

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O.A 240 of 1989 (C)

Name of the parties

Binkeshwar Prasad

Applicant.

Versus.

Union of India

Respondents.

Part A.B.C.

Sl No.	Description of documents	Page
1.	check list	A1 - A2
2.	order sheet	A3 - A4
3.	Judgment dt. 05-8-91	A5 - A6
4.	petition	A9 - A26
5.	power	A27
6.	Annexures	A28 - A55
7.	counter	A56 - A65
8.	Rejoinder	A66 - A78
9.	lower	A79
	Branch copy	B1 - B70
	C copy	C1 - C11

R/c- Brij 24-6-2011

Certified that no further actions required to taken and that the case is fit for Commitment to the record room (C)

So (5)

check
2/2/12
me

(AL)

9/9/89

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 240 of 1989(L)

APPLICANT(S) Bindeshwari pd.

RESPONDENT(S) Union of India & others

Particulars to be examined	Endorsement as to result of examination
1. Is the appeal competent ?	Yes
2. a) Is the application in the prescribed form ?	Yes
b) Is the application in paper book form ?	Yes
c) Have six complete sets of the application been filed ?	Yes
3. a). Is the appeal in time ?	Yes
b) If not, by how many days it is beyond time?	—
c) Has sufficient case for not making the application in time, been filed?	—
4. Has the document of authorisation/ Vakalatnama been filed ?	Yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	Yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	Yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	—
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 representation 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?	—

17

Particulars to be Examined

Endorsement as to result of examination

11. Are application/duplicate copy/space copies signed? yes
12. Are extra copies of the application with Annexures filed? yes
- a) Identical with the Original? yes
- b) Defective? —
- c) Wanting in Annexures —
13. Have the file size envelopes bearing full addresses of the respondents been filed? —
14. Are the given address the registered address? 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? yes
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

directly

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. OA No 240/89 (W) of 1989

APPELLANT
APPLICANT

B.S. Prasad

VERSUS

DEFENDANT
RESPONDENT

Union of India & Ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
<p>①</p> <p><u>21-9-89</u></p>	<p><u>Hon'ble D.K. Agrawal, J-M.</u></p> <p>Shri S.K. Singh Counsel for the applicant. Heard. This application u/s 19 of the Administrative Tribunal's Act, 1985 has been filed aggrieved with the order of supersession dated 14-6-84 and the order of recovery dt. 25-5-88. The primary question is, as to how the application is within limitation in respect of relief No(1) i.e. supersession by order dt. 14-6-84. On perusal of the record it appears that the applicant was promoted to the Higher Selection Grade II by order dt. 7-5-85. The representation against supersession was made on 8-8-88. Therefore, the applicant has to satisfy how the application is within time. At the end of the arguments, the Learned Counsel for the applicant</p>	

Encl.

by

Since the case is listed for...

3

4

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

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

del

1/1/90

Shri V.K. Chaudhary learned counsel makes appearance on behalf of Op.Ps and requests for a short date. List this case for admission on 5-2-90.

A.M.

V.C.

(sne)

5

5.2.90

No Sillery. Adj. to 14.3.90
4c for the applicant is present

OR
No reply filed
S.F.A.

6

14.3.90

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

Hon. K. Obayya, A.M.

h
13/3/90

Shri S.K. Singh for applicant.

Shri V.K. Choudhary for respondents.

Admit. Let counter be filed within 6 weeks, hereof; rejoinder within 2 weeks thereafter. List for hearing on 27.7.90.

Shakeel/

A.M.

J.M

27.7.90

Hon Mr Justice K. Nath, V.C.
Hon Mr K. Obayya, A.M.

OR
No reply filed
S.F.A.
h
27/7

Shri V.K. Chaudhary files counter on behalf of respondents. The applicant may file rejoinder within 2 weeks and draft the case before OR on 18.7.90 for fixing a date

A.M.

V.C.

RA & not filed

10/9/90

Both the Parties are present.

Applicant has not ~~been~~ filed, Rejoinder, so far. ^{Sufficient} One, two opportunities have already been given. Hence the case is listed for ~~admission~~ on 1.11.90.

1.11.90

S.F.A.

Chaudhary

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A.No.240/89(L)

Bindeshwari Prasad

Applicant

versus

Union of India & others

Respondents.

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

Hon. Mr. K. Obayya, Adm. Member.

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

The applicant, after retirement, had approached this Tribunal praying that the respondents may be directed to promote the applicant on the post of Higher Selection Grade II with effect from 14.6.84 and on the post of Higher Selection Grade I from 1.1.1985 against a vacant post alongwith the payment of arrears and salary for the said post and the order of recovery dated 25.5.88 contained as Annexure No. 1 be set aside and the respondents be directed to decide all the pending representations made by the applicant in this behalf. The respondents have filed counter. The facts that emerge out from the pleadings are as follows: The applicant entered the service of the respondents in the year 1946 as time scale clerk and was promoted to the cadre of Lower Selection Grade with effect from 1.6.1974. In the year 1981 the persons similarly situated like the applicant were confirmed but the applicant was not confirmed and the reason was that the applicant's character Roll was not duly forwarded before the authority. It is for this reason that the applicant was not confirmed. He made representation against the same. Applicant was due for confirmation with

AG

effect from 1.3.1980 and he has been confirmed as such vide order dated 1.8.1984. He was unnecessarily not confirmed with effect from 14.6.84 ^{to} due/the lapses on the part of the government. Several juniors to the applicant have been promoted while the applicant was not promoted.

2. In the counter affidavit, obviously the reason has been assigned that as he was not confirmed in the LSG, his case was not considered by the D.P.C. According to the applicant it was he who was entitled to the vacant post of Deputy Post Master, Faizabad. The case of the applicant should have been considered for confirmation in the year 1981 when officials junior to the applicant were considered and confirmed and it was mentioned in the aforesaid memo dated 25.4.81:

"The cases of the following officials could not be considered by the D.P.C. for want of C.R. file. Their C.R. files should be traced and submitted to this office complete in all respect."

The applicant could not be promoted because of the lapses on the part of the respondents ^{who} which did not promote him or earlier confirmed him, hence he was not promoted on the post. The applicant performed the duties of Post Master (Gazetted) during the period 16.10.85 to 30.10.85, under the orders of Sr. Supdt. Post offices Faizabad vide letter dated 9.9.85 and 30.12.85 and it appears that because he was working as such, he drew salary for it. Later, it appears that on some ~~state~~ audit report that he could not draw the salary, the entire amount was recovered from his salary. Against this the applicant filed departmental representation. The grievance of the applicant is that for no fault and

due to the lapses on the part of the department he was not confirmed earlier. The respondents' plea is that promotion could not have been made by the D.P.C. and criteria for promotion is seniority cum fitness.

According to the applicant the respondents are bound to give promotion to him with retrospective effect.

The respondents have pleaded that 25 years ago some punishment was given to the applicant ^{and that} is irrelevant.

3. After hearing the parties we have gone through the record also. Applicant was not confirmed when his juniors were confirmed, though the applicant was entitled to be confirmed in 1981. There was no justification for not confirming the applicant when his juniors have been confirmed. Accordingly a direction is issued to the respondents to confirm the applicant with effect from 1981 when the juniors of the applicant were confirmed. So far as promotion to the Higher Selection Grade I is concerned, it is a matter to be considered ^{by} for D.P.C. No orders can be passed by the Tribunal in ^{the} this regard. The respondents are directed to summon a Review D.P.C. within 3 months from the receipt of copy of this order and consider the case of the applicant for promotion from the date his juniors were promoted. So far as recovery ^{is} concerned, it could not have been effected unless the applicant could have been given opportunity of hearing, although the recovery has been made and representation is being made. The respondents are directed to consider the plea of the applicant for recovery within a period of three months from the date of communication of this order

In view of the above directions the application stands disposed of finally. No order as to costs.

V.C.

Lucknow Dated : 5.8.91

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 5/9/89
Date of Receipt by Post

Deputy Registrar(J)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH AT LUCKNOW)

Original Appln. No. 240 of 1989(L)

Bindeshwar Prasad

...Applicant

Versus

Union of India & others

...Respondents

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985

For use in tribunals office;

.....

.....

Date of filing.....

Or

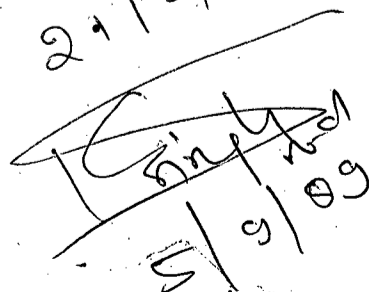
Date of receipt


by post.....

Registration No.....

Signature of the Registrar

Filed today
Noted for
21/9/89


5/9/89



(110)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

Original Appln. No. 240 of 1989(L)

Bindeshari Prasad

... Applicant

Versus

Union of India & others

... Opp. Parties/
Respondents

LIST OF ENCLOSURES

1. Memo of application

2. Annexure No. 1

Copy of impugned order of recovery
dated 25.5.88

17

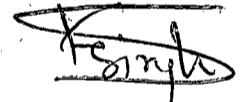
3. Bank Draft No/ Postal order No. ^{DD} 5 029100
Dated 5/9/89 for Rs 50/-only.

4. Vakalatnama

Place: Lucknow

Dated:

Raju/-



(S.K. Singh)
Advocate

Counsel for the applicant

Bindeshari

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

Original Appln. No. 240 of 1989(L)

BINDESHWAR PRASAD,
Son of Late Sri Laxman,
Aged about 61 years,
Resident of Vill. & post Banke Gaown,
District Faizabad.

...Applicant

Versus

1. Union of India through Secretary,
Ministry of Communication,
Department of posts, New Delhi.
2. Post Master General,
U.P. Circle,
Lucknow.
3. Director of Postal Services,
Head Quarter of Post Master General,
U.P., Lucknow.
4. Director of Postal,
Accounts, U.P., Lucknow.
5. Senior Superintendent of Post offices,
Faizabad.

...Respondents

Attested
[Signature]

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985

[Signature]

DETAILS OF APPLICATION1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS BEING MADE;

The above said application is directed before this Hon'ble tribunal for seeking direction that the applicant be declared promoted on the post of Higher Selection Grade-II(H.S.G.-II) with effect from 14.6.1984 subsequently also to set aside the impugned order of recovery passed against the applicant dated 25.5.1988. A copy of the said impugned order of recovery dated 25.5.1988 is annexed herewith as ANNEXURE No.1 to this application. Through this application, it is also requested that the directions may also be issued to the respondents that the petitioner be deemed as promoted on the post of H.S.G.I with effect from 1.1.1985 along with arrears of salary up to the date of retirement dated 31.12.1986.

2. JURISDICTION OF THE TRIBUNAL;

The applicant declares that being central Govt. employee serving under respondents 2 to 5 this application is within the jurisdiction of this tribunal.

3. LIMITATION;

The applicant further declares that the application is well within the limitation prescribed Under Section 21 of the Administrative Tribunals Act, 1985.

