22/12 by 17/2
(5)	24/2/89	From D.S. Mishra, A.M. From S.S. Sharma, J.M. Sen. Suresh Chandra for the applicant is present. The learned counsel for the respondents request for two weeks time to file reply. He is allowed to do so. List this case on 9/3/89. per J.M. A.M.

OR

No reply on behalf of respondents have been filed on per court's order at 24/2/89.

Ans 3
8/3/89

3

AG

O.A. No. 199/ 1988(L)

Hon'ble Mr. D.S. Mishra, A.M.

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

7

27/3/89

Shri V.K. Chaudhari takes notice of the amendment and seeks time to file reply on behalf of newly added respondents, as well as, the previous respondents. The applicant is directed to supply four copies of the amended application to Shri Chaudhari to enable him to file reply on behalf of other respondents within a month. The applicant may file rejoinder, if any, within 10 days thereafter. List the case for final hearing on 12-5-89.

De

J.M.

b

A.M.

(sns)

29/3/89

OK

Two copies of amended application ^{after 4 copies} duly served on the counsel for respdts. has been filed today and kept on record vide court's order dated 27/3/89.

29/3/89

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

12/5/89

Shri V.K. Chaudhary, learned counsel for the respondents is present and requests for and is allowed four weeks time to file supplementary reply. Shri K. Bajpai, learned counsel for the applicant is present. The case be listed for final hearing on 16-6-89.

h
A.M.

(sns)

OK
Two copies of amended application duly served on the counsel for respdts has been filed.
No reply on behalf of newly added respdts. have been filed by the respdts.
Submitted for order.

h
11/5

OK
No supplementary reply filed nor rejoinder filed
Submitted for order

h
14/5

189/88②

(4)

(13)
22.10.90
(14)

No Setts Adj to 19.12.90

④

19.12.90

No Setts Adj to 8.2.91.

④

No Supplementary Affidavit
filed

7/2

(15)

8.2.91

D.R.

Applicant's side is
present today. Respondent's
counsel Mr. V.K. Chaudhary
did not file Supplementary
Affidavit till today.
He is ordered to
file it by 26.3.91.

ic *[Signature]*
5/2

(16)

26.3.91

D.R.

Applicant is present in
person. Supplementary

Affidavit has not been
filed by Sri V.K. Chaudhary
counsel for the respondent.
Applicant to file it by
26/4/91.

5

O.A. 189/88

W

31.7.91

D.R.

Sri P. N. Bappai Id.

Counsel for the applicant is present and he files Suppl. Rejoinder Affidavit. Now this case is to be listed before the Hon. Bench on 23/10/91 for final Hearing.

23.10.91

Applicant in person. None for the respondents. Since the Counsel for the applicant is not present today may be listed for hearing on

6.11.92

(S. N. Prasad)

Member - Judge

K. Kumar

Counsel Kumar

(Vice Chairman)

6.1.92

No Siling adjn 12.2.92

12.2.92

No Siling adjn 8.4.92

8.6.92

No Siling adjn 29.6.92
29.5.92

or
EP, RA done over
exchange
SPH
20/6

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A.189/88(L)

R.K. Nag

Applicant

versus

Union of India & others

(Director Post and Telegraph
Office, Aminabad and others)

Respondents.

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

Hon. Mr. A.B.Gorthi, Adm. Member.

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

The applicant was appointed on daily wages basis on 22.12.83 under the Director of Posts and Telegraph, Lucknow. He is aggrieved with the oral communication to him telling that his services are no longer required. Against his termination from service and non regularisation as similiary placed persons have been regularised in service, the applicant approached this Tribunal.

2. The respondents have pointed out that that the applicant was not a regular employee and that he was not even found to be physically fit to lift the heavy bags from ground floor to IV Floor and therefore on humanitsrian grounds he was given the duties of a class IV as and when some class IV was found to be absent. The applicant used to take the files from Deputy


Ag


-2-

Director's room to P.A. to Deputy Director and sometimes it was observed that even the Confidential orders passed by the Dy. Director or Director were known to the concerned persons even before they reach the concerned officers and the applicant was repeatedly instructed that he should maintain strict secrecy and no file should be shown to any unauthorised person and he should hand over the file to the concerned branch officer only. On 27.7.88 Deputy Director passed an order regarding transfer of Shri Vijai Singh, L.D.C. The respondent No. 2 was telephonically called by respondent No. 1 in his chamber. Accordingly when the respondent No. 2 came out of his room he observed that the concerned official alongwith his some friends was holding the file wherein the confidential orders of the transfer of Shri Vijai Singh were passed by the respondent and the applicant was standing by their side. The respondent No. 2 enquired from the applicant as to why he had given the file to those persons when the file was marked for A.D. Admin I to which the applicant had no reply. According to the respondents the work and conduct of the applicant was not satisfactory and he was not a regular employee and therefore, was not subjected to any disciplinary action and that is why he was also not regularised.

3. Keeping in view that the applicant had worked

for several years and similarly placed persons were regularised and the applicant was not regularised, the respondents are directed to consider the ~~the~~ & case of applicant for re-employment and for regularisation prior to those who have been appointed subsequent to the applicant, within a period of two months from the date of communication of this order. In case he is regularised, consequences will follow, but the applicant will not be paid wages for the period he has not worked. No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/

Lucknow:Dated: 29.5.92.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

AT LUCKNOW

BETWEEN

RAMESH KUMAR NAG

.....APPLICANT

VERSUS

THE DIRECTOR POST AND TELEGRAPH OFFICE

ADMINISTRATIVE LUCKNOW AND OFFICES

.....RESPONDENTS

I N D E X

<u>S.NO.</u>	<u>DISCUSSION OF DOCUMENTS</u> <u>RELIED UPON</u>	<u>PAGE NO.</u>
1.	Application	1 to 7
2.	Registered letter sent to Director Annexure No. A-1	8 to -
3.	Registered Notices under section 80 C.P.C. Annexures No. A-2 , A-3	9 to 10
4.	Acknowledgement dues	11 and 12
5.	appointment letter photo copy	13
6.	Vokalatnama	14

S. Chandra Advoca
Signature of the applicant

For use in Tribunal's Office

Date of Filing

or

Date of Receipt

by Post

Registration No.

Signature

For - Registrar

Filed today 25.10.88
(A11)
Let this be
before Public Bench
for 27.10.88. Release
25/10/88

Noted for
27.10.88
S. Chandra Advoca
25/10

(AP2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCIT BENCH
AT LUCKNOW

BETWEEN

Ramesh Kumar Nag, S/o Ram Kumar Nag, R/o 252/166, Rakebganj
Kadeem, Lucknow

..... Applicant

Versus

- 1- The Director,
Post and Telegraph, Aminabad, Lucknow
2. Deputy Director,
Post and Telegraph Office, Aminabad,
Lucknow

..... Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant.

- | | | | |
|-------|---|---|--|
| (i) | Name of the applicant | - | Ramesh Kumar Nag |
| (ii) | Name of Father | - | Sri Ram Kumar Nag |
| (iii) | Age of applicant | - | 25 Years |
| (iv) | Designation and particulars of Office (name & Station) in which employed or was employed before ceasing to be in service. | - | Daily wages in the Office Post and Telegraph, Aminabad, Lucknow. |
| (v) | Office address | - | Post and Telegraph Office, Aminabad, Lucknow |
| (vi) | Address for service of Notices. | - | Post and Telegraph Office, Aminabad, Lucknow. |

Particulars of the respondents :

- | | | | |
|-------|---|---|--|
| (i) | Name of Respondant No.1 | - | Ashok Kumar |
| (ii) | Name of the father | - | Not known |
| (iii) | Age of the respondent | - | About 52 Years |
| (iv) | Designation and particulars of Office (Name and Station) in which employed. | - | Director Post & Telegraph Office, Aminabad, Lucknow. |

contd....2

- (v) Office address - Post & Telegraph Office,
Aminabad, Lucknow
- (vi) Address for service of Notice. - Post & Telegraph Office,
Aminabad, Lucknow.

