

Annexure - A

CAT- 82

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD//
CIRCUIT BENCH, LUCKNOW

INDEX - SHEET

CAUSE TITLE 262/88 (1) OF 198

Name of the Parties Sri Cr. P. Srivastava

Versus

U. O. I. & others

Part A, B and C

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Certified that no further action is required to be taken and that the
Case is fit for Consigned next to the record room (D)

So (S)

checked
ans 2/2/12
ans 2/2/12

B/24-6-11

576/91

GENERAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

18/9/89

Registration No. 262 of 1989 (L).

APPLICANT(S)

G. P. Srivastava

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 cause for not making the application in time, been filed ? —
4. Is the document of authorisation/ Vakalatnama been filed ? Yes
5. Is the application accompanied by B.O./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 date/comic 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 ? —

Particulars to be ExaminedEndorsement as to result of examination

11. Is the application/duplicate copy/space copied signed ? yes

12. Are extra copies of the application with Annexures filed ?
 a) Identical with the Original ? yes
 b) Defective ? —
 c) Wanting in Annexures
 Nos. of 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 ? —

17. Are the facts of the case mentioned in item no. 6 of the application ?
 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

Answered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 262 of 1989

APPELLANT
APPLICANT

Ganesh Prasad Srivastava

DEFENDANT
RESPONDENT

Union of India & Others

VERSUS

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
20.9.89	<p>Hon'ble Mr. D.K. Agrawal, J.M.</p> <p>Shri M. Dubey, Counsel for the applicant is heard.</p> <p><u>ADMIT.</u></p> <p>Issue notice to respondents to show cause as to why the interim prayer made by the applicant be not granted. Meanwhile, the recovery of Rs.10,964/- shall not be made as arrears of land revenue, but the amount to that extent can be withheld from the dues, due on his superannuation. List this case on 16-10-89 for orders.</p> <p>Let the copy of this order be given to the applicant as desired.</p>	<input type="text"/>

J.M.

rrm/

68
Notices were issued
on 22-9-89.
Neither reply nor
any counter reply
order has been filed
so far
submitted for order

1372

:: 2 ::

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
3/1/90	<p>Hon' Mr Justice Kamleshwar Nath, V.C. <u>Hon' Mr K. Obayya, A.M.</u></p> <p>Shri V.K. Chaudhary files counter on behalf of all the Op.Ps. The applicant may file rejoinder, if any, within 10 days hereof.</p> <p>The case be listed for final <u>hearing</u> on <u>8-2-90</u>.</p> <p style="text-align: center;">A.M.</p> <p>(sns)</p>	<p>OR L/c for the applicant RA 4 CM. 34/89(L) to enter rule of nisi today L 27/11/90</p>
8.2.90	<p>No Sittings fixed to 20.3.90</p> <p style="text-align: center;">L</p>	<p>OR L/c for the applicant has not filed rejoinder with application for counter hearing. For delay 4 CM. An issue 53/90(L) for interim relief have been filed.</p>
20/3/90	<p>Hon. Mr. D.K. Agrawal, J.M <u>Hon. Mr. K. Obayya, A.M</u></p> <p>No one appears for the applicant. Shri V.K. Choudhary, for the respondents is present. The case is ready for hearing on 29/8/90.</p> <p style="text-align: center;">A.M.</p>	<p>OR L/c for the applicant has not filed rejoinder with application for counter hearing. For delay 4 CM. An issue 53/90(L) for interim relief have been filed.</p>
23-4-90	<p>Hon Mr. D.K. Agarwal J.M <u>Hon Mr. K. Obayya, A.M</u></p> <p>Put up on 25.4.90</p> <p style="text-align: center;">A.M.</p> <p style="text-align: center;">J.M.</p>	<p>OR CM 198/90(L) filed by L/c for the applicant for easy hearing S.R.O L 20/4.</p>

2/5/90 Hon. Justice Mr. K. V. Ragh. U.C.
Hon. Mr. K. Obayya A.M.

On the adjournment application of applicant's counsel: List it for orders on 24/7/90.

Shri V.K. Choudhary, counsel for opps. files reply to the interim relief application. It is pointed out that the applicant is being paid ~~the~~ ^u provisional pension and that the rest is held up due to the Departmental, ~~and~~ as well as, criminal proceedings against him. Counter and rejoinder have been exchanged. It will be proper to list this case for final ~~hearing~~ disposal. List it for final disposal on 27.7.90. If, for any reason the application could not be taken up for final hearing, then the application for interim relief may be considered.

Shri V.K. Choudhary, says that the applicant has a very minor amount to his credit in the G.P.F ~~and~~ account and a small amount in General Insurance Scheme, which the applicant may apply for, by a proper application. It will be open to the applicant to take necessary action in that direction in the mean time.


A.M.


V.C.

sd/
R.A. filed today
19/7

3 CA & RA has been
changed on interim
date.

Date is already
fixed on 27.7.90
for final hearing.

S. P.O. 10/8/90

OA 26/83.L.

20.11.90

Frankl. Mr. Justice K. Nath. VC
Frankl. Mr. M.M. Singh. AM

(A14)

Due to Sad demise of Sri.

B. Ic Srivastava Adv. Case is adjourned

to 5/2/91

M. M. J.

9

AM

J. J.

5/2/91-4

Hon. Mr. Justice K. Nath VC

OR

Mr. Supply. RA

Hon. Mr. K. Obayya AM

til 8.30

S.P.H.

h
4/2

On the request of Counsel for
respondent, case is adjourned to
6.2.91 for hearing.

b
AM

J. J.
VC

6/2/91

Hon. Mr. Justice K. Nath, VC
Hon. Mr. K. Obayya, AM

Put up tomorrow for
hearing after admission cases.

J. J.
AM

J. J.
VC

7.2.91 from Mr. Justice K. Nath, VC
Hon. Mr. K. Obayya, AM

Agreements heard.
Judgment reserved.

J. J.
AM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

D.A. No.
T.A. No. 262

1999 (L)

DATE OF DECISION

Shri JAI VASDEV

Petitioner

Advocate Advocate for the Petitioner(s)
Versus

Union of India & Others Respondent(s)

Advocate Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. M. Munshi, V.C.

The Hon'ble Mr. K. G. Venkateswaran

1. Whether Reporters of local papers may be allowed to see the judgment ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *Yes*
4. Whether to be circulated to all other Benches ? *No*

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Chanshyam/

Chanshyam

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH
Registration O.A.No.262 of 1989(L)

G.P.Srivastava Applicant

Versus

Union of India & Others.....Respondents

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

Hon.Mr. K. Obayya Member(A)

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

This application under Section 19 of the Administrative Tribunals Act, 1985 seeks a large number of reliefs. A chargesheet of disciplinary enquiry alongwith the proceedings for recovery of the amount of loss caused to the Govt. are sought to be quashed.