Attested
[Signature]

[Signature]

103

(3)

4. FACTS OF THE CASE;

The facts of the case are given below;

- i. That the applicant was initially entered in the service of Opposite Parties in the year 1946 as time scale clerk and was promoted to the cadre of L.S.G. from 1.6.1974.
- ii. That the work and conduct of the petitioner during the entire span of service was of such a high nature that none of the adverse entries has ever recorded or communicated and his services were full of satisfaction to the superior officers.
- iii. That the applicants grievances accrued when vide order dated 25.4.1981 several juniors have been confirmed with effect from 1.3.1980 and the main reason behind this fact was against the applicant that his Character Roll was not duly forwarded before the authority. Against the said confirmation order the applicant made a representation. A Photostat copy of the confirmation order dated 25.4.1981 is annexed herewith as ANNEXURE No2 to this application.
- iv. That as already stated in above paragraph that the petitioner's confirmation was already due with effect from 1.3.1980 which was thereafter done by the appropriate authority vide order dated 1.8.1984 and the applicant has been confirmed with effect from 1.3.1980 without any dispute in

Attested
[Signature]
21/1/85

[Signature]

(4)

seniority. A copy of the order dated 19.8.1984 is annexed herewith as ANNEXURE No. 3 to this application.

v. That ultimately the grievance happened against the applicant on 14.6.84 when several juniors have been promoted on H.S.G.II and the promotion of the applicant has not been considered due to reason stated as above that the confirmation order was not released up to the date of promotion of juniors i.e. 14.6.84. In this regard, it is also stated that when the confirmation of the applicant has been released vide order dated 1.8.84 and he was confirmed with retrospective effect i.e. 1.3.1980 automatically he is entitled to be promoted w.e.f. 14.6.1984 on the date when his juniors have been promoted already. Due to this main grievance the applicant has been harassed up to whole service career and without redressal of the grievance as alleged the applicant has retired on 31.12.1986. In regards the promotion of juniors on the post of H.S.G.II dated 14.6.84 A copy of the same is annexed herewith as ANNEXURE No. 4 to this application.

vi. That though on the basis of confirmation order dated 1.8.1984 the applicant was also promoted vide order dated 7.5.85 on the post of H.S.G.II but in accordance with legal and factual position narrated as above the applicant is entitled for promotion on H.S.G.II w.e.f. 14.6.1984 as there is no dispute in determining the seniority of the

Attested

[Signature]

[Signature]

AS

(5)
applicant as already settled by the authorities making confirmation of the applicant on 1.8.84 with effect from 1.3.1980. A copy of the promotion order has been enclosed as ANNEXURE No. 5 to this application.

vii. That as already stated in above paragraph of this application that the applicant's main grievance accrued for the promotion on the post of H.S.G.II w.e.f. 14.6.1984, the humble applicant made his representation to Opposite Party No. 3 copy to the Opposite Party No. 3 also. In this representation dated 24.11.1984 the humble applicant have stated clearly that now in view of the confirmation with retrospective effect there is no dispute hence he is entitled legally for the promotion on the post of H.S.G.II with effect from 14.6.1984 when juniors have been allowed the same. A copy of the said representation dated 24.11.1984 is annexed herewith as ANNEXURE No. 6 to this application.

viii. That for seeking redressal of his grievances regarding the promotion on the post of H.S.G.II w.e.f. 14.6.84 the humble applicant after 24.11.1984 also made repeated representations and invited the kind attention of all the authorities but it is stated that there is no avail or rejection over any of the application preferred by the applicant.

Attested
[Signature]
[Signature]

[Signature]

816

(6)
ix. That it is crystal clear that the matter regarding the promotion of the applicant with effect from 14.6.84 on the post of H.S.G.II is not disputed and only the implementation has not been made by the authorities for which the petitioner is aggrieved through out inspite of his retirement, the same has not been redressed.

x. That it would also very pertinent to mention that the many juniors have further been promoted on the post of H.S.G.I and the petitioners rightful claim on the said post has also been denied and by virtue of wrongful act of the authorities the applicant has been deprived and not promoted on the post of H.S.G.I and got retired at the age of superannuation. Thus it is crystal clear that the applicant is also legally entitled for the promotion on the post of HSGI w.e.f. 1.1.1985 and also entitled for all arrears etc admissible for the post in question.

xi. That it is stated that regarding the promotion w.e.f. 14.6.84 ultimately on 1.1.1985 several juniors have been promoted on the post of H.S.G.I then the humble applicant again on 8.8.85 in view of the date of knowledge made representation seeking promotion on the post of H.S.G.I w.e.f. 1.1.1985. A copy of the said representation dated 8.8.1985 is also annexed herewith as ANNEXURE No. 7 to this application.

Attested
[Signature]

[Signature]

xii. That for the promotion on the post as alleged in paras above of this application the humble applicant repeatedly made many representation Reminders continuously to authorities such as Opp. Parties 2, 3, 4 & 5 on dated 14.8.85 but to no result or decision as yet and subsequently reiterated all the grievances. The humble applicant again made his reminder to Opposite Party No. 2 & 3 vide his request dated 4.12.1988. A copy of the same is annexed herewith as ANNEXURE No. 8 to this application.

xiii. That many pending representation of the applicant relating to promotion on the post of H.S.G.II and H.S.G.I were pending without any decision ultimately the Opposite Party No. 5 and without assigning any reason/given a show cause notice ~~and~~ issued the impugned order of recovery for Rs 2436.35p. Actually the above said amount pertaining to recovery is related ~~as~~ ^{with} the salary of the applicant which has been drawn by the applicant relating to officiation time to time. It is also stated that prior to ^{passing} ~~sanctioning~~ the impugned recovery order the applicant has never been show caused and explanation has been called upon. Consequently after receiving the impugned order of recovery, Annexure no. 1 the humble applicant on 20.5.1988 preferred an application to Opposite Party No. 5 asking regarding the nature of recovery and also demanded the documents relating to the impugned order of recovery but

Attested
[Signature]
[Signature]

[Signature]

MS

(8)

nothing has been supplied to the applicant and by alleging false allegation of over payment the recovery order has been passed without affording any opportunity which is wholly illegal and bad.

xiv. That regarding the factual position it is very pertinent to mention that the humble applicant after superannuation has been retired on dated 31.12.1986 and the punitive action is being made by the authorities against the retired incumbent in the illegal manner is not sustainable in the eyes of law hence the impugned order of recovery after retirement amounting Rs 2436.35p. is also punitive and does not sustain in the eyes of law.

xv. That relating to the grievances the humble petitioner against the impugned action by way of recovery order dated 25.5.1988 also preferred his representation as retired incumbent to the authorities concerned on dated 10.8.88

and this representation was preferred to Opposite Party No. 2 along with copy to concerned through proper channel. A copy of the alleged representation against the impugned order of recovery is also annexed herewith as ANNEXURE No. 9 to this application.

xvi. That as already stated the humble applicant made repeated request for redressing the grievances relating to his promotion on the post of H.S.G.II and I from the dates when his

Attested
[Signature]

[Signature]

AB

(9)

junior s were promoted and also against the recovery the repeated representation as being made but none of the authorities took any action and the entire matter is pending without any decision to the authorities while the applicant is entitled for promotion as the applicant said in his application with retrpspective dates. As such the impugne d order of recovery for alleging the false allegation of over payment is not sustainable in the eyes of law xxx as theapplicant is entitled for promotion from the due dates and also entitled for the said payment which became the mode of recovery even after retirement and also the punitive action of the authorities in arbitrary manner.

xvii. That lastly the humble applicant after aggrieving the impugned action of the authorities gave a legal notice as a retired incumbent but inspite of number less request neither the promotion of the applicant has been made considered with retrospective effect as due nor the impugned order of recovery has been withdrawn or revoked.

xviii. That in the instant case the applicant has retired as Post Masterhas no other alternate except to file this application before this Hon'ble court as retired Post Master from the service of Opp. Parties . In this respect the matter regarding promotion is very clear without any dispute of seniority and humble applicant is fully entitled

Attested
K. Singh

Sharma

120

(10)

for these and the action of the Opposite Parties denying promotion of the applicant is fully discriminatory in violation of Arts. 14 and 16 of the Constitution of India and also in arbitrary manner. A copy of the last legal notice dated 9th June, 1989 covering all the grievances of the applicant is filed herewith as ANNEXURE No. 10 to this application

xix. That relating to the promotion of the juniors time to time as made and the applicant has been denied for the same. It would very necessary to make it clear that the inter-se-seniority as circulated for the post of L.S.G. the petitioner was at sl. no. 774 while in view of Annexure No. 4 dated 14.6.84 the junior persons having their places at sl. no. 776, 791, 796, 797 and 799 were promoted on the post of H.S.G.II and subsequently one Sri S.K. Adhikari who was at sl. no. 776 below to the applicant has been promoted on the post of H.S.G.I w.e.f. 1.1.1985 and this position has clearly admitted in view of the documents available on record. Thus the applicants grievances relating promotion on the post of H.S.G.II and I as prayed from due dates is just and proper. The Opposite Parties in all respect acted discriminatory in violation of Art. 14 and 16 of the Constitution of India read with departmental service rules applicable for the same.

xx. That relating to promotion as the entire situation narrated the applicant has a rightful claim to get his promotion on the due dates and

Attested
[Signature]

[Signature]

(11)

consequently in view of denying the promotion the adverse fact taken by way of recovery is also not sustainable in the eyes of law and the act of Opposite Parties is always harassing in attitude which is punitive in nature for the retired hand like petitioner. Hence for making all the factual position cleared before the Hon'ble court this application is being preferred for redressal of his grievances by the applicant.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

i. Because the applicant is entitled for promotion on the post of H.S.G.II with effect from 14.6.84, and also on the post of H.S.G.I with effect from the date 1.1.1985 without any dispute in determining the seniority on the posts in question.

ii. Because the petitioner's/applicant's Promotion deliberately released on 7.5.85 while admittedly the petitioner was also confirmed w.e.f. 1.3.1980 along with his juniors as such in view of seniority along with length of service his promotion on the post of H.S.G.II was due on the date 14.6.1984 when his next junior was promoted.

iii. Because without any fault of the applicant as own the authorities acted wrongly and his confirmation was released after the promotion of juniors while the same has been released but without any implementation. As such the act of the authorities denying the promotion of the petitioner is illegal bad and arbitrary in discriminatory in law.

Attested
Singh
Ran

122

(12)

iv. Because in view of another promotion the authorities by virtue of documentary evidence available the applicant's seniority is not disputed and only the promotion on the post of H.S.G.II and I has not released on due dates became the cause of harassing to applicant and up to retirement he has been denied for his rightful claim.

v. Because the repeated representations/reminders of the applicants he has not been considered by any of the authorities.

vi. Because the petitioner inspite of due promotion has been retired in view of his superannuation w.e.f. 31.12.1986 and after that penal consequences as taken by way of issuing recovery is also illegal, bad in law and in arbitrary manner.

vii. Because the impugned recovery against after the retirement of the applicant is not sustainable on the ground that prior to the same none of the opportunity to show cause or explanation has been issued or called.

viii. Because there was no irregularity committed by the applicant, there is no negligence from his duty or causing any loss to Govt. hence the impugned recovery is not sustainable.

ix. Because the impugned recovery is the subject matter of payment already drawn by the applicant for the higher responsibilities and duties

Attested
K. R. N. S.

R. N. S.

125

(13)

Hence the recovery after retirement is not just and proper amounting as punishment for the applicant who rendered meritorious job through out his life under Opposite Parties.

x. Because the impugned order of recovery without affording reasonable opportunity is violative of the every canon of law along with departmental rules applicable for the applicant and the several applications/representations are pending without any decision. As such the impugned recovery without any reason and rhyme is punitive and bad in law having no legs to stand in the eyes of law.

xi. Because the petitioner has been discriminate against his juniors and inferiors, in the matter of promotion and other service benefits

6. DETAILS OF REMEDY EXHAUSTED;

The applicant declares that he has availed all the remedies available to him under the relevant rules etc.

(i) That after aggrieving with the wrongful action of the authorities relating promotion on the post of H.S.G.II, the humble applicant made his first representation on 24.11.1984 contained as Annexure no. 6, and repeatedly thereafter so many representations have been made on dated 8.8.85, 14.8.85 and 4.12.1988 contained as Annexures No. 7&8 and lastly a notice dated 9th June, 1989 as contained as Annexure No. 10 to this application but without any decision as yet.

Attested
[Signature]

[Signature]

124

(14)

(ii) That against the impugned action of recovery after retirement the humble petitioner on dated 10.8.88 vide Annexure No.9 and also repeated the same grievance for redressing the same but without any decision.

7. RELIEF BEING SOUGHT;

In view of the facts mentioned as above the humble applicant prays for following reliefs;

- (A) That this Hon'ble tribunal may be pleased to direct the Opposite Parties that the applicant be promoted on the post of HSGII w.e.f. 14.6.84 and consequently on the post of H.S.G.I from 1.1.1985 ^{against the vacant post of D.P.M. Faizabad} along with the payment of arrears and salary payable for the post along with interest admissible in Rules.
- (B) That this Hon'ble tribunal may be pleased to set aside the impugned order of recovery dated 25.5.88 contained as Annexure No. 1 to this application by declaring its null and void.
- (C) That the Opposite Parties be directed further to decide all the pending representations dated 24.11.84, 8.8.85, and 4.12.88 contained as Annexures 6, 7 & 8 and also the pending representation of 10.8.88 against the impugned order of recovery contained as Annexure No.9 and lastly the

Attested
[Signature]

[Signature]

125

(15)

the representation dated 9th June, 1989
(Annexure No. 10) be decided within a
specified period.