Particulars of the respondent No.2 :-

- (i) Name of the respondent No.2 - Sri R.S.Sharma
- (ii) Name of father - Not known
- (iii) Age of respondent -
- (iv) Designation and particulars of office (Name and Station) in which employed. - Deputy Director
Post & Telegraph Office
Aminabad, Lucknow
- (v) Office address - - as above -
- (vi) Address for service of Notices. - Deputy Director,
Post & Telegraph Office
Aminabad, Lucknow

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

The application is against the following order :-

- (i) Order No.with reference to Annexure No.1 -
u/s 80 C.P.C.
- (ii) Date 28-7-88
- (iii) Passed by - No Order has yet been passed.
- (iv) Subject in brief :- That the applicant has been
stoped to work without any valid reasons and
without passing any order against the applicant
being daily wages though the applicant has
completed regularly 290 days and served the
department regularly without any break in service
past about 6 years upto 28-7-88.

2/2/89 12-11-88

AW

: 3 :

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 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 facts of the case are given below :-

The applicant had joined his service on 22-12-83 on call of Employment Exchange being daily wages employed and since then he had been working in the Office of Post & Telegraph Office, Aminabad, Lucknow but without any reasons on 28-7-88 in the morning Care-taker of the said Office said that the applicant's service had been terminated and he did not allow the applicant to work in the said office.

7. Details of the remedies exhausted :-

The applicant declares that he was availed of all the remedies available to him under the relevant service rules, etc.

That when applicant was stop to inter in the Office by the Care-taker, then the applicant sent one ~~registered~~ registered letter requesting therein that the applicant had been stoped to work without any reason and the applicant requested to allow to work but with no result . The copy of the said letter is enclosed

2/2/89

contd....4

MS

: 4 :

herewith at Annexure No. ^R2 to this Claim Petition.

That after waiting the reply of aforesaid letter the applicant sent registered notices to Director and Deputy Director, Post and Telegraph Office, Aminabad, Lucknow through an Advocate Sri Suresh Chandra, Advocate, 76, Ganna Wali Gali, Aminabad, Lucknow, which has been served to the Opposite parties but no reply has yet been given for aforesaid notices . The copy of said notices are being filed herewith as Annexures No.2 & 3 to this Claim Petition.

8. Matter is not previously filed or pending with any other Court.

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

In case the applicants had previously filed any application, writ petition or Suit, the stage at which it is pending and if decided the gist of the decision should be given with reference to the Annexure.

9. Relief :-

In view of the facts mentioned in para 6 above the applicants prays for the following reliefs :-

contd.....5

2/21/2012

G R O U N D S

1. Because the applicant has neither served with any order did not permitted to work in the office and band work in the office and band the entry illegally in the said office.
2. Because the applicant had not been replied any notice and also he has not been allowed to work till today without any valid reason on the said post.
3. Because why the authorities did not allow to work continuously though the applicant has been working continuously since 1982 and being temporary he has fulfilled the 290 days as per rules and should have been treated as regular employee.
4. Because the applicant is fully entitled for regular employee and he has already worked regular past 6 years without any break in service.

R E L I E F S

- a) That the order be passed treating the applicant in regular service in the office of Post & Telegraph Office, Aminabad, Lucknow since 22-12-82 as per rules and if any order dated 28-7-88 against applicant be quashed.
- b) That the applicant be ordered to be paid all emoluments of service since 28-7-88 upto decision of the Claim Petition.
- c) Cost of the Claim Petition.
- d) Any other relief which this hon'ble Court deem just and proper in the circumstances of the case.

रमेश कुमार नाग

10. Interim order, if any prayed for :-

Pending final decision on the application, the applicant seeks issue of the following order :-

That the interim stay order be passed directing the opposite parties to allow the applicant as usual to work on the said post pending decision of this Claim petition as the applicant has become out of job after six year continuous service and the family reached to die for two time breads.

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

12. Particulars of Bank Draft/Postal Order in respect of the application fee :-

1. Name of the Bank on which drawn

2. Demand + Draft No.

3. Number of Indian Postal Order - Two Postal Orders of Rs.10/- No W 519321 and Rs.40
59

No. CC 091873.
4

2. Name of issuing Post Office- Aminabad Post Office.

3. Date of issue of Postal Order - 21-10-88

4. Post office at which payable - At Allahabad.

13. List of Enclosures :-

1. One Registered letter photocopy sent by applicant to Director Post & Telegraph Office Aminabad, Lucknow.

contd....7

2012/10/21

2. Two registered notices photocopy sent by an Advocate to Director & Deputy Director, Post and Telegraph office, Aminabad, Lucknow.
3. Registered receipt and two acknowledgement Receipts.

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

I, Ramesh Kumar Nag S/o Ram Kumar Nag aged about 25 years working as daily wages in the Office of Post & Telegraph Office, Aminabad, Lucknow R/o 252/166, Rakabganj Kz Kadeem, Lucknow, do hereby verify that the contents of paras 1st to 8, 9, 12, 13th are true to my personal knowledge an para 9th and 10th believed to be troud on legal advice and that I have not supressed any material fact.

Date: 24th October, 1988
place - at Lucknow

रमेश कुमार नाग
Signature of the applicant.

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL FIRST BENCH
AT LUCKNOW.

BETWEEN

Ramesh Kumar Nag. Applicant

The Director of Post & Telegraph
Office, Amritsar, Punjab
Respondent

ANNEXURE A-I

निवेदन,

आक रेखा, 30 प्र०,

लखनऊ ।

जीमान में आपके कार्यालय में दैनिक मजदूर हूँ । दिनांक 28-7-38 से मुझे इस कार्यालय में न तो कोई कार्य दिया जा रहा है और न इन दिनों का कोई भुगतान भी मिल रहा है ।

मैं नरतीब व्यक्ति हूँ और भी पिछले सात वर्षों से लगन से सेवा कर रहा हूँ । मेरे अधिकारियों को मुझे कभी कोई शिकायत नहीं लगी है । इस समय अमानत रकम से रहर दिये जाने के कारण मुझे कुछ ही मानसिक एवं आर्थिक कष्ट हैं । यथास्थित अधिकारियों से मिलके यह मुझे कुछ भी रकम नहीं मिला है ।

अतः आपसे निवेदन कर रहा हूँ कि मेरे व्यावसायिक कार्य पर लगाये जाने का आदेश देने की दृष्टि करें ।

True copy
Attested
by
Ramesh Kumar Nag
22/8/38

चक्र/No.

(30/8)



22/8/38
रमेश कुमार नाग

10-8-38

रमेश कुमार नाग

In the Central Administrative Tribunal
Between. circuit Bench Lucknow

Ramesh Kumar Nag ¹³⁷⁰ Applicant
The Director, Post & Telegraphs, Aminabad
Annexure No A-2, A-3 REC'D. NOTICE U/3 30 C.A.C. Opposite

From: Ramesh Kumar Nag s/o Sri Ram Kumar Nag, r/o 252/166
Rakabganj Kadeem, Lucknow (U.P.)

THROUGH: SURESH CHANDRA, Vakil, 70 Ganno Wali Gali,
Aminabad Lucknow (U.P.).

TO : Director, Post & Telegraph Deptt. Aminabad Lucknow.

2) Deputy Director, Post & Telegraph, Aminabad, Lucknow.

Under the instructions of my above named client, Ramesh Kumar Nag r/o 252/166 Rakabganj, Kadeem, Lucknow (U.P.) I do hereby serve you the following notice as under:-

1. THAT my above named client had joined his service under your kind control on 22.12.83 being daily wages and since then he had been working under your kind control with full satisfaction of his superiors.
2. THAT during his service tenure he has not been served any adverse entry and had remained in continuous service upto 30-7-1988 in the office of Post & Telegraph Office, Aminabad, Lucknow.
3. THAT when my client reached the said office on 22-7-88 in the morning, then the care-taker of the said office said that my client's services had been terminated and he did not allow to work in the said office.
4. THAT the care-taker of your office did not allow to meet any officer and did not supply any written notice to this effect.
5. THAT termination of the service of my client without serving any SHOW CAUSE or any termination order is quite illegal, unfair and against the natural justice.
6. THAT my client had sent a registered letter to the Director Post & Telegraph office, Aminabad, Lucknow but my client had not yet received any reply till now.
7. THAT my client is suffering mental torture by the aforesaid conduct as such my client & his family are suffering badly in such hard days for their bread & butter etc.