Fixation of pay in the revised scale with effect from 1.1.86, i.e. from the enforcement of the IVth Pay Commission Recommendations, is sought. Full salary for the period of suspension under Annexure-A6 from 24.11.82 till the date of applicant's retirement from service on 31.10.87. is sought and the respondents are required to settle all the post retiral benefits of the applicant.

2. The applicant was appointed as a clerk in 1948 and was promoted to the post of Lower Selection Grade Postal Asstt. in the scale of Rs.425-640 in 1974 in the G.P.O. at Lucknow. It is alleged that between 3.12.79 and 14.9.81 the applicant had received articles on which foreign duty was due but he failed to

(A7)

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Rs.10,964-65, credit the amount of customs duty/received by him to the Govt. Account. It is further said that on 20.5.80 and 21.10.80 he realised Rs.2469-70 as customs duty but failed to credit the amount to the Govt. Account. It is lastly urged that between 3.12.79 and 23.7.81, he failed to maintain register of foreign articles received and disposed of by him and that even the register for the subsequent period from 24.7.81 to 19.9.81 was full of erasures and over-writings. In short, he was alleged to have misappropriated Govt. money. For the alleged commission of that criminal offence an FIR, Annexure-A.37 dated 30.8.82 was lodged against him with the police. On 6.9.82, a chargesheet, Annexure-A1 was issued to him, and by order dated 24.11.82, Annexure-A6 he was placed under suspension on account of the aforesaid criminal offence being under investigation and also for disciplinary enquiry under contemplation. It was said that the order regarding payment of subsistence allowance would be passed later.

3. The chargesheet dated 6.9.82, Annexure-A1 however was withdrawn by order dated 19.11.82, Annexure-A7 because the papers which were concerned with the enquiry were in the custody of the police for the purposes of investigation. The cancellation was done without prejudice to a right to reissue a chargesheet at appropriate time.

4. The FIR led to criminal case No.293 of 1983 under Section 409, Indian Penal Code in the Court of the Chief Judicial Magistrate, Lucknow and the proceedings have not yet been concluded. The applicant was to retire on 30.10.87. Consequently, he was served with a new

(A) 8

- 3 -

chargesheet dated 26.10.87, Annexure-A8 on 28.10.87. This chargesheet was issued by the Deputy Chief Postmaster. One Ashok Kumar Srivastava was appointed as Inquiry Officer by order dated 29.1.88, Annexure-A.16. The applicant applied for change of the Inquiry Officer on the ground that since the Inquiry Officer was working in the G.P.O. at Lucknow he might not be impartial and the applicant ^{may} not get justice. That was rejected by order dated 5.2.88, Annexure-A.17. The applicant, however, applied to the Chief Postmaster by application dated 26.2.88, Annexure-A.17A for change of the said Inquiry Officer; that application was also rejected but the Deputy Chief Postmaster *sua moto* changed Ashok Kumar Srivastava and after a couple of other changes ultimately appointed A.N.Srivastava, S.D.I.(E) Lucknow to be the Inquiry Officer by letter dated 14.5.88, Annexure-A.21.

5. The applicant attended the enquiry before A.N.Srivastava on 19.12.88, 4.1.89, 20.1.89, inspected the listed documents, demanded their photo copies which according to him were not supplied to him, as originals were not available; he claims to have applied for five additional documents which were not furnished to him; according to para 13 of the Counter Affidavit, the applicant had not made any such application.

6. The applicant stated in para 4(ix) of the Original Application that the Inquiry Officer had wrongly recorded in the proceedings of 20.1.89; that the applicant had requested for permission to conduct

the case himself which was accepted; the applicant says that he did not make any such request. According to para 14 of the Counter Affidavit, the Inquiry Officer had asked him to bring his defence assistant on the following dates.

7. On 28.1.89, the applicant made an application, Annexure-A.23 to the Deputy Chief Postmaster challenging the validity of the chargesheet dated 26.10.87. The ground stated was that his Appointing Authority was the Director of Postal Services and therefore the Deputy Chief Postmaster could not issue the chargesheet. It was further said that since the criminal case was pending for the same charges, enquiry would prejudice his defence in the criminal case. He lastly said that the recovery proceedings had already been initiated by issue of requisition to the District Magistrate for Rs.10,964-65 which could not be done as the applicant would suffer double jeopardy. According to the applicant he received no reply to this application; according to para 30 of the Counter Affidavit, the Deputy Chief Postmaster was fully competent to initiate the disciplinary enquiry.

8. The enquiry proceeded but the applicant did not appear on 3.2.89 or subsequent dates on the ground of his illness. He said that subsequent dates of enquiry were fixed without intimation to him and that intimations were always received by him after the date had already expired. The applicant made a large number of representations. Finally he was given a notice for personal hearing on 3.7.89 but he says that he received the notice on 4.7.89. In the proceedings dated 3.7.89, the Inquiry Officer gave one week's time after receipt of

the brief of the Presenting Officer for the applicant to submit his own brief. The applicant has mentioned in para 4(xviii) of the Application that the carbon copy of the Presenting Officer's brief, received by him on 18.7.89 was illegible in respect of which he wrote a letter dated 23.7.89 to the Inquiry Officer and demanded inspection of relevant documents. In paras 17, 18 and 22 of the Counter Affidavit, it has been stated that the proper notices were issued by the Inquiry Officer to the applicant in time and that the applicant had adequate opportunity to present his defence.

9. It appears that since the applicant did not take part in the disciplinary proceedings, the Inquiry Officer ultimately submitted his report to the disciplinary authority on 4.7.89 ex parte stating that the charges levelled against the applicant were proved. Since the applicant had already retired on 31.10.87, the case was submitted to the disciplinary authority under Rule 9 of the C.C.S.(Pension) Rules, 1972 for orders. It is stated in para 37 of the Counter Affidavit that disciplinary proceedings under Rule 9 aforesaid have remained pending in the office of the Director Postal Services Lucknow Region. It is added that after decision is taken, action for payment of various claims made by the applicant would be taken.

10. It may be mentioned that in the meantime, the Chief Postmaster G.P.O. sent a letter dated 8.9.89, Annexure-A.39 to the District Magistrate for recovery of Rs.10964-65 from the applicant as arrears of land revenue. The District Magistrate sent down the documents to the Tehsildar who issued notice, Annexure-A.40 to the

Alu

- 6 -

applicant demanding the payment. The Amin approached the applicant for payment. When this application was filed, an interim order was passed at admission stage on 20.9.89 staying recovery of that amount as arrears of land revenue. But the respondents were allowed to withhold that amount out of the retiral benefits which might have accrued to the applicant.

11. We have heard Shri M.Dubey for the applicant and Shri V.K.Chaudhary for the respondents. We have gone through the documents on the record including the applicant's rejoinder, in which the case as stated in the Original Application was substantially reiterated.