8. INTERIM RELIEF IF PRAYED FOR;

Pending final decision of this application
applicants seek to issue final interim order;

That on the basis of facts and circumstances
it is most respectfully prayed that this Hon'ble
Tribunal may be pleased to Stay the operation of the
impugned order of recovery of Rs 2436.35p. dated
25.5.88 (Annexure No. 1) to this application pending
disposal of the application.

9. MATTER IS NOT PENDING WITH ANY OTHER COURT ETC;

The applicant declares that the matter
regarding the relief sought in the application is not
pending before any other court of law or has been
rejected by any court of law.

D. DETAILS OF INDEX;

Index in duplicate with details of
documents be relied upon as enclosed with the
application.

11. LIST OF ENCLOSURES;

Memo of application along with 1 annexure
vide index as enclosed.

12. The humble applicant wants oral hearing through
his counsel.

Attested
[Signature]
P

[Signature]

13. PARTICULARS OF THE POSTAL ORDER:

Postal order No. ⁰⁰5 029100 Dated 5/9/09
for Rs 50/- only.

VERIFICATION

I, Bindeshwar Pd. Aged about 61 years, Son of Late Sri Laxman, Resident of Village and Post Banke Gaon, district Faizabad do hereby solemnly affirm and state and do hereby verify that the contents of paragraphs 1 to 13 of this application are true to my personal knowledge and belief and that I have no suppressed any material facts.

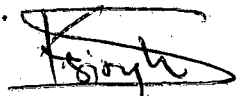
Place: Lucknow

Dated:



SIGNATURE OF THE APPLICANT.

Through



(S.K. Singh)

Advocate,

Counsel for the applicant
618-Jawahar Bhawan, Lucknow



O/O Sr. Supdt. of Post Offices, Faizabad Division, Faizabad.

Memo. No. C/ **Mindachwari Pd. 74/86** Dated at Faizabad, the **25-5-88**

To The Postmaster
Faizabad/Akbarpur H.O.

Sub: Payment of the amount of D.C.R.G. to Shri... **Mindachwari. Prasad**
... P.M. Akbarpur. H.O. Faizabad.

Please arrange to make payment to Shri... **Mindachwari. Prasad**
... P.M. Akbarpur. H.O. Faizabad.
the sum of **₹ 4330/-** (Rupees. **Four thousand one hundred and thirty only**)
being the amount of

D.C.R.G. less recoveries detailed in paragraph 2 as authorised
in the letter no. **PM. 1/ACRM/INT. HQ(P) 1234 P-ICMFC 681/87-88**
dated 12-5-88

2) The following recoveries should be effected from the
payment of gratuity authorised.

1) **₹ 3435-35** (Rupees.....)
being the amount of provisional gratuity sanctioned on....

ii) The outstanding dues **₹ 895/-** recovered may please be
credited through U.C.R. with appropriate details
communicated vide AO-4/Mindachwari Pd. 74/87-88 dated 23-4-88

3) The amount of DCRG is debitable to 3201- 07- 104

The authority No. of the office of the Director Postal
Accounts U.P. Circle, Lucknow as amended in para 1 should
be quoted in payment voucher.....

5) Before payment, it should be ensured that the gratuitant
continue to be qualified if not, the fact should be reported
to the sanctioning authority for the issue of the revised
sanction.

6) It should be noted that the disbursing Officer shall be
held responsible for proper identification of the payee
whose address is Vill. **A P.O. Bankagan Distt. Faizabad.**

7) The acquittance of the gratuitant should be taken on the
reverse of this order with twenty paise revenue stamp
if necessary.

8) The payee is informed of the issue of the order.

9) This authority will remain in force for 2 months from the
date of issue.

10) The date of payment should be intimated to this office.

Copy to:- **Sr. Supdt. of Post Offices,**
Faizabad Division
1) Shri... **Mindachwari Pd. Vill. & P.O. Bankagan Distt. Faizabad.**
2) The D.P.A. Lucknow.
3) The Director Postal Accounts through the PM Faizabad/Akbarpur.
4) The P.M.G.U.P. Circle, Lucknow.
5-6) O/C & Spare.

[Signature]

(123)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW

Original Appln. No. of 1989(L)
Bindeshwari Prasad ... Applicant

Vs.
Union of India & others ... Respondents

I N D E X

-
- | | |
|---|----------|
| 1. <u>Annexure No. 2</u> | |
| Copy of impugned order dt. 25.4.81 | 1 to 2 |
| 2. <u>Annexure No. 3</u> | |
| Copy of order dt. 1.8.1984 | 3 to 4 |
| 3. <u>Annexure No. 4</u> | |
| Copy of order dt. 14.6.84 | 5 to 6 |
| 4. <u>Annexure No. 5</u> | |
| Copy of order dated 7.5.1985 | 9 to 10 |
| 5. <u>Annexure No. 6</u> | |
| Copy of representation dt. 24.11.84 | 11 to 12 |
| 6. <u>Annexure No. 7</u> | |
| Copy of representation dt. 8.8.85 | 13 to 15 |
| 7. <u>Annexure No. 8</u> | |
| Copy of representation dt. 4.12.88 | 16 to 17 |
| 8. <u>Annexure No. 9</u> | |
| Copy of Notice dt. 10.8.88 | 19 to 20 |
| 9. <u>Annexure No. 10</u> | |
| Copy of final representation dt. 9.6.89 | 22 to 23 |
-

Place: Lucknow

Dated:

Raju/-

(S.K.Singh)
Advocate,
Counsel for the applicant

INDIAN POSTS & TELEGRAPHS DEPARTMENT

OFFICE OF THE POSTMASTER GENERAL U.P. CIRCLE LUCKNOW

Memo. No. STA/763 XC/XIV/7 dated 25-4-1981

The following officials who were placed on probation are confirmed in LSG (Postal Genl. line) cadre from the dates shown against their names. The liens of the officials may be shown against the posts from the date of confirmation as noted against each. The se posts of lien will, however, not effect their present station of posting and do not confer any right on any official for posting against the particular post.

Sl. No.	Name of the Officials with present Division of posting.	Date of confirmation.	Post against which lien be shown	Cause of vacancy.
1.	2.	3.	4.	5.
168.	M.Z. Qureshi KP HO	L-3-80	SPM JNP Kty.	Vice Sri G.P. Lal Retd.
169.	M.M. Verma Jhansi	L-3-80	SPM Ahraura	JI Vice Sri B.C. Joshi Retd.
170.	O.P. Attri M. Nagar	L-3-80	APM RBL HO	Permanency of post.
171.	Faujdari Ram AZM	L-3-80	SPM Sarswa SHN	-do-
172.	A. Singh MT	L-3-80	APM II Basti HO	-do-
173.	R.S. Shukla LW Dn.	L-3-80	PRI(P) Nirala-	-do-
174.	M.M. Khan VSI W	L-3-80	SPM nagar LW Dn.	-do-
175.	S.K. Adhikari Alld.	L-3-80	PRI(P) Rejan-	-do-
176.	S.N. Sritastava	L-3-80	dra Nagar LW Dn.	-do-
177.	H.S. Tripathi PTB	L-3-80	PRI(P) BR HO	-do-
178.	G.P. Srivastava VSI E	L-3-80	SPM Mirganj BR	-do-
179.	S.S. Sharma MRD	L-3-80	APM RBL HO	-do-
180.	J.N. Mishra Deoria	L-3-80	SPM Jais RBL	-do-
181.	S.N. Pandey Ballia	L-3-80	APM II MRD	-do-
182.	S.N. Ram Ghazipur	L-3-80	PRI(P) Budaun	-do-
183.	K.K. Mishra GR	L-3-80	APM ALG HO I	-do-
184.	Allah Bux Alld.	L-3-80	APM ALG HO II	-do-
185.	B.B. Lal Azm.	L-3-80	SPM Charra Alg.	-do-
186.	H.H.D. Pandey Kheri	L-3-80	APM LW HO	Vice Sri Sheer Murat Singh Retd.
187.	R.K. Nigam LW HO	L-3-80	SPM Subhash Road Alg.	Permanency of post.
188.	R.C. Srivastava VSI(W)	L-3-80	SPM Rath Banda	Vice Sri Sardul Singh Retired.
189.	J.A. Siddiqui BR	L-4-80	SPM Bharthana	Vice Sri A. B. Bhattachar-
190.	A.M. Khan LW HO	L-4-80	APM BR HO	ya retd.
			APM RBL HO	Vice Sri H.P. Awasthi Retd.
				Vice Sri J.S. Saxena MTR Retired.

Attested

[Signature]

Contd.....

[Signature]

1430

191. S/S Maharaj Singh Agra	L-5-20	APM BR HO	Vice Sri Shiw Swarup Retired.
192. N.S. Rawat D.Dun.	L-5-20	SPM Puranpur Pilibhit	Vice Sri B.N. Tewari retired.
193. A.A. Aziz Basti	L-5-20	APM MRD HO	Vice Sri R.N. Chaube Retired.
194. S.N. Rai Ghazipur	L-6-20	APM Alld HO	Vice Sri P.L. Asthana Retired.
195. M.P. Srivastava (KP)M)	L-7-20	Supr. ETW HO	Vice R.L. Yadava Retired.
196. R.P. Sharma MHD	L-7-20	APM LW HO	Vice Sri V.K. Shukla retired.
197. Bidhi Ram RBL	L-7-20	APM Sultanpur	vice Shri J.P. Mishra retired.
198. R.N. Singh Mirzapur	L-7-20	SPM Kichha NT	Vice Sri S.M. Mustafa retired.
199. D.P. Saxena II Alg.	L-7-20	Supr. SHN HO	Vice Sri Prahlad retired.
200. D.N. Shukla Kheri	L-7-20	Supr. D.Dun HO	Vice Sri S.N. Mishra retired.
201. K.B. Tripathi LW HO	L-7-20	SPM Kalagarh MRD	Vice Sri V.S. Arya retired.
202. Ram Krishna Mishra KP HO	L-7-20	SPM Didihat (Pith)	Vice Shri S.N. Kumar retired.
203. A.B. Singh PTB	L-7-20	APM MTR HO	Vice Sri P.N. Gaur retired.
204. R.S. Mishra Sultanpur	L-2-20	SPM Bhadohi	Vice Sri M.S. Sadaohari Retd.
205. R.C. Srivastava GR	L-2-20	SPM Hapur	Vice Shri M.L. Gupta Retired.
206. Bhowal ji Tewari VSI (B)	L-2-20	SPM Anupshahr	Vice Sri P.S. Bhandari Retd.
207. Mohd Waliullah GR	L-2-20	APM GR	Vice Sri K.C. Gupta Retd.
208. R.K. Srivastava (KP)M)	L-2-20	SPM Prem nagar	Vice Sri S.R. Agarwal Retired.
209. M.M. Rizvi STB	L-2-20	SPM Khatauli	Vice Sri H.K. Agarwal Retd.
210. S.L. Verma BSR	L-2-20	APM Nawabganj KP Dn.	Vice Sri H.L. Srivastava retd.
211. R.D. Lal VSI (B)	L-2-20	SPM Bhangsa FTG	Vice Sri L.S. Singh retired.
212. K.K. Garg Alg.	L-2-20	Supr. Orai HO	Vice Shri Sharda Pd. Srivastava Retd.
213. Shubhuddin Sultanpur	L-3-20	APM Banda HO	Vice Sri B.L. Sharma Retired.
214. Tapesh Meitra GR	L-9-20	APM Bahraich HO	Vice Sri M. Hussain retired.
215. K.P. Srivastava Kheri	25-9-20	SPM Garga GR	Vice Sri S.R. Srivastava Expire
216. J.P. Gupta I M. Nagar	L-10-20	APM Haldwani HO NT	Vice Sri Mhd Nasim retired.
217. S.C. Bhattacharya VSI (B)	L-10-20	SPM Kotdwar SO Pauri	Vice Sri R.S. Yadava retired.
218. H.S. Rawat D.Dun	L-10-20	SPM Gangwaria MT	Vice Sri B.D. Dwivedi retired.
219. R.S. Shukla PTB	L-10-20	SPM New Mandi SHN	Vice Sri S.M.L. Kaithana retired.