You are, therefore, informed through this Registered

..2...

27/21 27/21

(A21)

(10)

. . . . 2

Notice to allow my client to join up his service immediately as usual, failing which after expiry of THIRTY Days from the receipt of this Notice my client will seek legal recourse in the court of Law and you shall be responsible for payment of all outstanding of the salary & cost of the suit.

Yours faithfully,

J. Chandra
(SURESH CHANDRA) A.
ADVOCATE.

Lucknow:
Dated: 26.8.88

सहकारिता विभाग

True copy
Attested
J. Chandra
Advocate
25/10/88

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL CIRCUIT BENCH
AT LUCKNOW
BETWEEN.

Ramesh Kumar Nag.

Applicant

The Director ^{vs} Post and Telegraph office,
Aminabad, Lucknow (Others)

Respondent

AMATEUR WORK

प्रमाणपत्र (रसीद) ACKNOWLEDGMENT

प्राप्त हुआ Letter/Postcard/Packet/Parcel

क्रमांक
No.

पाने वाले का नाम
Addressee's name

To Sri Ashok Kumar
Director, Post & Telegraph
Dept. Aminabad, 26
UP

बीमा का मूल्य (रुपये में)
Insured for Rupees

दिनांक
Date

197

पाने वाले के हस्ताक्षर
Signature of addressee

Score only the score not required.

For insured articles only.

AD 06

Ashok Kumar

Amma Kumar

XERO C

रसीद

True copy
Attested
J. Chandra
Advocate
28/10/88

A23

12

IN THE CENTRA ADMINISTRATIVE
TRIBUNAL CIRCUIT BENCH
AT LUCKNOW
BETWEEN

Ramesh Kumar Negi

The Director Post & Telegraph office
Aunirabad, Lucknow. Applicant
Respondents

प्राप्ति स्वीकृति (रसीद) ACKNOWLEDGMENT

* एक रजिस्टर्ड पत्र/पोस्टकार्ड/पैकेट/पारसिल प्राप्त हुआ

* Received a Registered Letter/Postcard/Packet/Parcel

पाने वाले का नाम / Addressee (Name) } R. S. Sharma
Addressed to (Name) } Deputy Director
Post & Telegraph
Aunirabad, Lucknow.
UP.

प्रीम का मूल्य (If Insured) } 197

Date of delivery 197

पाने वाले के हस्ताक्षर / Signature of Addressee } R. S. Sharma
PA to DD

* अग्राहक को दिया जाए / Score out the matter not required.

* किन्तु बीमा पत्रों के लिए / For Insured articles only.

R. S. Sharma
Deputy Director
Post & Telegraph
Aunirabad, Lucknow.
UP.

True copy
Attested
S. Chandra
Advocate
25/1/88

रमेश कुमार नेगी

In the Central Administrative
Tribunal, Circuit Bench at Lucknow
Between Ramesh Kumar (Applicant)
The Director, Post & Telegraphs (Opposite)

(13)

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
U.P. CIRCLE, LUCKNOW- 226018.

No: G.S./Daily Wagers. 536

Dated. 22.12.83.

Shri . रमेश कुमार शर्मा is hereby
informed that his name has been sponsored by Employment Exchange
for the engagement of daily rated majdoors. He is, therefore,
directed to appear before the Selection Committee for determining
his suitability for working as a daily rated majdoor (i.e. casual
labour) along with his testimonials at the above noted address
on 23/24.12.83/22.12.83 at 11.00 A.M. sharp. No travelling
allowance will be paid for this purpose.

Rajendra Prasad
Accounts Officer
(G.SI)

Copy to Shri . रमेश कुमार शर्मा
25.2/166 रमेश कुमार शर्मा
कादीम . मालिक



22/12/82

True copy
Attested
J. Chandia
Advocate
25/10/88

रमेश कुमार शर्मा

In the Central Administrative Tribunal
Circuit Bench At Lko.

ब अदालत श्रीमान

121

महोदय

14

(वादी) अपीलान्त

प्रतिवादी (रेस्पान्डेन्ट)

श्री.....का वकालतनामा



Ramesh Kumar Nag.

वादी (अपीलान्त)

The Director Post & Telegraph Office
Amirabad, Lko. & others.

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकद्दमा

सन् १९

पेशी की तारीख

१९

ई०

ऊपर मुकद्दमा में अपनी ओर से श्री

Suresh Chandra

Advocate

एडवोकेट/वकील

महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं
इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ
पैरवी व जबाबदेही व प्रश्नोत्तर करे या कोई कागज दाखिल करे या लौटावे
या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहानामा
या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने
हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावे या कोई रुपया
जमा करें या हमारे विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने
या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त कर वकील
महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी
इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर 21/12/2011

साक्षी गवाह

साक्षी [गवाह]

दिनांक

महीना

सन् १९८

ई०

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

C.A No.189 of 1988

Ramesh Kumar Nag

.. Applicant

Versus

Union of India & others

.. Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS.

I, C.D. Joshi, aged about 55 years, son of
Shri A. S. Joshi. h
at present posted as Accounts Officer, Admin.I(S)
in the office of the Director of Accounts(Fostal)
U.F. Circle, Lucknow do hereby solemnly affirm and
state as under:-

1. That the deponent is posted in the office
of the Respondent No.1 and have been authorised to
file this counter affidavit on behalf of all the
other Respondents.

2. That the deponent has read and understood
the contents of the ~~amendment~~ application filed by the
applicant as well as the facts deposed to herein
under in reply thereof.

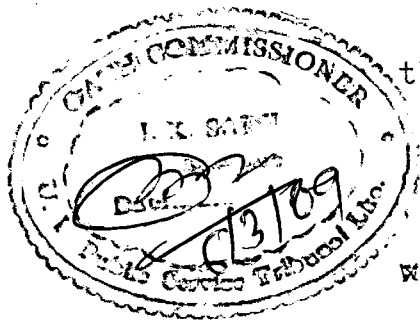


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3. Before giving parawise comments it is pertinent to give brief history of the case as detailed below:

4. That the office of the Director of Accounts (Postal) Lucknow is at present functioning in three different buildings in Lucknow. The main building is at Aminabad. The second at 19 Way Road and the third at New Hyderabad. In addition to officers and Group 'C' staff, there are Group 'D' staff also (for example peons, Chowkidars, Sweepers and Daftaries). There has been shortage of various categories of staff including that of Group 'D' in the office from time to time. Apart from this the quantum of work increases occasionally in the office. Sometimes the Group 'D' staff proceeds on leave on personal grounds or illness. The work of Group 'D' Staff ~~xxx~~ during their absence on this account is managed by engaging Mazdoors for a day or so, or for a longer period, as the case may be. Whenever a Daily wager is required for a day or so arrangement of daily wager is made from the local market.



[Signature]

122

Whenever the services are required for a longer period the list of casual labourer is obtained from the Employment Exchange and such labourers known as casual labourers are engaged in the office after judging their fitness. The name of the applicant was forwarded by the local Employment Exchange and he was engaged as a Daily rated mazdoor with effect from 22.12.1983.

5. That the condition of service of Casual Labourer are different from those regularly Group 'D' staff. The regular Group 'D' staff is covered under CCS(Conduct) Rules or CCS(Temporary Service) Rules as the case may be. Their appointment and termination of services are made under certain Rules prescribed by the Government, whereas the casual labourers are not governed by these rules and requirements. Their engagement in Government work is subject to good work, good behaviour and good health and they are paid wages at daily rates.

6. That the office of the Deponent is a very big office employing about 800 officials in the different buildings in Lucknow. ~~XX~~ The office of the deponent require daily rated mazdoors for work of Casual nature ie. for lifting of bags, removal of

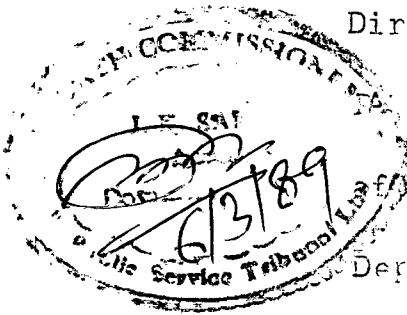


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furniture etc. As and when there are large number of absentees in Class IV cadre the DRMs are also utilised to perform the duties normally assigned to a Class-IV. It will not be out of place to mention here that on many occasions depending upon the exigency of the work we employed as many as 30 to 40 DRMs on a particular day. The DRMs are employed on daily basis depending upon the requirements. The applicant's brother has a pan-shop near the gate of the office and therefore as and when there is a vacancy he is readily available and his services are utilised as daily rated mazdoor.