12. The first point urged by the learned counsel for the applicant in this case is that the chargesheet, Annexure-A1 dated 6.9.82 was invalid because it had been issued by the Postmaster who was not the competent authority. The objection is correct, but is of no importance because that chargesheet was already recalled by the Department on 19.11.82 and a fresh chargesheet, Annexure-A8 dated 26.10.87 was issued by the Deputy Chief Postmaster. There is no reason to hold that chargesheet dated 26.10.87, Annexure-A.8 suffers from the vice of incompetence. It is not shown that the applicant's appointing authority was Director Postal Services, or that the Deputy Chief Postmaster could not initiate the proceedings. In reply to assertion in para 30 of Counter Affidavit that Deputy Chief Postmaster was competent, the applicant has not made any specific rebuttal in the rejoinder.

(A712)

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13. The next point urged is that since during the pendency of the proceedings the applicant retired on superannuation with effect from 31.10.87 (AN), the suspension order automatically came to an end and the applicant must be treated to have been continuously on duty from the date of suspension to the date of retirement for which the applicant must be paid his salary. We may mention that Shri M.Dubey, the learned counsel for the applicant has placed reliance upon the law stated in the applicant's representation, Annexure.A31 and he laid emphasis thereon during the arguments. The contention is that Rule 14 of the CCS(CC&A) Rules, 1965 do not permit any enquiry to continue after retirement as held in the case of State of Punjab Versus Khemi Ram 1970 SC 714. That contention has no substance because the power to continue the enquiry instituted before retirement is contained in Rule 9 of the CCS(Pension) Rules, 1972. Sub Rule 2(a) of Rule 9 mentions in ~~an~~ unmistakable terms that the departmental proceedings commenced prior to retirement shall, after the retirement, be deemed to be proceedings under Rule 9 and "shall be continued and concluded by the authority by which they were commenced in the same manner as if the Govt. servants have continued in service". That Rule did not exist when Khemi Ram's case was decided. The learned counsel for the applicant however urged that under Rule 9 of the CCS(Pension) Rules proceedings could be taken in respect of misconduct or negligence within four years prior to retirement but the misconduct in the

9

present case relates to the period 3.12.79 to 14.9.81 and therefore the proceedings could not be continued. This provision contained in Rule 9(2)(b) of the CCS (Pension) Rules applies to only those cases where the departmental proceedings could not be instituted while the Govt. servant was still in service. That is not the position before us. The learned counsel for the applicant has referred to a Full Bench decision of the Kerala High Court in the case of R.P.Nair Versus Kerala State Electricity Board 1979 Kerala 135 which concerned Rule 3 of Kerala State Rules which was perhaps similar to Rule 9 of the CCS(Pension) Rules, 1972. That decision does not say that the enquiry cannot be continued; it only says that an enquiry of a limited type could be proceeded with, viz an enquiry with a view to withhold or to withdraw pension or to order recovery from pension by reason of misconduct or negligence. That is precisely the object of the enquiry with which we are concerned. There is no question of imposing any of the punishments on the applicant which would otherwise be imposed under the CCS(CC&A) Rules; it is only a question of the manner in which his pensionary benefits could be dealt with in case misconduct or negligence could be proved. There can be no doubt that such misconduct or negligence has to be proved only by means of an enquiry which would be none else than the enquiry as being conducted in the present case against the applicant. This is

how the decision in the case of R.P.Nair Versus Kerala Electricity Board (supra) has been appreciated by a Full Bench of this Tribunal in ^{the} case of Amrit Singh Versus Union of India & Others O.A. No.61/87 decided at the Principal Bench on 6.9.88 and published by Bahri Brothers Delhi in the Compilation "Full Bench Judgement of Central Administrative Tribunals (1986-89) Page 227. The Full Bench has observed in para 7 of the judgement that the Kerala Full Bench holds that the Rule permits disciplinary proceedings, initiated before retirement, to be continued after the superannuation for the limited purpose of withholding or withdrawing pension or recovery from the pension of any pecuniary loss caused to the Govt. by creating a fiction that these proceedings are under this particular Rule.

14. The learned counsel for the applicant then referred to a decision of the Hyderabad Bench of this Tribunal in the case of K.Padmanabha Rao Versus A.G. A.P.I reported in ATL (1987) Vol.II CAT 39 for the proposition that disciplinary proceedings cannot continue beyond the date of superannuation and that it is not permissible to impose a cut in the pension or to withhold the pension or gratuity under Rule 9 of the CCS(CC&A) Rules. The view taken in the judgement is that the suspension order stands revoked on acquittal, that on retirement no suspension order is deemed to be subsisting and that the employee must be paid full pay and allowances for the period of suspension treating

him as on duty. This view has been dissented by the Full Bench in the case of Amrit Singh Versus Union of India and Others (supra). The Full Bench observed in para 8 that in the case before the Hyderabad Bench, the memo of charges had been quashed before the petitioner retired from service and that no disciplinary proceeding was pending against him when he was allowed to retire on attaining the age of superannuation. The Full Bench observed that therefore the question of continuing the proceedings after his retirement for any purpose whatsoever did not arise at all. It was on those facts that the limited question which fell for consideration of the Hyderabad Bench was whether the period of suspension should be treated as a duty as the criminal case had ended in acquittal and the chargesheet issued in disciplinary proceedings was quashed by the High Court. The Tribunal had held that the period should be treated as on duty. The Full Bench observed that the question whether any departmental proceedings pending on the date the officer attained the age of superannuation could be continued after his retirement for any purpose whatsoever, did not arise for consideration. The Full Bench further held that Rule 9 of the CCS(Pension) Rules gives power to the competent authority to find if any of the charges are proved and if any of them are proved, the competent authority is vested with the further power not only to order withholding of whole or part of the pension but also to order recovery of

whole or part of the pecuniary loss occasioned to Govt. as a result of grave misconduct or negligence of the employee concerned and is not confined only to the power to recover pecuniary loss, if any, caused to the Govt. It also appears to us that since the expression 'pension' under Rule 3 (o) of the CCS(Pension) Rules includes gratuity except when the expression 'pension' is used in contra-distinction to gratuity, the amount of gratuity is also capable of being withheld or reduced as a consequence of the final order under Rule 9. The case of D.D. Suri Versus Union of India 1976 SCC (L&S) 155 is of no help to the applicant because it only says that a suspension order comes to an end by compulsory retirement and that the employee cannot be deemed to be under suspension after retirement. Nobody says that the applicant is to be deemed to be continued under suspension even after retirement.