Attested

Sharma

A31

Annexure No - III

INDIAN POSTS & TELEGRAPHS DEPARTMENT
OFFICE OF THE SR. SUPDT. OF POST OFFICES, FAIZABAD DIVISION.
MEMO.NO.B-17/Gehl/84-85 Dated at Faizabad-224001, the 18.8.84

In accordance with the Director Postal Services (Headquarters) Lucknow Memo.No.STA/763-XC/XV/7 dated 1.8.84, the following officials who were placed on probation are confirmed in L.S.G.(Postal General Line) cadre from the dates shown against their names. The lien of the officials may be shown against the posts from the date of confirmation as noted against each. These posts of lien will, however, not effect present station of posting and do not confirm any right on any official for posting against the particular posts.

Sl.No.	Name of the officials with present Division of posting.	Date of Post against confir- mation.	Post against lien be shown.	Cause of vacancy.
1.	2.	3.	4.	5.
1.	Shri S.M. Prasad A.P.M. Faizabad H.O.	1.7.77	Supervisor	Vacant
2.	" Bindeshwari Pd. SPM.Bikapur(Fyd)	1.3.80	Azamgarh HO	Post
3.	" R.S. Giani PRI(P) Faizabad	1.3.80	P.R.I.(P) Alambagh	-do-
4.	" Mohd. Sabir Khan APM.Akbarpur H.O.	1.3.80	PRI(P) Dilkhusa Lucknow.	-do-
5.	" Kam Bahadur Khare APM.Faizabad HO	1.6.80	A.P.M. Agra H.O.	-do-
6.	" P.N. Mishra KP(C)	1.3.81	SPM. Sikandrarao Aligarh.	-do-
7.	" Girdhari Lal (SC) Basti.	1.3.81	APM.II. Faizabad H.O.	Post made permanent
8.	" D.N. Srivastava Lucknow.	1.3.81	Supr.Akbarpur H.O. (Fyd).	-do-
9.	" H.G.Pathak N.T.	1.7.82	S.P.M. Jahangir-anj.(Fyd)	Vacant Post.
		1.10.82	A.P.M. Faizabad HO.	-do-

Contd..... 2.

Attested
*[Signature]**[Signature]*

(Annexure No - IV)

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

OFFICE OF THE POSTMASTER GENERAL, U.P. CIRCLE, LUCKNOW.

Memo No. STA/181-XA/HSG-II/84/2 Dated at Lucknow-226001- 14.6.84.

Sub:- Promotion/Posting/Transfer in HSG-II cadre (Postal).

A:-

The Director Postal Services (HQ) U.P. Circle has ordered the following promotions and postings in HSG-II cadre, with immediate effect on purely temporary and on adhoc basis till further orders:-

Sr. No.	Name & designation of the ISG Official.	Station to which posted.
1.	Shri R.K. Mukherjee, Allahabad Division.	P.M. Lalgarh. (RAL) 182/2/84
2.	Shri L.B.S. Sarkari, Gorakhpur Division.	P.M. Padrauna. 12
3.	Shri Hafizullah, Ballia Division. APPP/c, 10	P.M. Mau Nath Bhanjan.
4.	Shri L.R. Khandoker, Jhansi Division.	P.M. Lalitpur 2
5.	Shri Rajeshwar Prasad, Meerut Division.	P.M. Shamli. 1
6.	Shri N.K. Mitra, Aligarh Division.	P.M. Khurja. 2
7.	Shri S.K. Sharma, Muzaffarnagar Division.	Manager P.S.D. Saharanpur
8.	Shri Baboo Lal Verma, Agra Division.	S.P.M. Bareilly City.
9.	Shri P.S. Kitchner, Jhansi Division.	P.M. Orai.
10.	Shri Shafiul Hasan, Moradabad Division.	Dy. P.M. Moradabad.
11.	Shri Gul Chaman Lal, Agra Division.	Dy. P.M. Bareilly
12.	Shri N.K. Soth, Agra Division.	P.M. Baraut.
13.	Shri D.S. Bajpai, Kanpur H.O.	P.M. Kanpur Cantt.
14.	Shri R.K. Prasad, Allahabad Division.	P.M. Fatehpur.

P.T.O.

Attested
[Signature]

[Signature]

(7)
483

-3-

34. Shri S.N.Pandey,
Ballia Division.

P.M. Bijnor

35. Shri S.N.Ram,
Ghazipur Division.

S.P.M. B.H.U. Varanasi.

S.C. CANDIDATES

1. Shri Attar Singh,
Meerut Division.

P.M. Hapur.

2. " S.Ram,
Basti Division.

S.P.M. Mussoorie.

3. " D.Lal,
Kanpur City.

P.M. Firozabad. (Agra)

4.7 " B.J.Kanojia,
Allahabad Division.

Dy. P.M. -2 Allahabad.

5. " Bhagwan Din Rawat,
Kanpur H.O.

S.P.M. Kashipur (Nainital)

6. " R.S.Jatav,
Orai Division.

S.P.M. Civil Lines (Agra)

7. " A.P.Aharwar-II,
Orai Division.

P.M. Tilhar. (Shahjahanpur)

8. " S.Lal,
Fatehgarh Division.

P.M. Sahaswan (Budaun)

9. " M.B.Ram,
Allahabad Division.

P.M. Pilibhit.

10. " G.Prasad,
Basti Division.

P.M. Pauri.

11. " P.Nath,
Gorakhpur Division.

P.M. Gopeshwar.

"B"

The Director Postal Services (HQ) has ordered transfer of the following official at his own request and cost to the places mentioned against his name:-

1. Shri Mahavir Prasad Sharma,
SPM Mussoorie.

S.P.M. Modinagar.

"C"

The officials above should clearly understand that their promotion in HSG-II cadre is purely temporary and on adhoc basis and would not bestow upon them any right for continued officiation or regular absorption and seniority in HSG-II cadre.

P.T.O.

Attested
[Signature]

[Signature]

Annexure No - V

DEPARTMENT OF POST

OFFICE OF THE DIRECTOR POSTAL SERVICES, LUCKNOW REGION, LUCKNOW.

Memo No.: RDL/STA/X-5/I

Dated: At Lw. 7.5.85.

Subject : Promotion, Transfers and postings in H.S.G.-II Cadre.

The Director Postal Services, Lucknow Region, Lucknow has ordered promotions, transfers and postings of the following officials of H.S.G.-II Cadre allotted to this Region vide P.M.G. N.P. Lucknow memo No. STA/181-XA/HSG-II/84/Ch.II/2 dated 23.4.85. The promotions of these officials in H.S.G.-II cadre will be with immediate effect on purely temporary and ad-hoc basis till further orders:-

Sl. No.	Name of the official	Present posting	Transferred to	Remark
1.	Shri P.C. Bapuli	LSG Lucknow GPO APM A/C	Dy. P.M. Lucknow G.P.O.	-
2.	Shri R.K. Nigam	LSG Lucknow GPO	Dy. P.M. Lucknow G.P.O.	
3.	Shri H.H.D. Pandey	APM A/C Kheri	P.M. Tilhar H.O.	
4.	Shri R.S. Giani	LSG Faizabad	Postmaster Akbarpur HO	
5.	Shri Bindeshwari Prasad	LSG Faizabad	S.P.M. Rajendra Nagar Lucknow.	
6.	Shri J.A. Siddiqui	APM Bareilly	Dy. P.M. Bareilly,	
7.	Shri Q.A. Agiz	LSG Basti	S.P.M. Dilkusha Lucknow.	
8.	Shri D.N. Shukla	LSG Kheri	SPM Bareilly City	
9.	Shri K.B. Tripathi	LSG Lucknow GPO	Dy. P.M. Lucknow GPO	
10.	Shri K.P. Srivastava	LSG Kheri	SPM Aminabad Lucknow after punishment, over.	
11.	Shri Indal	LSG Raebareli	P.M. Sandila HO	
12.	Shri R.N. Pandey	APM A/C Lucknow G.P.O.	Dy. P.M. Lucknow GPO	
13.	Shri Ram Dular	LSG Pratapgarh	P.M. Lalgaon HO.	

Contd...2.

Attested

[Signature]

[Signature]

1435

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, (11)

CIRCUIT BENCH AT LUCKNOW

O.A.NO. of 1989(L)

Bindeshwari Prasad ...Applicants

Versus

Union of India & others ...Respondents

Annexure No. 6

To,

The Senior Supdt. post offices,
Faizabad.

Sub:- Promotion to the Cadre of H.S.G.II.

Sir,

The applicant Bindeshwari prasad sub postmaster Bikapur most respectfully begs to submit that in the Circle Gradation list of Lower Selection grade official the name of the applicant is at serial No. 774. The Director postal Services (H.Q.) Lucknow has promoted L.S.G. officials upto serial No. 799 to the cadre of H.S.G.II. The cases of S/Sri Bindeshwari prasad and Ram Singh Giani who were due to be promoted were not considered on the ground that confirmation orders were not issued. On further enquiry it was found that due to non submission of confidential records by the S.S. post Faizabad the case for confirmation of 11 officials including applicant were not considered. Even when confidential records were received in C.O. no action was taken for issue of confirmation order for 3 years. It is when the officials & the applicant represented confirmation orders were issued.

Attested
[Signature]

2
[Signature]

It is thus established that the applicant and Shri R.S. Giani has been denied enjoyment of likely promotion which will effect the pension, Gratuity etc. also due to administrative errored the applicant is for his promotion from the data juniors were promoted. This is the position on Circle basis.

On divisional basis the post of Deputy postmaster Faizabad is vacant as Shri S.M. prasad has been transferred as postmaster Akbarpur where junior official than applicant is working. Even if Shri S.M. prasad refuses to go there the applicant is to be promoted either as postmaster Akbarpur or Dy. postmaster Faizabad. It is also to be mentioned that applicant is due to retire on 31.12.86 and in case he is promoted immediately he will earn two increments in H.S.G.II.

It is requested that orders promoting applicant to cadre of H.S.G. be issued early.

Yours faithfully,

Bindeshwari prasad
(Bindeshwari prasad)
S.P.M. Bikapur. 24.11.84

Copy to D.P.S. (HQ)

Lucknow for information & N/A.

Attested
[Signature]

[Signature]

437

(13)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

Circuit Bench At Lucknow

O.A.No. of 1989 (L)

Bindeshwari Prasad ... Applicants

Versus

Union of India & others ... Respondents.

Annexure No. 7

To,

The Director Postal Services,
Lucknow Region,
L U C K N O W.

Through: The Senior Supdt. Post Offices, Faizabad.

Sub: ~~Promotion~~ Promotion of Bindeshwari Prasad Postmaster
Akbarpur (Faizabad) to cadre of Deputy P.M.
Faizabad in H.S.G.IK.

Sir,

The applicant, Bindeshwari prasad beg to
submit as under :-

1- That the applicant was due to be promoted to
the cadre of HSG.II with effect from June 1984 but due
to administrative error attributable to the Supdt.

Post Offices in 1981 the confirmation order in LSG was
not issued as ~~z~~ confidential records were not submitted
when cases of confirmation was considered in 1981.

Even though confidential records were submitted in 1981
confirmation order in LSG was issued after June 1984.

The applicant suffered loss of seniority as well as
financial.

2- That the applicant was posted as P.M. Akbarpur
in Adhoc arrangement in Dec. 1984 by the S.S. Post

Attested
[Signature]

[Signature] 2

138

-2-

(14)

Faizabad and was posted by your office when the applicant was approved by D.P.C. in June 1985.

3- That the post of Deputy Postmaster Faizabad in HSG.I is Vacant since long and local arrangements were made by the Sr. Supdt. Post Offices Faizabad from L.S.G.KK official by down grading the post into H.S.G.II as the then P.M. Akbarpur was not willing to work as Deputy Postmaster and no other HSG.II post is available in Faizabad Dn.

4- That from 1-3-85 the post of Deputy Postmaster Faizabad had fallen vacant and even though the applicant was at the said time officiating in HSG.II, he was not promoted on the ground that the applicant was not approved by D.P.C.

5- That even after approval of D.P.C. in June, 1985 the applicant was not promoted and posted as Deputy P.M. Faizabad in H.S.G.I.