7. That the applicant was found to be physically not fit to lift the heavy bags from ground floor to IV floor and therefore on humanitarian grounds he was given the duties of a Class-IV as and when some Class-IV was found to be absent, for many months, The applicant was working as Orderly to Deputy Director of Accounts was to take the files from the PA to Deputy Director to the table of Deputy Director after disposal of the file take the files from the Deputy Director's room to the PA to Deputy Director and from PA to Deputy Director he was to take the file to the concerned officers.



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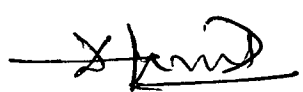
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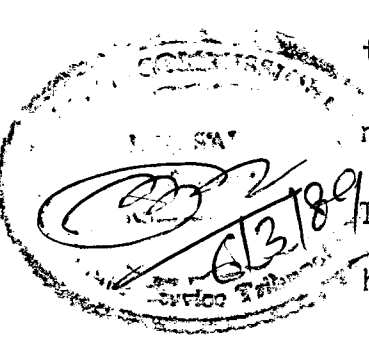
8. For quite sometime it was observed that even the Confidential orders passed by the Deputy Director ~~or~~ or Director were known to the concerned persons even before they reach the concerned officers for implementation ~~of the orders~~ and there were representations even before actual implementation of the orders from the concerned persons. The applicant was repeatedly instructed that he should maintain strict secrecy and no file should be shown to any unauthorised person and he should hand over the file to the concerned Branch officer only.

9. That on 27.7.88 Deputy Director passed an order regarding transfer of Shri Vijai Singh, LDC from Aminabad building to 19 Way Road Building. The Respondent no.2 was telephonically called by the Respondent no.1 in his chamber. Accordingly when the Respondent no.2 came out of his room he observed that the concerned official alongwith his some friends was holding the file wherein the confidential orders of the transfer of Shri Vijai Singh were passed by the Respondent no.2 and the applicant was standing by their side.

The Respondent no.2 enquired from the applicant as to why he had given the file to those persons when the file was marked for AD. Admin.I to which the applicant had no reply.

Since the showing of confidential file to the concerned person/any person to whom the orders were not required to be shown by the Orderly of Deputy Director, the Respondent no.2, is a very serious offence. Accordingly,

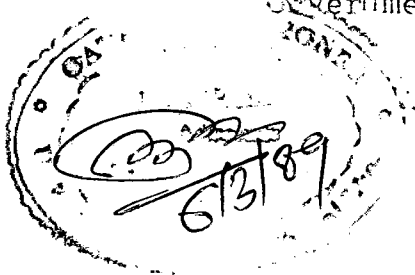




The Respondent no.2 ordered to his Accounts Officer, General Services, who deals with the engagement of the Daily Rated Mazdoor to lay him off from duty of the applicant, as he is unfit to work as Daily Rated Mazdoor in the office.

10. That the applicant has made the application with this Hon'ble Tribunal. Since the applicant was a daily rated mazdoor and the prescribed rules namely the CCS(Conduct) Rules and the CCS(CCA) Rules are not applicable to the applicant. No disciplinary action can be taken against a daily rated mazdoor, like a regularly appointed Government servant. He had been paid wages in the office for the number of days he worked. No leave etc. was granted to him and no wages were paid for Sundays and Holidays to the applicant. Since this Hon'ble Tribunal is constituted to hear cases of regularly appointed Government servant, therefore this Hon'ble Tribunal has no jurisdiction to entertain the instant application from a Daily Rated Mazdoor.

11. That the work and conduct of the applicant has been found to be unsatisfactory as observed by the officers of the Deponent. Such persons cannot be considered for regular appointment under the Central Government.



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12. That the appointment of regular Group 'D' is made from among the Daily Rated Mazdoors who have good record of duty. The appointment is made by the Administration after holding a DPC. The DPC recommends those cases in which the Daily Rated Mazdoors are highly skilled and loyal. At present no such DPC has met. Moreover cases of persons like the applicant do not fall within the purview of recommendation by the DPC in future also, as the persons has been found totally unfit for Government job.

13. That the contents of paras 1 to 5 of the application are formal and informatory and need no reply.

14. That in reply to the contents of para 6 of the application it is submitted that the applicant worked in the office of the deponent as a daily rated mazdoor in broken spells as per the demand of work with effect from 22.12.83. He was not a regular employee, so the service rules e.g. leave rules, pension rules, gratuity rules have never been applicable in the case of the applicant. The contention of the applicant that he joined service on 22.12.83 is misleading. In view of the fact that he was engaged as a daily rated mazdoor on 22.12.83 and he was paid wages for the days he worked as a labourer in the office. From 22.12.83 ~~and onwards~~ onwards he has



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133

worked only for the periods during ~~which~~ which the work of Daily Mazdoor was found enough to call him for doing so. This broken period of his work as well as duty period does not count for service or pension etc. Further the applicant was not subject to any disciplinary rules under CCS(CCA) Rules which are applicable to regular Central Government servants. The applicant was asked by the Respondent no.2 on 27.7.88 to hand over a confidential file to AO/Admn.I. Instead of obeying the orders of the Respondent No.2 he passed on the file some wrong hands instead of to Accounts Officer, Admin.I, thereby causing leakage of secret orders. There were similar such instances noticed earlier for which he was suitably instructed by the Respondent no.2, but the applicant did not show any will to comply with the instructions of the Respondent no.2. He was given the duties of orderly/Group-D to the Respondent no.2 keeping in view the state of health of the applicant who was found unfit for doing physical work and when the applicant himself made many requests verbally for giving him some lighter job due to his frail health. Since he did not obey the orders of the Respondent no.2 with whom he ~~was~~ was attached as a substitute of orderly peon and as he had committed serious offence of showing a confidential file to unauthorised persons as well as his frail health



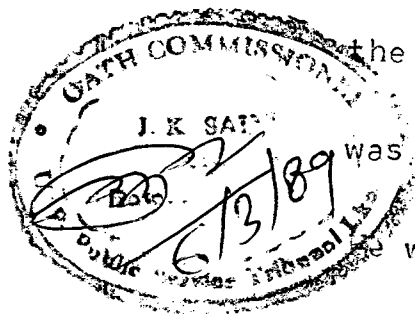
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was not good enough to allow him to work as Mazdoor, Therefore, Accounts Officer (GS) who deal with the engagement of DRMs was instructed by the Respondent no.2 to lay him off from work as he was unfit to work as DRM in the office. Accordingly he was not engaged as DR^M in the office of the deponent from the next date ie. 28.7.88. This serious ~~xx~~ offence on the part of the applicant had been accepted by him subsequently in writing. A photo copy of his acceptance of his disobedience and insubordination is enclosed as Annexure-I to this counter affidavit. There was no reason to obtain clarification from the applicant and take disciplinary action as in the case of regular appointed employee as there is no provision for such action. The claim of the applicant to treat him at par ~~h~~ with regular Central Government employee in matters of service, discipline is uncalled for.

6/8.15

That in reply to the contents of para 7 of



the application it is submitted that the applicant was a daily rated mazdoor in the office of the deponent. He was found to be unfit to work as DRM. No service rules are applicable to such mazdoors. Moreover, he is not eligible to approach the Central Administrative Tribunal for redressal of his grievances. This Hon'ble

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Tribunalis meant for regular Central Government employees and not for daily rated mazdoors like the applicant. He has stated that he is governed by certain service rules for which the CAT has been constituted is misleading. The applicant was not engaged as DRM for his inefficient work, bad behaviour and bad conduct. Since he was not a Government servant he cannot approach the Hon'ble Tribunal.