15. The next point raised is that since a criminal case is going on against the applicant for the same misappropriation the disciplinary proceedings should not continue because it is likely to prejudice the applicant's defence in the criminal case. The police chargeheet, Annexure-A.38 dated 21.10.82 mentions that on investigation of the FIR dated 30.8.82, Annexure-A37 the applicant, ~~suspected~~ was found to have committed an offence punishable under Section 409, I.P.C. and therefore he was challaned for trial and punishment accordingly. The FIR, Annexure-A.37 sets out 9 items of misappropriation amounting to Rs.11,161-35 by the applicant. The chargesheet in the disciplinary enquiry,

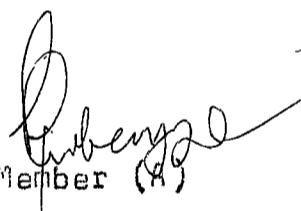
and where a Govt. servant is not only liable to be proceeded against departmentally but is also involved in the commission of a criminal offence, the law must reach both the defaults of the employee; the employee cannot take benefit of his own wrong. Whether the statement of defence in the disciplinary enquiry will or will not affect the defence in the criminal case, is entirely the concern of the employee and not of the law. The employee is liable to face punishments both under the general law and under the service law and there is no question of withholding the one for the other, the principle of double jeopardy applies only to action within one and the same forum, not between independent forums. The last point raised is that the recovery proceedings are invalid because no final orders have yet been passed in the disciplinary enquiry. This claim is absolutely correct. The proceedings of recovery therefore must be quashed. There can also be no doubt, that the applicant's pay must be revised in accordance with the accepted recommendations of the IVth Pay Commission ~~is~~ applicable to him.

17. For the above reasons, the recovery proceedings against the applicant in Annexure-A39 and Annexure-A40 are quashed; no further recovery shall be made until and unless the disciplinary proceedings are completed. The respondents shall also revise the applicant's scale with effect from 1.1.86 unless already done. The respondents shall also conclude the enquiry and pass final orders under Rule 9 of the C.C.S. (Pension)

DR

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Rules, 1972; but if the applicant so applies within a period of three weeks from the date of receipt of a copy of this judgement to participate in the disciplinary enquiry proceedings from the stage at which proceedings stood on 3.2.89, the respondents will allow the applicant to participate therein, and the proceedings may be concluded in accordance with the law. We further direct that the respondents shall carry out these directions within a period of six months from the date of receipt of a copy of this judgement. In all other respects, the Original Application is dismissed. Parties shall bear their costs.

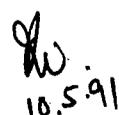

Member (A)


Vice Chairman

Dated the 10th May, 1991.

RKM

We are pronouncing judgment at Allahabad in this case of the Lucknow Bench, because an appropriate Bench for pronouncement of the judgment is not likely to be available at Lucknow for several weeks. The Office at Allahabad will issue copies of this judgment to the parties and will thereafter, remit the record with the judgment to Lucknow Bench.


W.
10.5.91

Rs

Annexure-A.8 contains allegations regarding 10964-65 in Article I for 17 items and further to Rs.2469-70 in Article II for 2 items, in all 19 items. So the subject matter of the charge before the Criminal Court and that before the disciplinary authority is not identical. There is some overlapping. Further the disciplinary enquiry also charges the applicant for having failed to maintain register of foreign articles received and disposed of. That is not the subject matter of the criminal trial. Moreover, the element of mens rea in a criminal offence including an offence under Section 409, Indian Penal Code, is not involved in departmental disciplinary enquiry. In the case of Corporation of City of Nagpur Versus Ram Chandra G.Modak and Others 1984 SC 626 it has been held that departmental proceedings and criminal prosecution are two different things and the decision in a prosecution case is no bar to take disciplinary proceedings. Relying upon that law this Bench of the Tribunal has held in the case of Satish Chandra Versus D.R.M. in T.A. No.116/87 decided on 15.1.90 that a punishment order in disciplinary proceedings which has become final before acquittal in a criminal trial cannot affect the punishment already given in the disciplinary enquiry retrospectively. Having regard to the facts and circumstances of the present case we are satisfied that there is no worth in the applicant's case of possible jeopardy in proceeding with the disciplinary enquiry and of any prejudice to his defence in the criminal case. The general principle is that the law must take its course in all its aspects,

8h

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 18/9/89
Date of Receipt by Past.....

(A2/1)

APPLICATION UNDER SECTION 19 OF THE ^{Deputy Registrar (1)} ADMINISTRATIVE TRIBUNAL
ACT 1985

Ganesh Prasad Srivastava

... Applicant

Versus

Union of India and Others

... Respondents

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3. True copy of Charge-sheet dated 24.11.82 with its enclosures	(Annexures A-8 to 12(a)) 25 to 34
4. True copy of C.P.M., Lucknow letter dated 8.9.88	(Annexure A-39) 35 -
5. True copy of Tahsildar, Lucknow order dated 19.6.89	(Annexure A-40) 36 -
6. Postal Order	
7. VAKALATNAMA	

COMPIRATION II

8. True copy of Charge-sheet dated 6.9.82 with its enclosures	(Annexures 1 to 5(a)) 37 to 42
9. True copy of Memo No. Fx-1/Fgn.LMA/ 82-83 dated 19.11.82	(Annexure A-7) 43 -
10. True copy of Retirement order dated 31.10.87	(Annexure A-13) 44 -

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Sl. No. Description of document relied upon	Page No.
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COMPILATION-II
(contd)

19. Applicant's letter dated 20.1.89 to Inquiry Officer	(Annexure A-22)	56 -
20. True copy of applicant's letter dated 28.1.89	(Annexure A-23)	57 -
21. True copy of proceeding dated 2.2.89	(Annexure A-24)	58 -
22. True copy of applications's application dated 2.2.89	(Annexure A-25)	59 -
23. True copy of applicant's application dated 3.2.89	(Annexure A-26)	60 -
24. True copy of Notice dated 11.4.89 for enquiry	(Annexure A-27)	61 -
25. True copy of Applicant's reply dated 22.4.89	(Annexure A-28)	62 -
26. True copy of applicant's representation dated 27.6.89	(Annexure A-29)	63 -
27. True copy of applicant's representation dated 1.7.89	(Annexure A-30)	64 -
28. True copy of applicant's representation dated 30.6.89	(Annexure A-31)	65 to 69

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Sl. No.	Description of document relied upon	Page No.
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COMPILED-II
(contd)

19.	Applicant's letter dated 20.1.89 to Inquiry Officer (Annexure A-22)	56 -
20.	True copy of applicant's letter dated 28.1.89 (Annexure A-23)	57 -
21.	True copy of proceeding dated 2.2.89 (Annexure A-24)	58 -
22.	True copy of application's application dated 2.2.89 (Annexure A-25)	59 -
23.	True copy of applicant's application dated 3.2.89 (Annexure A-26)	60 -
24.	True copy of Notice dated 11.4.89 for enquiry (Annexure A-27)	61 -
25.	True copy of Applicant's reply dated 22.4.89 (Annexure A-28)	62 -
26.	True copy of applicant's representation dated 27.6.89 (Annexure A-29)	63 -
27.	True copy of applicant's representation dated 1.7.89 (Annexure A-30)	64 -
28.	True copy of applicant's representation dated 30.6.89 (Annexure A-31)	65 to 69