6- That as the post of Dy. P.M. in HSG.II only to be filled in by promotion of HSG.II official and the applicant is only official in HSG.II the S.S. Post Faizabad had not made any arrangement and has kept the post vacant with sole motive to deprive the applicant from promotion to above cadre.

7- That the applicant is due to retire in December 1986 and he has to serve the department for one & half year only.

Attested
[Signature]

[Signature]...3

A39

-3-

(15)

8- That the applicant submitted application for his promotion to S.SPost Faizabad on 1-7-85 who replied as under :-

"It is to be intimated that work of Akbarpur H.O. has been badly back. Therefore your services are necessary as Postmaster Akbarpur H.O. till the pending work of Akbarpur H.O. is brought upto date."

9- That even since Akbarpur H.O. was upgraded the work was not brought upto date and when applicant was posted in December 1984 it was heavily in arrears which is not the position now. It is also submitted that such contingency has arisen in the past and present due to non posting of efficient staff in Akbarpur H.O.

This is, however no ground for over looking promotion.

It is, therefore, requested that the applicant be ordered to be promoted as Deputy Postmaster Faizabad locally.

Yours faithfully,

(Bindeshwarl Prasad)

Dated: 8.8.85

Attested
[Signature]

[Signature]

16

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH AT LUCKNOW

O.A.No. of 1989 (L)

Bindeshwari Prasad ---Applicants

Versus

Union of India & others ---Respondents

Annexure No.8

To,

1. The Director General, (Posts)
New-Delhi.
2. Postmaster General,
U.P. Circle, Lucknow.

Sub:- Promotion of Bindeshwari Pd. to the cadre of
H.S.G.II and H.S.G.I from 1.6.84 and from
thedata Shri S.K. Adhikari and G.P. Srivastava
were promoted to H.S.G. I.

Srl,

The above named applicant, Bindeshwari Prasad
now retired Postmaster Akbarpur in H.S.G.II resident of
village Bankey Gaon, Post Bankey Gaon, begs to submit
as under :-

1- Fact of the case in brief are that the applicant
had submitted representation to the Postmaster General
U.P. Circle Lucknow and Director Postal Services, Lucknow
for giving effect of promotion to H.S.G.II Cadre which
was given in May 85 instead of June 1984 when junior
officials were promoted. Non promotion from June 1984
was due to the administrative lapses and the applicant
who had brilliant record of service was entitle for

Attested
[Signature]

[Signature] ...2

(17)

promotion to H.S.G.II cadre from June 1984. The copy of the representation is attached as Annexure (A).

2- That neither the P.M.G. U.P. nor the Director Postal Services H.O. decide the case and gave effect of the order of promotion to H.S.G.II cadre from 1984. The applicant retired from service from 31.12.86. This non promotion to H.S.G.II cadre had effected the pension of the applicant.

3- That within the period of 1984 to 1986 Shri S.K. Adhikari who was junior to me and who was promoted to H.S.G.II cadre from June 1984 was promoted to the cadre of H.S.G.I and he retired from the post of H.S.G.II. Shri S.K. Adhikari was official of Allahabad Division.

4- That due to the reasons attributable to the P.M.G. U.P. Circle Lucknow in not deciding the representation the applicant was deprived of his promotion to H.S.G.II cadre. The applicant has submitted several representation in this regard but no action was taken.

5- That their lordships of Central administrative Tribunal Chandigarh has held in the case of Roshan Lal Vs. Union of India reported in A.T.R. 1987 at page 221 that an official is entitled for promotion and pay and allowances of the higher post from the date the juniors were promoted.

Attested
[Signature]

[Signature]

442

-3-

(10)

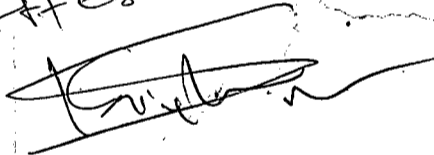
It is, therefore, prayed that the case of the applicant & be considered in the light of fact mentioned in appeal and above and orders be issued for promotion of the applicant from June 1984 and EX H.S.G.I from due date.

Yours faithfully,


(Bindeshwari Prasad)

Dated: -4-12-88

Attested





AMB

(19)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH AT LUCKNOW

O. A. No.

of 1989 (L)

Bindeshwari Prasad

...Applicants

Versus

Union of India & others

...Respondents

Annexure No. 9

To,

The Postmaster General,
U.P. Circle,
LUCKNOW

Sub:- Illegal recovery of Rs. 2436.85 from D.C.R.G.
of Bindeshwari Prasad retired Postmaster Akbar-
pur (HSGII) ordered by S.S. Post Faizabad
vide No. C/BindeshwariPd./807 dated 25.5.88
(Copy enclosed as annexure (A)).

Sir,

The above named applicant Bindeshwari Prasad
retired Postmaster Akbarpur resident of village and
post Bankeygaon District Faizabad begs to submit as
under :-

Facts of the case in brief are that the applicant
was appointed as Postmaster Akbarpur by the Director
Postal Services Lucknow Region vide Memo.No. RDL/STR/
X-5/1 dated 7.5.85 modified vide memo. of even No. 30, 5.85.

2- That while applicant was working as Postmaster
Akbarpur in H.S.G.II he was promoted in the cadre of
H.S.G.I. and posted as officiating D.P.M. Faizabad by
S.S. Post Faizabad vide memo.No. B-4/HSG/84-85 dated
9.8.85 (copy enclosed as annexure (B)).

Attested
[Signature]

[Signature]...2

3- That the applicant joined Faizabad H.O. as D.P.M. in H.S.G.I. on 29-8-85 and his pay was fixed at Rs. 730/- in H.S.G.I.

4- That the then Postmaster Faizabad Shri A. Banerji proceeded on leave and the applicant was ordered to officiate as Senior postmaster Faizabad. He worked as such from 16.10.85 to 30.10.85 and his pay was fixed at Rs. 775/-.

5- That from 31.10.85 to 2.1.86 the applicant worked as D.P.M. Faizabad in H.S.G.I. and drew pay of 730/-.

6- That Shri A. Banerji Senior postmaster Faizabad founded on leave again and applicant was ordered to officiate as Senior Postmaster Faizabad and he worked as such from 3.1.86 to 27.2.86 afternoon.

8- That the applicant retired from service on 31-12-86 afternoon.

9- That the Senior Supct. post Offices, Faizabad has ordered that Rs. 2436.85 N.P. Serscovered from D.C.R.S. of the applicant vide order dated 25.5.88 (annexure A) but did not disclose why the amount is to berecovered.

10- That the applicant requested the S.S. Post Faizabad and Senior Postmaster when he came to know that aforsecic amount is to berecovered from D.C.R.S.

Attested
[Signature]

[Signature]

1445

--3-2

(2)

as per direction of Director Postal A/C Lucknow, but neither the copy of said direction of Director Postal account, Lucknow was supplied nor reasons for said proposed recovery was made known to applicant nor any opportunity to make representation was afforded (copy attached as annexure (C)).

11. That inspite of repeated request and personal interview the Senior Supdt. post Faizabad and Senior postmaster Faizabad did not intimate reasons with the result that the D.C.R.G. has not been fully paid to applicant Rs. 4118/- 4118/- + 1000/- i.e. 5118/- is outstanding for payment due to reasons attributable to Senior Supdt. Post Offices, Faizabad.

12- That in this way harassment is being caused to the applicant due to arbitrary orders passed by the Senior Supdt. Post offices, Faizabad and Director Postal Accounts, Lucknow without giving reasons for such recovery and affording reasonable opportunity to make representation against such illegal recovery.

...a

Attested

[Signature]

[Signature]

446

-4-

(22)

P R A Y E R

The applicant prays that the Senior Supdt. post Offices, Faizabad be directed to cause payment of outstanding D.C.R.G. amounting to Rs. 5118/- at an early date.

YOURS FAITHFULLY,

(Bindeshwari Prasad)
retired postmaster Akbarpur
r/o village Bankaygaon
P.O. Bankaygaon Dt.
Faizabad.

Dated:- 10-8-88

Copy to the S.S. Post Faizabad for taking action for causing payment of D.C.R.G. of Rs. 5118/-

2) Shri B.P. Singh, Director postal Services,
Lucknow for information and n/a.

Attested
[Signature]

[Signature]

117

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

(23)

CIRCUIT BENCH AT LUCKNOW

O. A. No. of 1989 (L)

BINDESHWARI PRASAD ...Applicants

Versus

Union of India & others ...Respondents

Annexure No. 10

From: Bindeshwari Prasad son of Late Lazman Prasad,
retired Postmaster, Akburpur, resident of
village and Post Bankey Gaon District Faizabad.

To,

1. Union of India through Secretary Ministry of
Communication Department of posts, New-Delhi.

2. Postmaster General, U.P. Circle, Lucknow.

3. Director of Postal Services (HQ) office of
postmaster General, U.P. Lucknow.

4. Director of Postal Accounts, Lucknow.

5. Senior Supdt. of post Offices, Faizabad.

Kindly taken notice on the facts, cause of
action and relief claimed in the proposed application
to be filed in the Hon'ble court of Central Adminis-
trative Tribunal, Allahabad. If the requisite relief
are not fulfilled with period of 30 days application
will be filed in the court of C.A.T. Allahabad.

Attested
[Signature]

(Bindeshwari Prasad)

[Signature]
...2

Aug

PROPOSED APPLICATION.

1. Particulars of the applicant- Bindeshwari prasad retired Postmaster, Akbarpur, resident of village and Post Bankey Gaon, District Faizabad, age 60 yrs.

2. Particulars of respondents- 1. Union of India, through Secretary, Ministry of Communication, Department of Posts, New-Delhi.

2. Postmaster General, U.P. Circle, Lucknow.

3. Director of Postal Accounts, Lucknow.

4. Director of postal Services (H.Q.) office of P.M.G. U.P. Circle, Lucknow.

5. Senior Supdt. post Offices, Faizabad.

3. Facts of the case-

1. That the applicant entered in the P&T Department in the year 1946 as Time Scale Clerk and he was promoted to the cadre of L.S.G. from 1.6.74.

2. That the applicant was due for confirmation in the year 1980 and when the cases of officials for confirmation was considered in the year 1981, the case of the applicant was not considered as the Senior Supdt. post offices, Faizabad Division had not submitted the confidential records. This fact has been admitted by the Director of Postal Services Head Quarter Lucknow in the memo No. STA/763-XC/XIV/7 dated 15-4-81.

Attested
Rajendra

...3
J. M. Singh

415

-3-

(25)

3. That the following Junior officials whose names at Serial No. in the gradation list mentioned against each were confirmed vide memo No. STA/763-XC/XIV/7 dated 25-4-81.

- | | | | |
|----|---------------------|----------------------------------|------|
| 1. | Shri S.K. Adhikari- | Allahabad Division - | 776. |
| 2. | " | G.P. Srivastava- Varanasi East - | 791. |
| 3. | " | J.N. Misra- Deoria Division - | 796. |
| 4. | " | S.N. Pandey- Balia Division- | 797. |
| 5. | " | S.N. Ram- Ghazipur Division - | 799. |

The name of the applicant in the same gradation list is at serial no. 774. He had brilliant record of service and had the Supdt. of post offices, Faizabad Division sent the confidential records of the applicant to the Director of Postal Services (Head Quarter) Lucknow he would have been confirmed along with aforesaid junior officials.

4. That even on the representations made by the applicant and other officials whose case were not considered for want of C.R. the Director of Postal Services H.Q. sat tight over the case and did not call the review D.P.C. to consider the cases of confirmation of the applicant and other 33 officials for three years. It was in April 1984 i.e. after 3 year that the Director of postal Services Head Quarter Lucknow issued memo of confirmation vide No. STA/763-XC/XV/7 dated 1.8.84 confirming the applicant from 1.3.80

Attested
[Signature]

[Signature]...4

A50

5. That within mean time the cases of those L.S.G. officials who were confirmed vide memo No. STA/763-XC/XIV/7 dated 25.4.81 and who were junior to the applicant were considered and they were promoted to the cadre of higher secection grade vide memo No. STA/BSG II/84/2 dated 14-6-84. Copy is enclosed as Annexure 'A'.