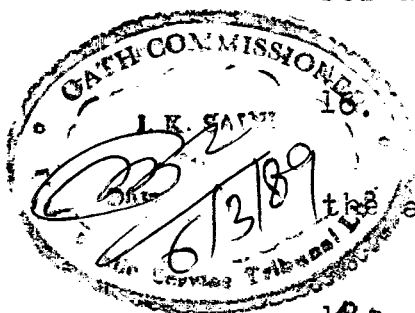
13. That the contents of para 8 of the application needs no comments.

14. That in reply to para 9 of the application it is submitted that the applicant is not entitled for any relief prayed for and none of the ground taken by the applicant are tenable in the eyes of law.

15. That in reply to para 10 of the application it is submitted that no injustice has been caused to the applicant as stated. Therefore the interim order prayed for is to be rejected.

16. That the contents of paras 11, 12 & 13 of the application need no comments.

17. That in view of the facts and circumstances



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statee above, the application filed by the applicant
is liable to be dismissed with costs.

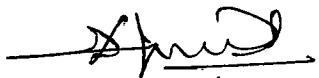

Deponent (C.D. JOSHI)

Lucknow,

Dated: 6/3/89

Verification.

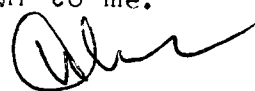
I, the above named deponent do hereby verify
that the contents of paragraphs 1 & 2 are true to my
personal knowledge, those of paragraphs 3 to 18
are believed by me to be true on the basis of records and
information gathered and those of paragraphs 19 to 20
are also believed by me to be true on the basis of legal
advice. No part of this affidavit is false and nothing
material has been concealed.


Deponent (C.D. JOSHI)

Lucknow,

Dated: 6/3/89

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



(V.K. Chaudhari)

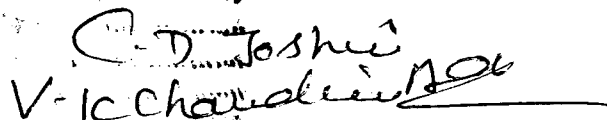
Advocate, High Court,
Counsel for the Respondents.

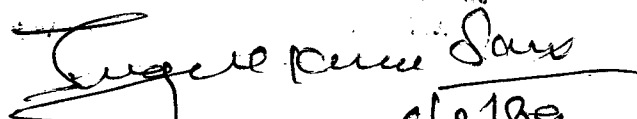
Solemnly affirmed before me on

at am/pm by the deponent who is identified
by Shri VK Chaudhari, Advocate, High Court Lucknow.

solemnly affirmed before me in my office today

who is identified by
Clerk to S -


V-K Chaudhari


J.K. Saini
6/3/89



Annexure C-1

(1)

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सेवा में:- श्रीमान निदेशक महोदय,
डॉक लेखा कार्यालय, लखनऊ

महोदय,

सेवा में निवेदन है कि प्रतीति से
दिनांक 27-7-88 को जो गलती हुई थी।
में अपनी गलती को स्वीकार करते हुए
भविष्य में ऐसी गलती न करने का
वचन लेता हूँ।

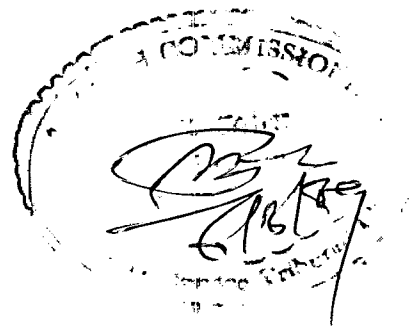
आप: मुझ पर दया कर
पुनः नौकरी पर बहाल (नियुक्ति) करने
का आदेश पारित करने का कृपा करें।
धन्यवाद !

प्रतीति -

शेखर कुमार नाग

57-110 (Disc)
24
28-7-88

Attested True Copy
6/3/89
AA of Adm I
(S. K. VARMA)
Asstt. Accounts Officer
Postal Accounts, Lucknow.

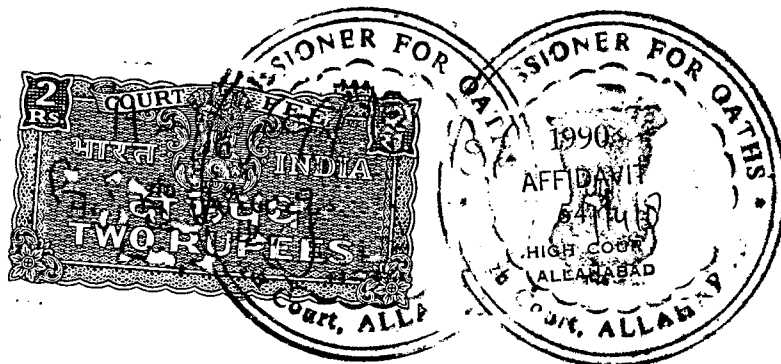


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In the Central Administrative Tribunal
Additional Bench Allahabad

Circuit Bench Lucknow

C.A. No. 189 of 1988



Ramesh Kumar Nag

... Applicant

Vs.

The Union of India & Others...

Opp. parties.

Rejoinder Affidavit

I, Ramesh Kumar Nag, aged about , 26 years S/O Sri Ram Kumar Nag, R/O 252/166, Rakab Ganj Qadeem, Lucknow do hereby solemnly affirm as under:-

1. That the deponent has read and understood the contents thereof. He is conversant with the facts of the case and is able to give the proper reply of the Affidavit.
2. That the contents of paras 1 & 2 of the C.A. needs no reply.
3. That the contents of para 3 of the C.A. are denied. Every thing could be explained by giving the parawise reply of the application. There is no need to give the history of the case separately.
4. That the contents of para 4 of the C.A. are admitted to the extent of functioning of the Director Office in 3 Buildings and their



26/4/91 2/1/88

are staff of Officers and Group 'C' & Group 'D' but rest of the contents are denied. It is wrong to say that the Mazdoors are used to engage for one day or so. The Mazdoors and Daily wages Casual Labours used to engage to save the Government money. The permanent hands gets more salary and other facilities than the Casual Labours and the Mazdoors. There is no local market of casual Labours and Mazdoors for appointment under the Cpp. Parties. It is true that the names are sponsored from the employment Exchange for giving the employment on regular, temporary and Casual basis. It is true that the name of the deponent was received from the Employment Exchange.

5. That the contents of para 5 of the C.A. are denied. There is no difference in the work of the regular staff and the Casual staff. The difference is in the salary only. The Casual Labours acquire the position of temporary employee after completing 90 days regular service and the status of permanent employee after completing 240 days regular services.

6. That the contents of para 6 of the C.A. are admitted to the extent of the strength of the employees. It is also correct that there is shortage of the staff and the opp. parties instead of giving the regular appointment takes the work from the casual labours by giving them daily rated wages. The Deponent and several others have acquired the position of permanent employee by completing 240 days



28/2/2011

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regular services. It is true that there is a bettle Shop of the border of the Applicant near the Gate of the office but the shop has no concern with the employment of the Deponent

7. That the contents of para 7 of the C.A. are denied. It is wrong to say that the deponent is not fit for the duties of Class Ivth employees. He is able to work hard in comparison to any class Ivth employee of the Directorate Office. It is wrong to say that the deponent was engaged on Casual leave on any regular employee. In fact he was engaged for the regular work, but the regular salary was not paid. The designation of the deponent was not orderly. He was casual labour and was deputed to work under the Dy. Director of Accounts. He has worked for bringing the files and for sending the files to the offices as per the directions of the Dy. Director. There was no complaint in respect of the work of the Deponent.

8. That the contents of para 8 of the C.A. are denied. The deponent always worked as per the directions of the authorities. There was no complaint in respect of working of the deponent.

9. That the contents of para 9 of the C.A. are denied. The allegations made against the deponent are not correct. The deponent never shown the files to any person as alleged in para under reply. In fact the deponent did not use the force against the officials to get out



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them from the room of the Dy. Director, consequently the Dy. Director had become annoyed and asked the authorities concerned to terminate the services of the deponent. The deponent committed no offence as alleged. Moreover the enquiry was necessary if the basis of the termination is the offence mentioned in para under reply. It is wrong to say that the deponent was no fit for the post of casual labour.