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Sl. No.	Description of documents relied upon	Page No.
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COMPILED - II
(contd)

11.	True copy of Memo dated 7.11.87 regarding appointment of Shri Ashok Kumar Srivastava as Inquiry Officer	(Annexure A-14)	45
12.	True copy of Memo dated 7.11.87 regarding appointment of Shri R.P. Misra as Presenting Officer	(Annexure A-15)	46
13.	True copy of applicant's representation dated 5.2.88	(Annexure A-16)	47
14.	True copy of Dy. Chief Postmaster letter dated 5.2.88 (Annexure A-17)		48
15.	True copy of applicant's representation dated 26.2.88	(Annexure A-17(a))	49 to 51
16.	True copy of Dy. Chief Postmaster letters dated 23.2.88 and 9.3.88 (Annexures A-18 & A-19)		52 & 53
17.	True copy of Dy. Chief Postmaster letter dated 21.4.88	(Annexure A-20)	54
18.	True copy of Dy. Chief Postmaster letter dated 14.5.88	(Annexure A-21)	55

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Sl. No. Description of documents relied upon Page No.

29. True copy of applicant's letter dated 5.7.89 (Annexure A-32) 70 -

30. True copy of Enquiry Proceeding dated 3.7.89 (Annexure A-33) 71 -

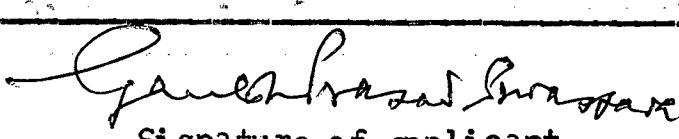
31. True copy of applicant's letter dated 23.7.89 (Annexure A-34) 72 - to Inquiry Officer

32. True copy of Enquiry Officer letter dated 25.7.89 (Annexure A-35) 73 -

33. True copy of Applicant's letter dated 23.8.89 to the Chief Postmaster, Lucknow GPO (Annexure A-36) 74 -

34. True copy of F.I.R. with P.S. Hazratganj, Lucknow (Annexure A-37) 75 to 76

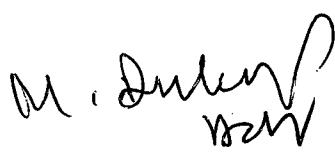
35. True copy of Charge sheet submitted by the ~~mark~~ police in the court (Annexure A-38) 77 to 97


Signature of applicant

For use in Tribunal's Office

Date of filing

Registration


M. Dutta

SIGNATURE

FOR REGISTRAR

A31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW

Registration No. 262 of 1989 (1)

Ganesh Prasad Srivastava, aged about 60 years,
son of late Shri Mahadeo Prasad Srivastava,
resident of Flat No. 2, Rahman Mansion,
Hata Surat Singh, Near Bagh Baba Hazara,
Lucknow - 226003. Applicant

Versus

1. Union of India, through the Secretary,
Ministry of Communication, Govt. of India,
Department of Posts, New Delhi.
2. Postmaster General, U.P. Circle, Lucknow.
3. Director Postal Services, Lucknow Region,
Lucknow.
4. Chief Postmaster, Lucknow G.P.O.
5. Dy. Chief Postmaster, Lucknow G.P.O.
6. Shri A.N. Srivastava, ASPOs, Barabanki,
the Inquiry Officer.
7. State of U.P., through the Secretary,
Department of Revenue,
Uttar Pradesh Shashan, Lucknow.
8. Tahsildar, Lucknow.

(1) PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

(a) Suspension order vide Memo No. FX-1/Fgn LMA/82-83
dated 24.11.82.

(b) Charge-sheet under Memo No. FX-1/Fgn LMA/82-83
dated 26.10.87.

(c) Order dated 3.7.89 passed by respondent No. 6
(d) Order of recovery dated 19.6.89 being enforced by the Tahsildar, Lucknow at the instance of respondent No. 4.

(2) JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the orders against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

(3) The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal's Act 1985.

(4) FACTS OF THE CASE:

(i) That the applicant was appointed as a clerk under respondent No. 1 in the year 1948 and was subsequently promoted in the L.S.G. (Lower Selection Grade) in the scale of ~~Rs.425/640~~ Rs.425/640 ~~in the year 1974 with effect from 1.6.1974.~~ The said scale of Rs.425/640 was substituted by the revised scale ^{of Rs.1400/2300} with effect from 1.1.86. The applicant retired on attaining the age of superannuation of 58 years on 31st October 1987. The work and conduct of the applicant were satisfactory throughout his long service of 39 years and there was no complaint whatsoever, against him.

(ii) That as ill luck would have it, the applicant was placed under suspension by Memo No. FX-1/Fgn.LMA/82-83 dated 24.11.82 issued by the respondent No. 5 and a charge-sheet under Memo No. FX-1/Fgn.LMA/82-83 dated 6.9.82 was issued by the then Dy. Postmaster (Gazetted) Lucknow G.P.O. Photostat copies of the said charge-sheet

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alongwith enclosures vix. Annexure-I, II, III, IV and 'A' enclosed with the Charge-sheet are Annexures A-1, A-2, A-3, A-4 and A-5 to this application. Photostat copy of the suspension order dated 24.11.82 is Annexure A-6 to this application. The said memo of charge-sheet dated 6.9.82 was, however, cancelled by Memo dated 19.11.82 on the ground that the applicant was on long leave with effect from 1.5.82 and certain documents mentioned in Annexure-III to the charge-sheet had been handed over to police for their investigation. A photostat copy of the memo No. Fx-1/Fgn. LMA/82-83 dated 19.11.82 cancelling the chargesheet dated 6.9.82 is Annexure-7 to this application.

(iii) That the applicant was served with a revised charge-sheet Memo No. Fx-1/Fgn. LMA/82-83 dated 26.10.87 and delivered to the applicant by hand through P.R.I. (P), Lucknow G.P.O. on 28.10.87 only 3 days ~~prior~~ prior to his retirement on superannuation on 31.10.87 A.N. Photostat copies of the charge-sheet dated 26.10.87 and its Annexures I, II, III, IV and 'A' are Annexures A-8, A-9, A-10, A-11 and A-12 to this application with effect from and a true copy of the order retiring the applicant with effect 31.10.87 A.N. is Annexure A-13 to this application.

(iv) That by memo dated 7.11.87 Shri Ashok Kumar Srivastava, C.I., Lucknow was appointed as Inquiry Officer and by another letter dated 7.11.87 Shri R.P. Misra, A.P.M. & M.D.Paid Lucknow G.P.O. was appointed Presenting Officer.