6. That the case of the applicant was not considered for promotion to the cadre of H.S.G. II for the reasons that the Director of postal Services had not issued memo of confirmation and it was after issue of the memo (Annexure 'A') that order of confirmation was issued vide memo No. STA/763-XC/XV/7 dated 1.8.84 confirming applicant from 1.3.80.

7. That vide memo dated 14.6.84 junior officers S/Shri S.K. Adhikari, G.P. Srivastava, J.N. Misra, S.N. Pandey, S.H. Ram were promoted to the cadre of H.S.G. II from 14-6-84.

8. That above facts will show that the confirmation of the applicant was delyyed due to administrative errors resulting in non promotion of the applicant from 14.6.84 when his juniors were promoted. The applicant was promoted to H.S.G. II Vide memo of RDL/STA/SV/1 dated 7.5.85 issued by the Director of Postal Services, Lucknow Region, Lucknow. The promotion was ordered with immediate effect i.e. 7-5-85. In this way the applicant was deprived of promotion from 14.6.84 when his juniors were promoted.

Attested
Kishor

J. Sharma ...5

THE STATE OF TEXAS,
COUNTY OF DALLAS,
I, the undersigned, being a duly qualified Justice of the Peace for said County, do hereby certify that the within and foregoing is a true and correct copy of the original of the same as the same appears from the records of the County of Dallas, State of Texas.

- WITNESSED my hand and the seal of said County at Dallas, Texas, this _____ day of _____, 19____.
- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____

NOTED AND FILED FOR RECORD IN THE OFFICE OF THE CLERK OF THE DISTRICT COURT OF THE COUNTY OF DALLAS, TEXAS, THIS _____ DAY OF _____, 19____.

CLERK OF THE DISTRICT COURT OF THE COUNTY OF DALLAS, TEXAS.

451

9. That Shri S.K. Adhikari, junior than applicant was also promoted to the cadre of H.S.G. I and he retired from the said cadre on 31st Aug. 1985. The applicant retired from H.S.G. II from 31-12-86. The applicant would also have retired from H.S.G. I had he been promoted to H.S.G. II from 14-6-84.

10. That the applicant had submitted representations for his promotion to the cadre of H.S.G. II from 14-6-84 and thereafter also submitted representation for promotion to the cadre of H.S.G. I when Shri S.K. Adhikari of Allahabad Division was promoted to H.S.G. I and retired from the said cadre from 31-8-85. The particulars of representations are as under :-

- (A) 24-11-84 to D.P.S. Head Quarter, Lucknow.
- (B) 8.8.85 to D.P.S. Lucknow Region, Lucknow.
- (C) 14.8.85 to Postmaster General, U.P. Circle, Lucknow and D.P.S. Head Quarter, Lucknow.
- (D) 4-12-88 to Director General posts New Delhi and P.M.G. U.P. Circle, Lucknow.

11. That while applicant was working as postmaster Akbarpur he was promoted to the cadre of H.S.G. I and posted as officiating Dy. postmaster Faizabad by the S.S. Post Faizabad vide memo no. B-4/HSG/84-85 dated 9-8-85 and he joined as Dy. Post master on 29-8-85 and his pay was fixed at Rs. 730/-.

Attested
[Signature]

[Signature]

A52

12. That Shri A. Banerjee, Senior Postmaster Faizabad proceeded on leave and the applicant was ordered to officiate as Senior Postmaster during the period 16-10-85 to 30-10-85. The Pay of the applicant was fixed at 775/-. The applicant thereafter reverted to the post of Dy. postmaster, Faizabad. Shri A. Banerjee, the Senior postmaster, Faizabad again proceeded on leave and the applicant was ordered to officiate as senior postmaster during the period 3-1-86 to 27-2-86. His pay was fixed during above period at the rate of 775/-.

13. That on relief from the post of Senior Postmaster, Faizabad on 27-2-86 the applicant was relieved for Akbarpur to join his substantive post, although the post of Deputy postmaster was vacant as the Deputy Postmaster Shri S.R. Gupta who was posted by the Regional Director Lucknow Region and who had joined on 27.2.86 was promoted to the cadre of senior postmaster, Faizabad.

14. That while the applicant was availing transit he fell ill and proceeded on medical leave and remained on leave from 10-3-86 to 3-9-86. During the period of transit and leave the applicant was paid at the rate of last pay drawn by the applicant on relief from the post of senior postmaster, Faizabad.

15. That the applicant retired from service from 31-12-86 and the postmaster, Faizabad intimated that the recovery of Rs. 2,436.85 P. has been ordered by

Attested
[Signature]

[Signature]

A53

-7-

(29)

the Director of Postal Account, Lucknow. No particulars when intimated. On representation to the senior Supdt. post Offices, the A.P.M. Account Faizabad intimated vide no. Ac-4/B.P. Srivastava/88-89 dated 12-10-88 that the recovery relates to over payment of pay and allowances and leave salary during the period the applicant officiated as senior postmaster and remained on leave. The particulars of the recovery intimated by A.P.M. Accounts is enclosed as Annexure 'C'.

16. That the particulars furnished by the A.P.M. Accounts Faizabad will reveal that it is based on misconception of the facts and the relies on the subject. The applicant is entitled for the pay and allowance of the Senior postmaster, Faizabad during the period the applicant was ordered to work as senior Postmaster, Faizabad. The applicant is entitled for leave salary on the last pay drawn by him when he was relieved from the post of Senior postmaster, Faizabad. The contention of the Director postal Accounts and the Senior Postmaster, Faizabad that the applicant is entitled for the pay and allowances of Dy. postmaster during the period he worked as Senior postmaster is totally incorrect. Similarly the contention of Director postal Accounts Lucknow that on the relieved from the post of senior postmaster, Faizabad the applicant is entitled for leave salary and transit pay at the rate of H.S.G. II i.e. substantive post and not last pay drawn is misconceived. In case in the service book the senior postmaster Faizabad has shown the period of 28.2.86 to 9.3.86 as transit

Attested
[Signature]
12

[Signature] 8

ASU

It is totally incorrect. It should have been treated as leave without M.C. Conbind with leave on M.C. from 10.3.86. It is well settled law that the leave salary is to be drawn on last pay drawn irrespective of the cadre from which an official is relieved and he was to join new post in the lower cadre.

17. That the amount of Rs. 5,118/- as D.C.R.G. to the applicant has been with the senior Supdt. post Offices and not paid though about two years have passed.

(i) that the respondents be directed to give promotion to the cadre of H.S.G. II from 14-6-84 to the applicant when the junior officers than applicant were promoted and ^{to} the cadre of H.S.G. I from the date Shri S.K. Adhikari was promoted to H.S.G. I in Allahabad Division.

(ii) That the respondents be directed to pay the applicant pay and allowances admissible to the post of H.S.G. II and H.S.G. I cadre which the applicant would have drawn had he been promoted from the dates juniors were promoted.

(iii) that the respondents be restrained not to make any recovery proposed by them and pay the entire amounts of remaining D.C.R.G. Rs. 5,118/- which has been with held along with interest at admissible rate.

Attested
[Signature]
12

Bohawal...9

455

(iv) That the respondents be directed to give all pensionary benefits accruing on the promotions from the dates juniors were promoted.

Notice-giver.

Dated: - June 9, 1989.

(Bindeshwar Prasad)
Retired Postmaster,
Akbarput, Faizabad.

Attested
Kanta

Bindeshwar

(ASS)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO.240 of 89(L)

Bindeshwari Prasad

... Applicant

-VS-

Union of India and others

.. Opp. parties

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES

I, K.P. Singh, Sr. Supdt of Post Offices,
Faizabad Division, Faizabad aged about 57 years,
son of Shri Late G.P. Singh
do hereby solemnly affirm and state as under:-

CPA
18/3

1. That the deponent has been authorised
to file this counter affidavit on behalf of
opposite parties.

CPA
18/3

2. That the deponent is Opp. party no.5 in
the above noted application and as such he is
fully conversant with the facts of the case.

CPA
18/3

3. That the deponent has read and understood
the contents of application and he is in a position

CPA
18/3

ASST

to give para-wise comments etc. as hereunder:-

4. That before giving para-wise comments, it is pertinent to give brief history of the case as detailed below:

(a) That the applicant while he was working as Postal Assistant in Faizabad Postal Division was promoted to LSC Cadre with effect from 1.6.79 and was confirmed in LSC Postal General line cadre with effect from 1.3.80 vide D.P.S. Hqrs. Memo No. STA/763-XC/XV /7 dated 1.8.84. The applicant was however not considered for promotion to HSO -II cadre under the Memo issued by the PMG UP Circle, vide No. STA/181-XA/HSO-II 84/2 dated 14.6.84 probably for the reason that later he was not confirmed in LSG Cadre. He was promoted to HSG- II cadre vide D.P.S. Lucknow Region Memo No. ROL/STA/X-5/1 dated 7.5.1986.

After his promotion to H.S.G. II cadre vide D.P.S. Lucknow Region Memo No. ROL/STA/X-5/1 dated 7.5.1985. After his promotion to HSG. II, he was posted as

CB
18/3

Am Sa

ASD

Postmaster Akbarpur, where he was already
offg. on kkg local basis since 20.12.84.

(b) That while officiating as Postmaster
Akbarpur Head office the applicant was
locally promoted to HSG.I. on purely
ad hoc
temporary and ~~xxxx~~ basis and was posted
as Deputy Postmaster Faizabad vide SSPOs' Faizabad
Memo No.B-4/1139/84-85 dated 7.8.85.

(c) That while working as Deputy Postmaster(HSG.I)
at Faizabad Head Office. Shri A..Banerjee,
Sr. Postmaster (Gazetted) proceeded on Earned
Leave with effect from 16.10.1985 to 30.10.85
handing over the charge to the applicant who was
senior most official in general line. The
applicant being the disbursing officer in
capacity of Postmaster draw his pay on the post
of Gazetted Postmaster on his own accord without
waiting for any order from competent authority.

Shri A. Banerjee, Sr. Postmaster (G) Faizabad
again proceeded on earned leave with effect
from 3.1.86 to 12.1.86 and in continuation
submitted Medical Certificate from 13.1.86
to 1.2.86. Shri Banerjee handed over charges
of his office to the applicant on 2.1.86 A/N.

10/3

amr

459

-3-

In the meantime Shri Sheo Ram Gupta a regular HSG.I Official joined in the A/N of 27.2.1986. The applicant on relief on 27.2.86 instead of joining his post as Postmaster Akharpur (HSG.II) on 4.9.86. He retired from service as Postmaster Akharpur (HSG.II) in the after noon of 31.12.86. This time too he drew his pay on the post of Gazet ted Postmaster Faizabad from 3.1.86 to 27.2.86 during his authority as disbursing officer as there was no such order from competent authority. He took his leave salary from 28.2.86 to 3.9.86 at the same rate at which he was drawing on the post of Gazetted Postmaster. This too was not supported by the order of any competent authority. The audit therefore ordered the recovery of the pay and leave salary drawn by him in absence of the orders from any competent authority.

5. That the contents of para 4(i) of the application are not disputed.

6. That the contente of para 4(ii) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was placed under suspension from 6.4. 3. 1959 to

CB
8/3

and

A50

31.762 and was awarded punishment of reduction by two stage in his pay scale vide SSPOs Faizabad order No.F.16/58-59 dated 26.7.62. The period of suspension was treated as suspension for all purposes.

7. That the contents of para 4(iii) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was not considered fit for confirmation in the Memo issued by P.M.G. UP, No.STA/763/XC-XIV /7 dated 25.4.1981

8. That ~~the~~ in reply to the contents of para 4(iv) of the application it is submitted that the applicant was confirmed in LSG Cadre with effect from 1.3.80 vide D.P.S. Lucknow Memo No.STA/763-XC /XV/7 dated 1.8.84.

9. That the contents of para 4(v) of the application are incorrect as stated, hence denied and in reply it is submitted that the promotion considered by a duly constituted DFC and it is not conferred upon the official automatically and rest of the ~~complaint~~ contents are admitted.

10. That the contents of para 4(vi) of the application are not admitted in view of the fact stated in para 9 above.

18/3

and

861

-5-

11. That the contents of para 4(vii) ^{& (viii)} of the application are incorrect as stated, hence denied and in reply it is stated that the representation of the applicant is not on record.