10. That the contents of para 10 of the C.A. are denied. The services of the deponent could not be terminated at the will of the authorities. The deponent has already acquired the status of a permanent employee. Hence he could not be terminated from the services in the manners adopted by the Opp. parties. The deponent was entitled to get the opportunity of defence. The Hon'ble Tribunal has jurisdiction to decide the service matters of the employees of the Central Government. The deponent was also an employee of the Central Govt. and he has rightly filed the application before this Hon'ble Tribunal.

11. That the contents of para 11 of the C.A. are denied. It is wrong to say that the work of the deponent was unsatisfactory. The deponent was entitled to be considered for regularisation on his post.

12. That the contents of para 12 of the C.A. are denied. The work of the deponent was not inferior than the persons who has been regula-



2/12/1951

~~regularisation~~ regularised. The deponent could not be held unsuitable for the post till the allegations are not being proved. The enquiry is necessary.

13. That the contents of para 13 of the C.A. needs no reply.

14. That the contents of para 14 of the C.A. are denied., except working by the deponent as Casual labour on daily wages. The Opp. parties have failed to give the details of the broken period. The deponent was entitled to get all the benefits of regular employees as he has completed regular services 240 days in a year. The period of working as daily rated employee shall be counted for determining the position of regular employee. As already stated above the deponent has not shown the file to any one. The Opp. parties are required to prove the contents. The deponent always obeyed the directions of the authorities. It is wrong to say that the deponent was found unfit for performing the physical work. The deponent was never referred to the Medical Officer of the Department or the Chief Medical Officer for fitness to do the physical work. The deponent never requested for light work. He has always performed the duties of physical work, mental work and the light work as per directions of the authorities. The deponent committed no offence. More over if the services have been terminated on this ground the order is liable to be quashed. The Accounts Officer has committed the error of law in terminating the



20/2/2012

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services of the deponent. He has failed to apply his own mind in terminating the services. He has simply acted on the directions of the Dy. Director. The Annexure-1 to the C.A. was obtained from the Deponent by giving the false assurance of reinstating in service. The deponent has not given it in writing. Further the content of Annexure-1 to the C.A. do not admit the allegations made in para 9 and 14 of the C.A. The writing given after the termination does not effect the termination by way of punishment. The writing must be given before passing of the order. The deponent is cetianly a retgular employee of the Opp.parties.

15. That the contents of para 15 of the C.A. are admitted to the extent of appointment of the dep onent as Casual Labour but rest of the contents are denied. It is wrong to say that deponent was unfit for his post. The princoples of natural justice are applicable and the deponen is entitled to get the chargesheet and the opportunity for terminating the services by way of punishment. The Application has rightly been filed beore this Hon'ble Tribunal which is liable to be allowed with cost. The services have been terminated by way of punishment and not due to unsatisfactory work. The enquiry was necessary if they services were terminated on the ground of bad behaviour and bad conduct. The deponent is an employee of the CentralGovt and has a right to approach this Hon'ble Tribunal.

16. That the contents of para 16 of the C.A. needs no reply.



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17. That the contents of para 17 of the C.A. are denied. The deponent is entitled to get the relief claimed on the basis of the grounds taken in the application.

18. That the contents of para 18 of the C.A. are denied. The injustice had been done with the deponent, and the Petition is liable to be allowed with cost. The interim relief has not been given uptill now. Now the final decision may be done.

19. That the contents of para 19 of the C.A. needs no reply.

20. That the contents of para 20 of the C.A. are denied. The application is liable to be allowed with cost.

अभिज्ञान

Dated: 11.2.91

Deponent.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1 to 20 of the affidavit are true to my knowledge and belief. Nothing material has been concealed and no part of it is false, so help me God.

Signed and verified today this the 11th day of Feb.91, in the Court Compound at Lucknow.

अभिज्ञान
Deponent.

I identify the deponent who has signed before me.

(P.N. Bajpai)
Advocate.

Solemnly affirmed before me on 11.2. 91 at 8.05 A.M./P.M. by the above named deponent



1745

8.

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.

C. P. MISRA

Advocate Oath Commissioner

Allahabad High Court,

Lucknow Bench Lucknow

No. 54/1418

Date 11-2-91



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A No.189 of 1988(L)

M.P. No. 387/91 (L)

Ramesh Kumar Nag

.. Applicant

-versus-

Union of India & others

.. Respondents

APPLICATION FOR CONDONATION OF DELAY

IN FILING SUPPLEMENTARY COUNTER AFFIDAVIT

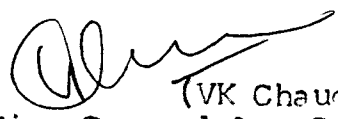
.....

The Respondents above named begs to submit as under:-

1. That due to some unforeseen circumstances the file was mixed up with certain old files, the supplementary counter affidavit could not be filed within time. The delay was not intentional. Therefore it is expedient in the ends of justice the accompanying supplementary counter affidavit may be taken on record after condoning the delay in filing the same before this Hon'ble Tribunal earlier.

P R A Y E R

Wherefore it is most humbly prayed that this Hon'ble Tribunal may be pleased to condone the delay in filing the Supplementary counter affidavit by the applicant and the accompanying supplementary counter affidavit may kindly be taken on record in the interest of justice.


(VK Chaudhari)
Addl. Standing Counsel for Central Govt.
(Counsel for Respondents)

Lucknow,

Dated: 15 July, 1991.

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
BENCH AT LUCKNOW.

C.A.No.189/88 (1)

Ramesh Kumar Nag. ... Applicant

versus,

Union of India and others. ... Respondants.

SUPPLEMENTARY COUNTER AFFIDAVIT.

✓
I, S.R. Abidi aged about 54 years, son of
B. S. Tamizul Hasan at present posted as Accounts officer Admn.
I(S) in the office of the Director Postal Account U.P.
Lucknow do hereby solemnly affirm and state as under:-

1. That the deponent has read and understood the contents of amended application as well as the facts deposed to here in under reply there of, He is well conversant with the facts of the case.
2. That in reply to the contents of para 6 (b) of the application it is submitted that the applicant was employed to work as labourer on the basis of daily rated mazdoor whenever there was such requirement. He was paid for the work he performed and no payment was made for the days he did not work. No orders for termination of service in writing are required in this case, as the applicant was not a regular employee, even on temporary basis, of this department.

3. That in reply to the contents of para 6 (c) of the application it is submitted that the applicant was a daily rated mazdoor in this office and his work was found far below from satisfactory he was verbally instructed to improve his performance and he was allowed to continue on his verbal assurances to improve his performance. So it is not true to say that his work was appreciated by the authorities.

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4. That in reply to the contents of para 6 (d) of the application it is submitted that the admitted with the certain modifications that the name of applicant stood at serial 10th of select list of 15 daily rated mazdoors selected by this office selection committee (Copy enclosed)

5. That in reply to the contents of 6 2(e) of the application are not admitted.

6. That in reply to the contents of para 6 (f) of the application are not admitted with the comments that no such occurrence was ever occurred.

7. That in reply to the contents of para 6 g) of the application are not admitted with the comments that the applicant employed as D.R.M. substituted orderly open was asked by the Dy. Director on 27.07.88 to hand over a confidential file to Accounts officer/Admn.I(S). Instead of obeying the orders of the Dy. Director, he passed over the file to some wrong persons, instead of Accounts officer/Admn.I(S) thereby causing leakage of secret orders.

Having found the applicant disobeying the orders of the Dy. Director and passing the orders on the file to some other unauthorised persons and see the bad conditions of his health to perform duty as D.R.M. Labourer the competent authority decided not to employ him further as daily rated mazdoor. Since the applicant was not a regular employee in any of the cadre of the department to take proper action under any rules made in this behalf. So, he was not subject to take any action under CCS(CCA) Rules 1965 of CCS(TS) Rules, Simply being a daily rated mazdoor, he was put off due to his doubtful integrity and not submissive to officers & department.