(A31-4-)

Photostat copies of these two memos are
Annexures A-14 and A-15 to this application.

(v) That the applicant by his representation dated 29.1.88 stated that any officer of any Postal or R.M.S. Division other than Lucknow G.P.O. unit might be appointed Inquiry Officer as he was apprehensive that Shri Ashok Kumar Srivastava because of his working in Lucknow G.P.O. would not be impartial and the applicant could not expect justice from him. A photostat copy of the said representation dated 29.1.88 is Annexure A-16 to this application. The Dy. Chief Postmaster intimated by his letter dated 5.2.88 that the applicant's representation was placed before the prescribed authority but he did not find any justification to change the Inquiry Officer. He, however, did not disclose who was the prescribed authority before whom the representation was placed. A true copy of the letter dated 5.2.88 is Annexure-17 to this application.

(vi) That the applicant submitted a representation dated 2/5/88 against the aforesaid letter dated 5.2.88 to the Chief Postmaster, Lucknow G.P.O. representing that an Inquiry Officer of some other arm of the Postal wing be appointed to impart natural justice. The applicant submitted another representation dated 26.2.88 (Annexure A-17A to this application) to the Director General, Posts, Dak Bhawan, New Delhi with a request that some other Inquiry

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(A31-5)

Officer from a separate division be appointed to restore confidence that the applicant would be squarely dealt with and he will not be denied natural justice during the proceeding as Shri Ashok Kumar Srivastava was directly under the administrative control of the Chief Dy. Postmaster who had prejudicially issued the charge-

sheet and was influencing the enquiry. The Dy. Chief

Postmaster Lucknow G.P.O. by his letter No.

Fx-1/Fgn.LMA/82-83 dated 23.2.88 in reference to the applicant's representation dated 21.2.88

intimated the decision of the Chief Postmaster Lucknow G.P.O. that since nothing new had been put forward by the applicant, he saw no reason to change the Inquiry Officer. However, by his letter dated 9.3.88 the Dy. Chief Postmaster,

Lucknow G.P.O. changed Shri Ashok Kumar Srivastava from being an Inquiry Officer and appointed Shri B.L. Verma, S.B.D.O., Lucknow

as Inquiry Officer and also made amendments in Annexure III to the chargesheet by his letter dated 23.2.88. Photostat copies of letters dated 23.2.88 and 9.3.88 are Annexures A-18 and

A-19 respectively to this application. By another letter dated 21.4.88, the Dy. Chief Postmaster, cancelled his letter dated 9.3.88 and appointed Shri N.L. Gupta, A.S.P.,

Investigation, Office of P.M.G., U.P. Circle as Inquiry Officer. Photostat copy of this letter dated 21.4.88 is Annexure-20 to this application. This letter dated 21.4.88 was further cancelled by the Dy. Chief Postmaster,

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Lucknow G.P.O. vide his Memo dated 14.5.88 and he appointed simultaneously by the said letter Shri A.N. Srivastava, S.D.I. (East), Lucknow as Inquiry authority. A true copy of the letter dated 14.5.88 is Annexure A-21 to this application.

(vii) That the applicant had earlier written a letter dated 5.11.87 to the Dy. Chief Postmaster, Lucknow G.P.O. and a copy of the same was got handed over by the Inquiry Officer to the Presenting Officer for being got replied by the concerned officer. No reply to this letter was ever received by the applicant.

(viii) That the applicant attended the enquiry on dates as fixed by the Inquiry Officer on 19.12.88, 4.1.89, and 20.1.89. The applicant inspected the listed documents but except item No. 17 of Annexure - III to the charge-sheet dated 26.10.87 no document was produced in original and the photostat copies of other documents from serial 1 to 16 and 18 to 31 could not be admissible in evidence. However, the prosecution was requested to furnish photostat copies of these documents which they did but as the originals were not available with them it is not known how they got the photostat copies. Photostat copies of photostat copies could not be relevant and reliable in evidence. However, the applicant submitted a list of five

19/12/88
G.P.O.
19/12/88

(A3)-7-

additional documents vide his requisition dated 20.1.89 and 26.1.89, which documents were not made available to the applicant nor any order for not acceding to the applicant's request was passed by the Inquiry Officer.

(ix) That on going through the proceeding dated 20.1.89, the of the Inquiry Officer the applicant came to know that the Inquiry Officer was not proceeding fairly and impartially. The applicant had not declined to take assistance of any other government servant provided under Rule 14(8) of the CCS(CCA) Rules 1965 and yet the Inquiry Officer had wrongly and prejudicially mentioned in the said proceedings dated 20.1.89 that the applicant had requested to conduct the case himself which was accepted by him (I.O.). No such request was made by the applicant who by his letter dated 20.1.89 sent by post under High Court, Lucknow Bench P.O. Registered letter No. 115 dated 21.1.89 immediately challenged the version of the Inquiry Officer. A photostat copy of the said letter dated 20.1.89 is Annexure A-22 to this application.

(x) That the applicant by his letter dated 28.1.89 questioned the propriety and the competence of the chargesheet dated 26.10.87 and the inquiry being conducted against him. The applicant specifically stated that the chargesheet was invalid, incompetent and prejudicial and in all fairness to be cancelled/withdrawn

A31-87

under intimation to the Inquiry Officer. No reply to this letter dated 28.1.89 has yet been received by the applicant. A photostat copy of the aforesaid letter dated 28.1.89 is Annexure A-23 to this application. The Inquiry Officer notwithstanding the representation dated 28.1.89 continued the inquiry and no reply to the representation dated 28.1.89 has yet been received by the applicant. A photostat copy of the proceeding dated 2.2.89 held by the Inquiry Officer is Annexure A-24 to this application. A photostat copy of the application dated 2.2.89 made to the Inquiry Officer and remarks made by him thereon is annexed as Annexure A-25 to this application.

(xi) That the applicant was unable to attend the inquiry fixed on 3.2.89 due to his illness and he sent an application alongwith medical certificate to the effect that the applicant was suffering from Hypertension with IHD from evening of 2.2.89 and advised rest, through his son but the Inquiry Officer was not available till 1.30 P.M. and the Presenting Officer declined to receive the application alongwith the medical certificate and he suggested that the same could be sent by registered post to the Inquiry Officer. A photostat copy of the application dated 3.2.89 alongwith the note given on it by the applicant is Annexure A-26 to this application. The application was ultimately sent to the Inquiry Officer under Aminabad P.O. R.L. No. 511 dated 3.2.89.