12. That the contents of para 4(ix) of the application are incorrect as stated, hence denied and in reply it is submitted that the promotion is linked with seniority cum fitness considered by the D.P.C.

13. That the contents of para 4(x) of the application are not admitted as stated in foregoing ~~xxxxxx~~ paras.

14. That in reply to the contents of para 4(xi) of the application it is stated that no such representation as alleged is traceable on record.

15. That in reply to the contents of para 4(xii) of the application are incorrect as stated and in reply it is stated that the representation as stated are not on record.

16. That the contents of para 4(xiii) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant had drawn salary on the higher post of Ga zatted Postmaster, Faizabad without the order of competent

8/3

and

1462

authority abusing his own power of disbursing officer. The excess paid amount to which the applicant was not entitled was ordered to be recovered.

17. That the contents of para 4(xiv) of the application are incorrect as stated, hence denied and in reply it is stated that the applicant retired from service on 31.12.86 and not on 31.2.86. Excess drawn salary was ordered to be recovered from the ~~kax~~ applicant which can not be termed as positive order.

18. That the contents of para 4(xv) of the application are incorrect as stated, hence denied and in reply it is submitted that the over paid amount was ordered to be recovered. His representation for promotion is not on record.

19. That in reply to the contents of para 4(xvi) of the application it is stated that the over paid amount was ordered to be recovered. His representation for promotion is not on record.

20. That in reply to the contents of para 4(xvii) of the application it is stated that the notice given by the applicant was carefully considered but was not found tenable.

21. That the contents of para 4(xviii) of the

and

A63

application need no comments.

22. That the contents of para 4(xix) & (xx) of the application are incorrect as stated, hence denied.

23. That the contents of para 5(1) of the application are incorrect as stated, hence denied and in reply it is stated that the applicant was not considered fit for promotion by D.P.C. earlier.

24. That the contents of para 5(ii) & (iii) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was not confirmed in lower cadre while the D.P.C. met for consideration of promotion to HSG II cadre. The case of the applicant was considered immediately after his confirmation in L.S.G.

25. That the contents of para 5(iv) of the application are incorrect as stated hence denied.

26. That in reply to the contents of para 5(v) of the application it is stated that any reminder or representation is not on record as alleged.

27. That in reply to the contents of para 5(vi) of the application it is stated that recovery of over-payment from the D.C.P.G. is not a penal provision. It is fully covered by the rules.

and

1764

28. That the contents of para 5(vii) & (viii) of the application are not admitted as stated in foregoing paragraphs.

29. That the contents of para 5(ix) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant abused his authority as disbursing officer and drew salary on higher rates without the orders from competent authority.

30. That the contents of para 5(x) of the application are incorrect as stated, hence denied and in reply it is submitted that there is no rule to issue show cause notice for recovery of over paid amount.

31. That the contents of para 5(xi) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant has been given promotion on his turn.

32. That the contents of para 6 to 12 of the application are informative and as such needs no comments.


33. That the relief sought by the applicant is not tenable in the eyes of law in view of the facts and circumstances explained above.

10/3

and

AGS

34. That in view of the facts and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs against the applicant.


Deponent.

Lucknow,

Dated: 18 Mar. 1990.

Verification.

I, the above deponent named above do hereby verify that the contents of paragraphs 1 to 3 are true to my personal knowledge and those of para 3 4 to 32 of the affidavit are believed by me to be true on the basis of perusal of office records as well as information gathered and those of paras 33 and 34 of the affidavit are believed to be true on the basis of legal advice. Nothing material fact has been concealed and no part of it is false.

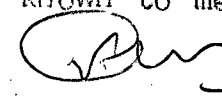

Deponent.

Lucknow,

Dated: 18, March 1990.

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

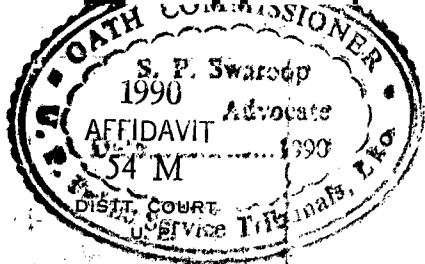

K. P. Singh
- V. K. Chaudhary


(VK Chaudhary)
Advocate, High Court Bench Lucknow
(Counsel for the Respondents)

Lucknow,

Dated: 18 Mar. 1990.

18/3/90

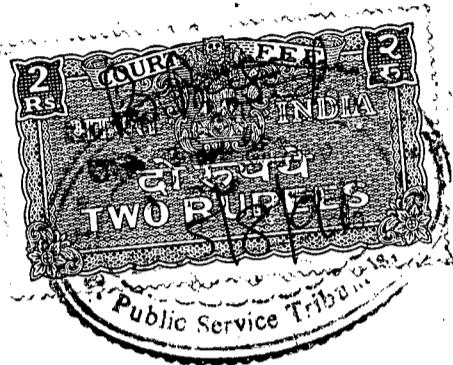


P60

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A.No. 240 of 89 (L)



Fixed - 10/9/90
date joining for R

Bindeshwari Prasad ... Petitioner

Vs.

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

REJOINDER AFFIDAVIT

I, Bindeshwari Prasad Son of late Sri Laxman aged about 62 years R/O village Post Bankegaon District Faizabad U.P. do hereby solemnly affirm and state on oath as under:-

Filed today
5/8/90
10/9/90

1.. That the deponent has read and understood the contents of the CA/US and he is well conversant with the facts of the case.

2.. That with reference to the contents of para 4(a) of the Counter Affidavit it is submitted that it is incorrect to say that the applicant was promoted to the cadre of Lower Selection grade with effect from 1.6.79.

contd. on page 2....

Bindeshwari



2..

The applicant was promoted to the cadre of Lower Selection grade from 1.6.74. The copy of the order is attached as annexure(A). The case of the applicant should have been considered for confirmation in the year 1981 when officials junior to the applicant were considered and confirmed vide memo.No.STA-XC/XIV/7 dated 25.4.81. It was mentioned in the aforesaid memo as under:-

" The cases of the following officials could not be considered by the D.P.C. for want of C.R. file. Their C.R. files should be got traced and submitted to this office complete in all respect."

Serial No.31- Bindeshwari Prasad, Faizabad.

In spite of representations from aggrieved officials, the Director Postal Services, Lucknow (HQ) sat tight and

after three years the case of the applicant was considered

and confirmed with retrospective effect from 1.3.80

i.e. date when junior officials were confirmed and

seniority in Lower Selection Grade was restored. The

order of confirmation was issued vide memo.No.STA/763-XC/XV/

7 dated 1.8.84. In the mean time the Director Postal

Services, Lucknow promoted officials junior to the

applicant to the cadre of High Selection Grade II

vide memo.No.STA/181-XA/HS G II dated 14.6.84 but did

not consider the case of applicant for promotion to

contd. on page 3.....



[Handwritten signature]

3..

to the cadre of H.S.G.II from the date when juniors were promoted vide memo dated 14.6.84. The promotion of the applicant to the cadre of Higher Selection Grade II was delayed for one year due to administrative error and the applicant was promoted vide D.P.S. Lucknow Region No.RDL/STA/X-5/1 dated 7.5.85.

(b) That with reference to contents of para 4(b) of counter affidavit it is submitted that the post of Deputy Postmaster Faizabad in Higher Selection Grade I was vacant from 1.1.85 but case of applicant for promotion to H.S.G.I was not considered by the Senior Supdt. Post Offices Faizabad in January, 85 and the applicant was promoted to the cadre of H.S.G.I and posted vide Senior Supdt. Post Offices, Faizabad Memo. No. B-4/1109/84-85 dated 9.8.85 only. In fact the applicant should have been promoted and posted as Deputy Postmaster, Faizabad in January, 85.

(c) That with reference to contents of para 4(c) of the counter affidavit it is submitted that the applicant performed the duties of Shri A. Banerji, Sr. Postmaster (Gazetted) during the period 16.10.85 to 30.10.85 and 3.1.86 to 27.2.86 under the order of the Sr Supdt. Post Offices, Faizabad vide No. B/A Banerji dated 9.9.85 and B-3 dated 30.12.85 referred in the charge report copies of which were sent to Senior Supdt. Post Offices,

contd. on page 4.....



1469

4..

5

Faizabad and P.M.G.U.P.Circle,Lucknow. It was for the respondents to have issued orders. The applicant drew the pay and allowances of Sr.Postmaster (Gazetted) for the above period for the reasons that the applicant worked on the said post. Copies of the charge reports are attached as annexure B and C. The applicant was relieved from the post of Senior Postmaster on 27.2.86 and he proceeded on medical leave from 28.2.86 and remained on leave from 28.2.86 to 3.9.86. The leave salary was drawn on the last pay admissible under rules. It is incorrect to say that pay of Senior Postmaster (Gazetted) was drawn and paid. On 27.2.86 the applicant was drawing pay of Senior Postmaster (Gazetted) in a scale of 650-to 1200/- and leave salary based on last pay was drawn and paid by the Senior Postmaster, Faizabad admissible under rules. The action of audit for recovery of pay and leave salary was illegal and against the rules. It was for the competent authority to have issued orders when the charge of Sr.Postmaster (Gazetted) Faizabad was handed over to the applicant under specific order of Senior Supdt.Post Offices, Faizabad referred in charge report (annexure B and C) On receipt of charge report by the competent authority, the Postmaster General, U.P.Circle, Lucknow

3.. That with reference to contents of paragraph 6 of counter affidavit it is submitted that this incident relates to 25 years back and thereafter the applicant was

contd.on page 5.....

Bhargava



1170

5..

was promoted to the cadre of L.S.G. from 1.6.74. But for this in which applicant was implicated there has been no adverse remarks and the service records were brilliant.

4.. That with reference to contents of para 7 of the counter affidavit it is submitted that the respondents have mentioned wrong and false ~~xxxxx~~ fact. In the memo No. STA/763 /XC-XIV dated 25.4.81 the Director Postal Services has mentioned as under:-

" The cases of the following officials could not be considered by the D.P.C. for want of C.R. file. Their C.R. files should be traced and submitted to this office complete in all respect."

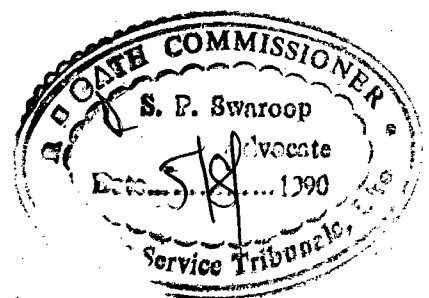
Serial 31- Bindeshwari Prasad Faizabad."

It is thus incorrect that the applicant was not considered fit for confirmation. In fact for want of C.R. his case was not considered.

5.. That contents of para 8 of the counter affidavit are admitted but due to delay in issue of this confirmation order and setting tight over for three years the applicant was deprived of his promotion when juniors were promoted to H.S.G. II vide memo. dated 14.6.84. The applicant should have been confirmed in 1981 itself. If C.R. was not available in 1981 there was 2 1/2 year time to issue confirmation order

6.. That with reference to contents of para 9 of the counter affidavit it is submitted that it is own admission of respondents in paragraph 4(a) that the applicant was

contd. on page 6.....



[Handwritten signature]

A71

6..

was however not considered for promotion to H.S.G.II cadre under memo.issued by the P.M.G.U.P.Cirole, vide STA/181/XA/HSG II 84/2 dated 14.6.84 probably for the reasons that later was not confirmed in L.S.G.cadre. The respondent should have set up review departmental promotion Committee when confirmation order was issued vide memo.No STA/763-XC/XV/7 dated 1.8.84 from retrospective effect and considered the case for promotion to the cadre of H.S.G.II from date his juniors were promoted vide memo.dated 14.6.84. This was admittedly not done. The case of the applicant was considered after one year and promotion was not given effect from date it was due. The content of this para 9 is vague and incorrect.

7.. That with reference to the contents of para 10 of the counter affidavit, it is submitted that contents of para 9 are vague. The case of the applicant should have been considered by a review D.P.C.when confirmation order which should have been issued in 1981 was issued on 1.8.84 and promoted the applicant to cadre of H.S.G.II from the date his juniors were promoted. The order of promotion was issued on 7.5.85 after one year.