8. That in reply to the contents of para 6(h) of the application are admitted.



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9. That in reply to the contents of par 6(i) of the application are not admitted with the comments that the applicant being a dily rated mazdoor is not subject to any statutory Rules as CCS(CCA) Rules- 1965 as per provisions laid down vide Rules No. 3(4)(1) of the said rules

(Copy) ~~enclosed~~.

10. That in reply to the contents of para 6 (j) of the application are not admitted with the comments that the competent authorities to deal with engagements of daily rated mazdoor is the Accounts officer, General services, office of the Director of Accounts (Postal), Lucknow and he has to take action as per report of performance of the job & instructed to such DRM laboureres by the officeres under whom these laboureres are employed. As such the action taken by the Accounts officer, General Services office of the Director of Accounts (Postal), Lucknow to follow the orders of the Dy. Director not to engage further the applicant as D.R.M. labourers is in order.

11. That in reply to the contents of para 6 (k) of the application it is submitted that the admitted with the remarks that those who were giving efficient and ablist services as D.R.M. laboureres were retained as D.R.M. labourers, having no consideration whether they were seniors or juniors to the applicant.

12. That in reply to the contents of para 6(L) of the application are admitted with the remarks that selection as regular employee of Gr. 'D' from D.R.M. Labourers is made under some provisions laid down under standing orders issued by Directorate in this behalf. Those who have fulfilled such conditions as desired by those orders irrespective of the consideration that these are seniors or juniors to the applicant have been selected as regular & employee in Grade 'D'

(Classiv)

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13. That in reply to the contents of para 6(m) of the application it is submitted that the contention of the applicant is not correct. Actually vide D.G. (Posts) New Delhi's letter No. 45/95/87-SPB-1 Dated 10.2.88 the rate of wages paid to casual labourers was changed w.e.f. 05.02.86 at the minimum of the pay of the pay scales D.A. & A.D.A. of the regularly employed workers in the corresponding cadres but without any increment, copy of referred D.G. (Posts) letter is enclosed herewith (Annexure-(1)) The referred D.G. (Posts) letter in this para has no contention of absorption of the casual Labourers as regular employee of the department but only to revise the rate of the daily wages paid to them at the rate of the minimum pay of the regular employee of Group 'D' (Class-IV) cadre + DA & ADA paid.

14. That in reply to the contents of para 6(n) of the application it is submitted that it is wrong to say that the applicant was a regular employee and contents of this para are incorrect. The para (m) above may also be referred to.

15. That in reply to the contents of para 6 (o) of the application it is submitted that the casual Labourers engaged on the basis of daily wages rates are supposed to be paid for the days they have performed work. They do not come within the purview of regular employees governed by any service rules of the Department as CCS(TS) Rules CCS(CCA) Rules etc, and so the applicant does not require any order in writing. He has been paid for the days he has worked. When he was not found fit to be engaged on work, he was not taken for further work which does not require in writing.

16. That in reply to the contents of para 6(p) of the application it is submitted that the constitution of India does not provide any article to safeguard the employees of casual & daily rated mazdoor to give them employment, even

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in the circumstances they are not found fit to work and continue in daily rated mazdoor. As such, the contention of the applicant is irrelevant.

17. That in reply to the contents of para 6 (q) of the application it is submitted that the applicant is as a daily rated mazdoor, not a regular employee and he was not supposed to be given in writing for any act of misconduct misbehaviour but warned verbally. He was warned by his supervisors severally on oral basis which was of no use and consequently he was put off.

18. That in reply to the contents of 6 r) of the application it is submitted that the regularisation of the daily rated mazdoor as regular class IV (Group'D) cadre employee is subject to the review of the proceedings by Department promotional committee of the deserving cases to the extent vacancies available in the cadre. The applicant did not come, during his daily rated workership within the pannel of the candidates found fit for consideration of the D.P.C.

19. That in reply to the contents of para 6(s) of the application it is submitted that the applicant was paid a sum of Rs. 43.10 as Bonus for the year 1985-86 erroneously which was recovered/adjusted from the wages paid for 11/86. Thus the contention of the applicant ~~is~~ is false.


20. That in reply to the contents of para 6 (t) of the application it is submitted that the contention of applicant of this para is denied as he has no ground to be reinstated nor to be paid any salary.

21. That in reply to the contents of para 6(2)(ii) of the application it is submitted that it requires no comments.

Lucknow

Dated:-

20/5/90


Deponent.

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..7..!


Verification

I above named deponent do hereby verify that the contents of para 1 to 21 of the affidavit are true to my personal knowledge and official records. No part of it is false nothing material has been concealed So help me God!


Lucknow

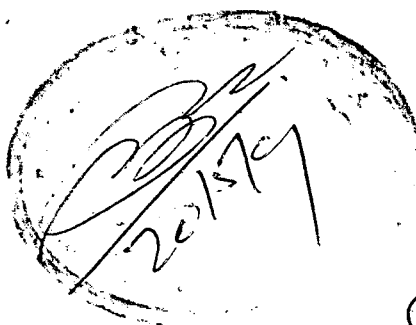
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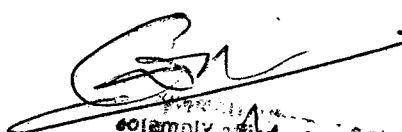
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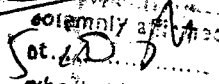

Deponent.

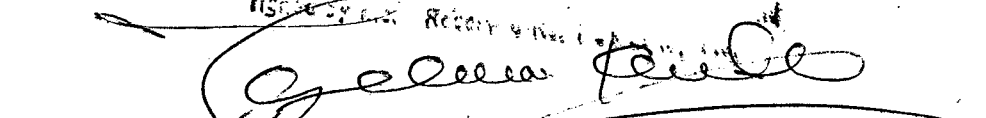
I identify that deponent who has signed before me.


(V.K. Chaudhri)
Advocate.





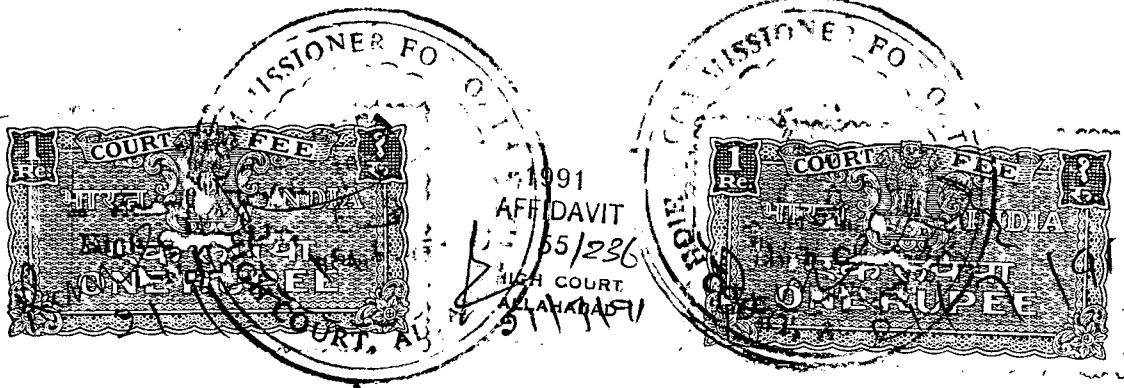

S. K. Chaudhri
V. K. Chaudhri


20/5/90

A-53

In the Central Administrative Tribunal
Additional Bench Allahabad
Circuit Bench - Lucknow.

O.A.No.189 of 1988
Fixed for -31.7.91



Ramesh Kumar Nag

... Petitioner

Vs.

The Union of India & Others... Respondents.

Supplementary Rejoinder Affidavit

I, Ramesh Kumar Nag, age about 26 years S/C Sri Ram Kumar Nag, R/O 252/166, Rakab Ganj Qadim, Lucknow do hereby solemnly affirm as under:-

1. That the deponent has read the supplementary C.A. filed by the respondents. He has understood the contents thereof through his Counsel.

2. That the contents of para 1 of the S.C.A. needs no reply.

3. That the contents of para 2 of the S.C.A. are admitted to the extent of the appointment of the deponent on daily wages but rest of the contents are denied. The Deponent has been paid the salary regularly.