(xii) That the Inquiry Officer fixed another date for inquiry on 20.4.89 by his letter dated 11.4.89, ordering the applicant to attend the inquiry alongwith his Defence Assistant failing which ~~then~~ he threatened to continue the inquiry ~~ex~~-parte. He further warned that "no Medical Certificate would be entertained and if produced it would be taken to avoid enquiry u/s". This notice of inquiry was delivered to the applicant son on 21.4.89 and the applicant immediately thereafter intimated the position to the Inquiry Officer by his letter dated 22.4.89, stating that the applicant was still undergoing treatment of his ailment of heart trouble. True copies of the notice dated 11.4.89 and the applicant's reply dated 22.4.89 are Annexures A-27 and A-28 respectively to this application.

(xiii) That the Inquiry Officer prejudicially and malafidely conducted the enquiry on 10.6.89, 16.6.89 and 24.6.89 without any prior notice to the applicant while no notice was at all received by the applicant for the inquiry dated 10.6.89 and 16.6.89, the notice for the inquiry dated 24.6.89 was received by the applicant on 26.6.89 for which reasons the applicant was unable to attend the inquiry on the aforesaid date. A true copy of the representation dated 27.6.89 made by the applicant to the Inquiry Officer with copy to the ^{Dy.} Chief Postmaster, Lucknow G.P.O. is Annexure A-29 to this application.

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(xiv) That the Inquiry Officer conducted further inquiry on 28.6.89 for which notice was received by the applicant on 30.6.89 and consequently he could not attend the inquiry. The Inquiry Officer was arbitrarily holding the inquiry without prior notice to the applicant and without affording him the reasonable opportunity of defence and thereby denying him the natural justice. A true copy of the representation dated 1.7.89 preferred to the Inquiry Officer under Certificate of Posting with copy to the Dy. Chief Postmaster, Lucknow G.P.O. sent under Certificate of Posting is Annexure A-30 to this application.

(xv) That the applicant had grossly been prejudiced by the respondents, his retiral dues had not ~~been~~ been paid, his GPF, gratuity, leave encashment, General Insurance etc. were not paid, his pay in the revised scale effective from 1.1.86 was not fixed and consequently he was allowed a meagre provisional pension much less than what it was admissible under the rules. His various representations regarding the propriety and competence of the chargesheet and continuance of the Inquiry Officer and his biased and improper working were shelved and no reply to any of them was given to the applicant. The applicant, therefore, submitted his detailed representation dated 30.6.89 to the Dy. Chief Postmaster, Lucknow G.P.O. with copies to the Inquiry Officer by name, Director Postal Services, Lucknow Region, Lucknow, Postmaster General, U.P. Circle, Lucknow and the Secretary

Copy of 10/7/89

to the Ministry of Communication, Department of Posts, New Delhi requesting that his dues be paid immediately and he be favoured with a reply promptly. The applicant explicitly stated that he had been desperate, vexed and faced with ~~un~~ak untold miseries and in case his grievances were not redressed, he would be compelled to knock the door of justice at their cost and responsibility. No reply whatsoever, has yet been received. A true copy of this representation dated 30.6.89 is Annexure A-31 to this application.

(xvi) That the copy of the proceedings dated 28.6.89 containing the information of the next date for personal hearing on 3.7.89 was received by the applicant on 4.7.89 and it was practically not possible for the applicant to be present before the inquiry on 3.7.89. The Inquiry Officer was duly informed of the position by letter dated 5.7.89, a true copy of which is Annexure A-32 to this application.

(xvii) That the Inquiry Officer as usual held the ex parte proceeding without due notice to the applicant and in his absence on 3.7.89 and wrongly and maliciously contended that the applicant was not attending the inquiry despite proper notices while in fact as stated earlier, either no notice of enquiry date was received before the date of inquiry or received late subsequent to the date of enquiry and the

Copy of 31/7/89

applicant was prejudiced and handicapped in attending the inquiry. The Inquiry Officer did not care even after ~~writing~~ writing to him that the notices were not being received by the applicant in time. A true copy of the proceeding dated 3.7.89 is Annexure A-33 to this application. It may be pointed out that the list of documents alleged to have been filed by Presenting Officer on 3.7.89 was not furnished to the applicant.

(xviii) That by proceeding dated 3.7.89 the applicant was allowed one week's time for filing his brief from the date of receipt of the brief of the Presenting Officer. This brief which was in carbon copy and illegible was received by the applicant on 17.7.89 and the applicant by his letter dated 23.7.89 explained the position how he was prejudiced during enquiry and natural justice denied to him and also requested therein that in order to prepare and submit his brief the applicant might be allowed to inspect the relevant documents on a date to be fixed with prior intimation to the applicant. The Inquiry Officer by his letter dated 25.7.89 intimated that the applicant's letters dated 5.7.89 and 23.7.89 were received by him on 21.7.89 and 25.7.89 respectively and they were sent to the Chief Postmaster, Lucknow G.P.O. for disposal since he had submitted his report and that he was

Concurred in 18/9/89

(xxi) That the suspension order dated 24.11.82 has merged in the retirement order on superannuation dated and the applicant is entitled to full pay and allowances for the period of from 24.11.82 to 31.10.87 but the respondents have not cared to pay the difference of due and drawn during the said period. The applicant opted for the revised scale with effect from 1.1.86 but the respondents have not yet fixed his pay as admissible on 1.1.86 and paid the arrears due in consequence thereof. The provisional pension has been fixed at a much lower level than what it is due and the applicant has been made to suffer. The General insurance, leave encashment and GPF amount to the tune of several thousands of rupees have been held up and not paid arbitrarily and maliciously. The fixation of final pension and commutation of pension have been held up and in addition to the DCRG to the extent of Rs.35,000/- . No reply to the representation dated 30.6.89(Annexure A-31) has yet been received by the applicant.

(xxii) That Rule 14 of the CCS(CCA) Rules 1965 does not permit continuance of inquiry against a Government servant who has retired from service. As the applicant was retired from service on attaining the age of superannuation on 31.10.87 A.Y. the enquiry held against him under Rule 14 of the CCS(CCA) Rules 1965, and that too ex parte without proper and timely notice to the applicant is of no consequence. The applicant is entitled to all the post-retirement

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(xxi) That the suspension order dated 24.11.82 has merged in the retirement order on superannuation dated 28.10.87 and the applicant is entitled to full pay and allowances for the period of from 24.11.82 to 31.10.87 but the respondents have not cared to pay the difference of due and drawn during the said period. The applicant opted for the revised scale with effect from 1.1.86 but the respondents have not yet fixed his pay as admissible on 1.1.86 and paid the arrears due in consequence thereof. The provisional pension has been fixed at a much lower level than what it is due and the applicant has been made to suffer. The General insurance, leave encashment and GPF amount to the tune of several thousands of rupees have been held up and not paid arbitrarily and maliciously. The fixation of final pension and commutation of pension have been held up and in addition to the DCRG to the extent of Rs.35,000/- . No reply to the representation dated 30.6.89 (Annexure A-31) has yet been received by the applicant.