8.. That with reference to contents of para 11 of the counter affidavit it is submitted that contention of respondent that applicant was not entitled for promotion from the date his junior were promoted is totally incorrect. In fact the representation submitted were not attended and considered by the respondents.

contd. on page 7.....

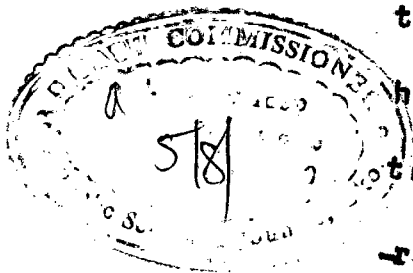
Bhaskar



9.. That with reference to the contents of para 12 of the counter affidavit it is submitted that it is own admission of the respondents in para 4(a) of the counter affidavit that the case of the applicant was not considered when juniors were promoted to H.S.G.II for the reasons that confirmation order which was to be issued in 1981 was issued on 1.8.84 with the result that his case for promotion was not considered in June, 1984 by D.P.C. The respondents are denying their own admission. The applicant was senior and fit for promotion in June, 1984 when D.P.C. met but due to fault of respondent his case was not considered.

10.. That with reference to contents of para 13 of the counter affidavit it is submitted that the post of Deputy Postmaster in H.S.G.I was vacant from 1.1.85 and the applicant being in H.S.G.II as Postmaster Akbarpur was entitled for his promotion to H.S.G.I from 1.1.85. Instead the Senior Supdt. Post Offices promoted Shri Ram Singh Gyani L.S.G. official to the cadre of Deputy Postmaster. The applicant is entitled for arrears of pay admissible on promotion to H.S.G.I from 1.1.85.

11.. That with reference to the contents of para 14 of the counter affidavit it is submitted that it is not denied that juniors officials were promoted during the period the applicant was working in H.S.G.II only it is stated that the ~~representations~~ representation are not traceable. Thus it has been impliedly admitted that junior officials were promoted to the cadre of H.S.G.I and case of applicant was not considered.



contd. on page 8.....

Sharma

12.. That in view of what has been stated in above para no reply is needed with reference to para 15 of the counter affidavit. The respondents had not given reply and now they say that representation are not on record. They did not deny this fact when notice was sent stating therein that application will be filed in C.A.T. if grievances are not redressed.

13.. That with reference to the contents of para 16 it is submitted that the applicant took over charge of Senior Supdt. Postmaster (Gazetted) Faizabad under specific order of the Senior Supdt. Post Offices, Faizabad mentioned in charge reports annexure B and C. Copy of the charge report was sent to P.M.G.U.P. Circle Lucknow who was to issue leave orders mentioning the arrangement made vice Shri A. Banerji who was granted leave. Since the applicant performed the duties of Senior Postmaster he was entitled for the pay of said post. Non issue of order by competent authority on receipt of charge report will not deprive the applicant from pay of higher post. Contention of respondent is totally incorrect. and it can not be said that applicant has abused the power of disbursing authority.

14.. That with reference to contents of para 17 of the counter affidavit it is submitted that no excess salary was drawn by the applicant as stated above and order of recovery is illegal and unreasonable. It is however admitted that applicant retired from 31.12.86 and 31.2.86 has been wrongly typed.

15.. That with reference to the contents of para 18 of the counter affidavit it is submitted that no amount was over paid and contention of respondent that amount was over paid is incorrect and misconceived. The applicant drew the pay of Senior Postmaster Faizabad when he worked on the post and leave salary on last pay drawn admissible under rules.

contd. on page 9....



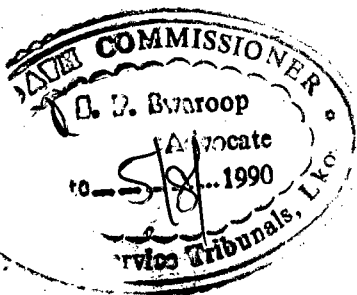
16.. That with reference to contents of para 22 of the

counter affidavit it is submitted that the respondents should have communicated the order passed on notice and reply given to the applicant on the receipt of notice.

17.. That with reference to the contents of para 22 of the counter affidavit it is submitted that the gradation list issued by the respondents on 28.2.75 clearly shows that the name of applicant is at serial 774 and the officials at serial nos. 776, 791, 796, 797 and 799 were promoted to H.S.G.II vide memo dated 14.6.84 (annexure 4) of application and the applicant's case was not considered because of non issue of confirmation order which could not be considered and issued in 1981 because of non-submission of confidential record of applicant and other 33 official when the respondent confirmed the applicant with retrospective effect date i.e. from the date his juniors were confirmed the respondent should have considered the case for promotion to H.S.G.II cadre and promotion should have been ordered from the date juniors were promoted vide memo dated 14.6.84 annexure 4 of the application. The applicant has legal claim for his promotion. The service book of Shri S.K. Adhikari will show that he was promoted to the cadre of H.S.G.I and gradation list will show that his name is at serial 776 while the name of the applicant is at serial 774 in gradation list issued on 28.2.75. The selection and appointment to the post of H.S.G.II and H.S.G.I is based on seniority cum fitness. The C.R. of the applicant

contd. on page 10.....

Prasad

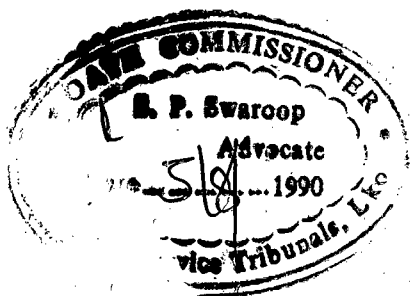


10..

is good. As such the applicant has legal claim for his promotion to higher selection grade II from June 1984 and H.S.G.I from 1.1.85.

18.. That with reference to the contents of para 23 and 24 of the counter affidavit it is submitted that the respondents have submitted misleading and incorrect facts. In para 23 it is stated that the applicant was not considered fit while in para 24 it is stated that case for promotion was not considered as the applicant was not confirmed when D.P.C. met. The case was considered for promotion to the cadre immediately after confirmation. The grievances of the applicant is that the case of applicant for confirmation was not considered for want of C.R. when his juniors were confirmed vide memo. No. STA-XC/XV dated 25.4.81. The respondent No.3 set tight over the case for more than 3 years and did not consider the case of confirmation. Juniors were promoted vide memo dated 14.6.84 (annexure 4). The confirmation order of the applicant was issued after issue of promotion order of junior official. Though the confirmation was ordered with retrospective effect i.e. when juniors were confirmed the promotion order to H.S.G.II was not given with retrospective effect i.e. the date from which juniors were promoted and respondents have stated misleading and contradictory fact in counter affidavit. The applicant was not considered unfit in June 1984 when juniors were promoted.

19.. That with reference to the contents of para 26 it submitted that particulars of the representation and reminders were mentioned in the notice sent by the applicant



Johns

A76

11..

which was considered by the respondent. In para 20 of counter affidavit but it is not said that representation and reminders were not record. Incorrect facts have been stated in counter affidavit.

20.. That with reference to para 27 of the counter affidavit it is submitted that recovery of over payment from D.C.R.G. is not penal action but such orders should be passed reasonably. It may be ^{covered} ~~considered~~ by rules but the respondents should have passed order bonafide and reasonably ^{No} ~~was~~ statutory authority is vested with powers to act mala fide with ulterior motive and such orders should be passed after giving opportunity to the Government servant to explain that there was no over payment. This is the basis of principles of natural justice. There was no over payment and contention of the respondent that there was overpayment is based on misconception and facts and rules.

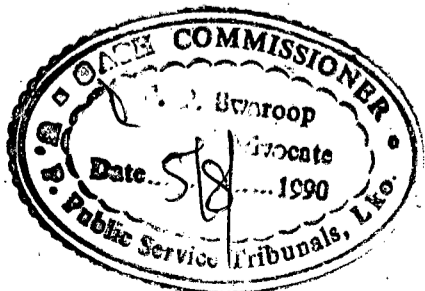
21.. That the contents of para 29 are incorrect and misleading. The applicant worked on the post of Senior Postmaster (Gazetted) Faizabad under the orders of Senior Supdt. Post Offices, Faizabad and copy of the charge report was sent to P.M.G.U.P. Circle Lucknow. The applicant drew the pay of post, the duties of which were performed. Hence order of recovery on the basis that pay of higher post was drawn without any order from competent authority is incorrect.

22..

That with reference to para 30 of the counter

contd. on page 12....

[Signature]



12..

affidavit it is submitted that the entire case of recovery is based on misconceived facts. The applicant worked on the higher post under order of the Senior Supdt. Post Offices, Faizabad as will be evident from charge report wherein orders have been referred charge report is annexure B&C of this rejoinder affidavit. The applicant drew the leave salary on the last pay drawn as laid down in leave rules. This entire recovery is misconceived and is punitive in character.

23.. That with reference to para 31 of the counter affidavit it is submitted that contents of this ~~para~~ para is totally incorrect. The applicant was entitled for his promotion to cadre of H.S.G.II when officials juniors to applicant were promoted vide memo dated 14.6.84 but he was not promoted for the reasons that respondent No.3 did not issue, confirm order which was to be issued in 1981. In the year 1981 juniors were confirmed. The applicant could not be considered for confirmation in 1981 as C.R. was not submitted by Senior Supdt. Post Faizabad. Thereafter the the respondent No.3 sat tight for more than 3 years and issued ~~xxxxxx~~ order of confirmation after the orders of promotion of junior to H.S.G.II were issued vide memo dated 14.6.84. The applicant was promoted in June, 1985 i.e. after one year. As such it is incorrect to say that applicant was promoted on his turn.

(Signature)
(Bindeshwari Prasad)

Deponent

Dated : Lucknow, the 8.9.90.



contd. on page 13.....

VERIFICATION

I, the above named deponent do hereby verify
that the contents of paras 1 to 23 of this affidavit
are true to my knowledge, nothing stated in it is wrong
and nothing material has been concealed. So help me God.

Lucknow.

Dated

5/8/1990

Dep onent.

I, identify the deponent who has signed before me.

S.K.SINGH

Advocate

Counsel for petitioner.



VERIFICATION

I, the above named deponent do hereby verify
that the contents of paras 1 to 23 of this affidavit
are true to my knowledge, nothing stated in it is wrong
and nothing material has been concealed. So help me God.

Lucknow.

Date

5/8/1990

Dep onent.

I, identify the deponent who has signed before me.

S.K.SINGH

Advocate

Counsel for petitioner.

Solemnly affirmed before me
by Bhinder Singh
who is identified by Shri S.K. Singh
clerk to Sri Advocate

I have satisfied myself by examining the
deponent that he understands the contents of
this affidavit which has been read out and
explained to me (Fee Charged Rs. 1/- 1-50)

(SATYA PRAKASH SWAROOP)

Advocate

Oath Commissioner of affidavits

U. P. Public Service Tribunals, Lucknow

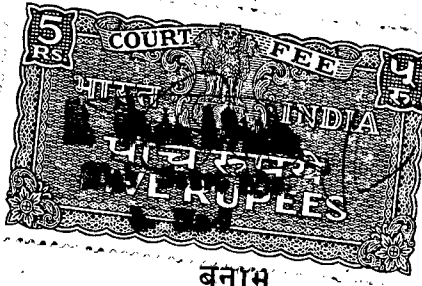
5/8/1990

वदाहत श्रीमान In The Hon'ble Central Administrative Tribunal
Joint Bench Lucknow महोदय

(वादो) अपीलान्त

श्री का

प्रतिवादी रैस्पाडन्ट

वकालतनामा

Bindeshwar Prasad

वादी (अपीलान्त)

vs
Union of India & others

प्रतिवादी (रैस्पाडन्ट)

बनाम

न० मुकदमा

सन

पशी की ता०

१६

ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Shailendra Kumar Singh

वकील

होदय

एडवोकेट

को अपना वकील नियुक्ति करके प्रतिज्ञा इकठ्ठा करता हूँ और लिखें देता हूँ इस मुकदमा में वकील महोदय स्वयं बयवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल कर या लौटावे या हमारी ओर से डिगरी जारी करावे और रुपया वसूल कर या मुचहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकदमा उठावे या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसोद लेवे या पंच नियुक्त करें- वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेर खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी। इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन १६

ई०

Accepted