Filed today
31/7/91
252/166/27/1

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The order in writing was necessary to be passed by the appointing authority. The services could not be terminated through an oral order. The deponent has already completed the services of 240 days in a year, hence he has acquired the status of regular employee. The compliance of section-9 was necessary to terminate the services.

4. That the contents of para 3 of the S.C.A. are denied. The allegations have been made against the deponent due to malafide intention. They also appears to be after thought. These allegations were not disclosed in the Counter Affidavit. Further the contents of para 6 (c) are reiterated.

5. That the contents of para 4 of the S.C.A. are admitted with modification that 35 persons were selected. The copy of the list has not been supplied to the petitioner as alleged. The deponent has the right to reply on receipt of the copy of the list.

6. That the contents of paras 5 & 6 of the S.C.A. are denied. The contents of para 6(e & f) of the Application are reiterated.

7. That the contents of para 7 of the S.C.A. are denied. The order was certainly by way of punishment. As already stated above the deponent has acquired the status of regular temporary employee. Hence the provisions of Art. 311 of the Constitution of India are attracted. The enquiry was neces



28/2/57 12-11-57

3.

to establish the guilt of the deponent. The contents of para under reply clearly show that the order was by way of punishment and it deserves to be quashed as the compliance of the principles of natural justice has not been done. No show cause notice has been served. The allegations of doubtful & integrity also amounts to misconduct and an enquiry was necessary. Further the contents of ~~para 7 of the~~ Para 6(g) of the application are reiterated.

8. That the contents of para 8 of the S.C.A. needs no reply.

9. That the contents of para 9 of the S.C.A. are denied. The compliance of the principles of natural justice was necessary, besides the rules referred in para under reply. Further the contents of para 6(1) of the application are reiterated.

10. That the contents of para 10 of the S.C.A. are denied. The termination order has not been passed by the Competent authority. The performance of the work of the deponent are always satisfactory. The allegations of unsatisfactory work, are not correct. The Opp. parties are required to prove the contents.

11. That the contents of para 11 of the S.C.A. are denied. The vague reply has been given. The seniority is the important factor, of the service matter. It could not be

ignored



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ignore. The principle of "FIRSTCOME AND LAST GO" must be observed by the Opp. parties.

12. That the contents of para 12 of the S.C.A. are denied. Further the contents of para 6(1) of the application are reiterated. No Standing Order has been filed to clarify the position. The deponent is entitled to be reinstated in service with full salary.

13. That the contents of para 13 of the S.C.A. are denied. The deponent was entitled to be regularised on his post in the light of the orders issued by the Govt. The point is argumentative which will be argued at the appropriate time. Further the contents of para 6(m) of the application are reiterated.

14. That the contents of para 14 of the S.C.A. are denied. The deponent was certainly a regular employee as he has completed several years services without any break. Further the contents of para 6 (n) of the application are reiterated.

15. That the contents of para 15 of the S.C.A. are denied. The notice in writing was necessary to terminate the services. The deponent was a regular employee. Hence the compliance of the rules was necessary.

16. That the contents of para 16 of the S.C.A. are denied. The provisions of constitution are fully applicable in case of the Deponent. The contents of para 6(p)



28/2/2012

of the application are reiterated.

17. That the contents of para 17 of the S.C.A. are denied. The order is certainly arbitrary and without any basis. The order is not clear. The services could not be terminated through an oral order.

18. That the contents of para 18 of the S.C.A. are denied. The deponent is entitled to be regularised against the clear vacancy which is already available. The juniors have been regularised but the petitioner has been ignored as the regularisation has been done, after the termination of the deponent. The deponent is fully eligible to regularise him on the post. The case of the deponent was not referred to the D.P.C. Further the contents of para 6(r) of the application are reiterated.

19. That the contents of para 19 of the S.C.A. are denied. The Bonus has not been paid. The Opp. parties could not deny the legal position. Further the contents of para 6(s) of the application are reiterated.

20. That the contents of para 20 of the S.C.A. are denied. The grounds taken in the application are just, legal and pressing. The application is liable to be allowed.

21. That the contents of para 21 of the S.C.A. are denied. The deponent is entitled to get the reliefs claimed.

Dated: 21.7.91

21.7.91
Deponent.



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verification.

I, the above named deponent do hereby verify that the contents of paras 1 to 21 of the supplementary Rejoinder Affidavit are true to my knowledge and belief. Nothing material has been concealed and no part of it is false, so help me. God.

Signed and verified today it is the 21st day of July, 1991, in the Court Compound at Lucknow.

21/7/91

Deponent.

I identify the deponent who has signed before me.

(P.N. Bajpai)
Advocate.

Solemnly affirmed before me on 21.7.91 at 12.30 A.M./P.M. by Sri Ramesh Kumar Nag 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.

SHIKHA SRIVASTAVA
OATH COMMISSIONER
High Court of Judicature at
ALLAHABAD
Lucknow Bench Lucknow.
No. 551236
Date 21/7/91

F.P 12/5/89

12/5/89

PSA

Amended Plea

In the Central Administrative Circuit Bench
At Lucknow.

Between

CA No. 109/1986

Ramesh Kumar Nag, s/o Ram Kumar Nag, r/o 252/
166 Rakabganj, Kadeem, Lucknow.

Applicant.

Versus.

1. The Director, Post and Telegraph Aminabad, Lucknow.
2. Deputy Director, Post and Telegraph Office, Aminabad, Lucknow.
3. The Accounts Officer General Services Office of the Director Post and Telegraph Aminabad, Lucknow.
4. The Union of India through the Secretary, Ministry of Post and Telegraph, New Delhi.

Sri Sirish Kumar

Keep on
Record.
Mahendra
29/3/89

Details of Application.

1. Particulars of the Applicant:-

- | | | |
|-------|--|--|
| (i). | Name of the applicant: | Ramesh Kumar Nag |
| (ii) | Name of father: | Sri-Ram Kumar Nag. |
| (iii) | Age of applicant | 25 years. |
| (iv). | Designation and particulars of office (name and station) in which employed before ceasing to be service. | Daily wages in the office post and tele-graph Aminabad, Lucknow. |
| (v). | Office address. | Post and tele-graph office, Aminabad Lucknow |
| (vi). | Address for service of notice.: | Post and Tele-graph office, Aminabad Lucknow |

29/3/89

P. B. Jha
Dated

2. Particulars of the respondents:

- (i). Name of respondent No 1. Ashok Kumar.

- (ii). Name of the father: Not known.
- (iii). Age of the respondent: About 52 years.
- (iv). Designation and particulars of office (name and station) in which employed: Director, Post and Telegraph Office, Aminabad, Lucknow.
- (v). Office Address: Post & Telegraph office, Aminabad, Lucknow.
- (vi). Address for service of notice: Post & Telegraph office, Aminabad, Lucknow.

Particulars of the respondent no. 2.

- (i). Name of the respondent no. 2. Sri R.S.Sharma
- (ii). Name of father: Not known.
- (iii). Age of respondent:
- (iv). Designation and particulars of office (name and station) in which employed: Deputy Director, Post & Telegraph office, Aminabad Lucknow.
- (v). Office address: -As above-
- (vi). Address for service of notice: Deputy Director Post & Telegraph office Aminabad Lucknow.

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

The application is against the following order

- (1). Order no. with reference to Annexure no. 1: Notice u/s 80 C.P.C.
- (ii). Date: 28.7.88.
- (iii). Passed by : No order has been passed.
- (iv). Subject in brief:- ~~That the applicant~~

That the applicant has been stoped to work without any valid reasons and without passing

Subscribed
for
San

any order against the applicant being daily wages though the applicant has completed regularly 240 days and served the department regularly without any break in service past about 6 years upto 28.7.88.

4. Jurisdiction of 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 further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

6. Facts of the Case:-

(a). The facts of the case are given below:

The applicant had joined his service on 22.12.83 on call of the employment exchange being daily wages employed and since then he had been working in the office of the Post and Telegraph Office, Aminabad, Lucknow but without any reasons on 28.7.88 the morning care-taker of the said office said that the applicants service had been termination and he did not allow the applicant to work in the said office.

(b). That the petition recontinued in service till the date of termination from the services i.e. upto 28.7.88. The order in writing were necessary to

28.7.88

P. B. Jha
Adm.