(xxii) That Rule 14 of the CCS(CCA) Rules 1965 does not permit continuance of inquiry against a Government servant who has retired from service. As the applicant was retired from service on attaining the age of superannuation on 31.10.87 A.N. the enquiry held against him under Rule 14 of the CCS(CCA) Rules 1965, and that too ex parte without proper and timely notice to the applicant is of no consequence. The applicant is entitled to all the post-retirement

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no more Inquiry officer and in future, the applicant was advised to have correspondence with the C.P.M., G.P.O.. The Inquiry Officer, however, did not disclose when he had submitted his report and the circumstances under which his report was sent to the C.P.M., G.P.O. who had not issued the chargesheet nor appointed him Inquiry Officer. True copies of letters dated 23.7.89 to the Inquiry Officer and dated 25.7.89 from the Inquiry Officer are Annexures A-34 and A-35 respectively, to this application.

(xix) That the applicant, as directed by the Inquiry Officer, addressed the Chief Postmaster, Lucknow G.P.O. by his letter dated 23.8.89 which was delivered under receipt personally in his office the ~~of~~ same day. A true copy of this letter dated 23.8.89 is Annexure A-36 to this application.

(xx) That no reply to the representations made and applications preferred by the applicant has so far been received by the applicant who has been proceeded against by issuing an invalid and incompetent charge sheet maliciously only three 3 days before his retirement delivered to the applicant by hand ~~through~~ through PRI(P), Lucknow G.P.O., Shri D.C. Pandey, with intention to harass him after retirement and make a ground for withholding his retiral benefits.

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benefits and the respondents are under obligation to arrange for payment of all his dues including the difference of pay and allowances for the period of suspension which stood revoked by retirement of the applicant on 31.10.87 A.N. with interest at Bank's rate of 18% per annum.

(xxiii) That the respondents, in order to harass, oppress and terrorise the applicant had filed an F.I.R. in the police against the applicant regarding alleged misappropriation of government money. A true copy of the F.I.R. is Annexure A-37 and a true copy of charge sheet ~~and~~ in crime case No. 996/82 under section 409 I.P.C., P.S. Hazratganj, Lucknow is Annexure A-38 to this application. The applicant is facing trial in the court of Chief Judicial Magistrate, Lucknow and the evidence of the prosecution is being produced.

(xxiv) That the Chief Postmaster, Lucknow G.P.O. notwithstanding the trial pending in the court and the departmental proceedings conducted against the applicant addressed the District Magistrate Lucknow for recovery of Govt. money as arrears of land revenue in respect of the same foreign parcels which have been the subject of trial in the court and the matter of departmental enquiry through the Tahsildar, Lucknow. The details of these parcels are given in Annexure A of the departmental chargesheet, a true copy of which is annexed as Annexure A-5 to this application. While all these

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articles have been the subject matter of inquiry in the departmental chargesheet seven of them from serial 1 to 7 and two other articles No. D 244914/5/80 for Rs.1971.20 and D 286289/10/81 for Rs.500.50 are included in the criminal charge against the applicant and have been under investigation before the C.J.M., Lucknow. The action of the Chief Postmaster, Lucknow G.P.O. in moving the District Magistrate, Lucknow to cause recovery of the amount in respect of the articles shown in Annexure-A to the chargesheet dated 26.10.87, as aforesaid without any finding of the court or the departmental inquiry, as arrears of land revenue through Tahsildar, Lucknow is highly irregular, arbitrary, malicious and illegal. A true copy of the communication dated 8.9.88 addressed by the Chief Postmaster, Lucknow G.P.O. to the District Magistrate, Lucknow is Annexure A-39 to this application and in consequence thereof the Tahsildar, Lucknow by his order dated 19.6.89 issued under Section 280 of U.P. 2.A. & L.R. Act 1950 has required the presence of the applicant and has threatened to take action for arrest and detention and for attachment and auction of property. A true copy of the order dated 19.6.89 as could be available from the Kurk Amin is Annexure A-40 to this application. The Kurk Amin came to the applicant's residence in his absence on 8.9.89 and threatened distress action for arrest of the applicant and sale of his property. This has caused much anxiety and worry to the applicant as well as to

to the members of his family.

(xxv) That the action of the Chief Postmaster, Lucknow G.P.O. for causing recovery through the Revenue authorities is arbitrary, malicious, malafide and illegal. The respondents have subjected the applicant to departmental as well as criminal proceedings, have not settled his various dues and have not given any reply to his various representations and letters. The applicant is an old man of 60 years and a patient of heart trouble and hypertension and he does not possess means to take proper treatment. The non-settlement of his dues and the inadequate provisional pension allowed by them has made his life miserable. The respondents are acting illegally in withholding and detaining the amounts of applicant's GPF, General insurance, leave encashment, difference of full pay and allowances for the suspension period from 24.11.82 to 31.10.87, the difference of pay and allowances between due and drawn for the period from 1.1.86 to 31.10.87 in terms of revised pay scales and in consequence thereof the pension and gratuity which they are under obligation to pay to the applicant immediately with interest at bank's rate of 18% per annum.

(xxvi) That the applicant is aggrieved by the arbitrary, malicious, prejudicial and illegal action of the respondents and has no. kxt

alternative but to file this application before this Hon'ble Tribunal.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

(a) Because the applicant was arbitrarily and maliciously suspended by an incompetent order dated 24.11.82 issued by the Dy.Postmaster (G), Lucknow G.P.O. who was/is not the appointing/disciplinary authority of the applicant

(b) Because the suspension order was/is in violation of para (C) of the D.G. P&T letter No. 201/43/76 Disc II dated 15.7.1976 which reads as under:-

"While placing an official under suspension the competent authority should consider whether the purpose cannot be served by transferring the official from his post to a post where he may not repeat the misconduct or influence the investigations, if any, in progress. If the authority finds that the purpose cannot be served by transferring the official from his post to another post then he should record reasons therefor before placing the official under suspension."

which was not done in the applicant's case.

(c) Because the disciplinary proceedings started and the charge sheet issued against the applicant are incompetent, malicious, arbitrary, prejudicial and null and void.

Champ
8/9/88

(d) Because Shri A.N. Srivastava, who worked in a junior capacity in the same office could not be appointed the Inquiry Officer to inquire the charges against the applicant.

(e) Because Rule 14 of the CCS(CCA) Rules 1965 does not permit the continuance of inquiry against a Government servant who has retired from service.

(f) Because the applicant's suspension came to an end by retirement of the applicant on super-annuation on 31.10.87 A.N., no suspension is deemed to be subsisting and the applicant is entitled to fully pay and allowances for the period of suspension treating it as on duty.

(g) Because the applicant could not be proceeded against under Rule 9 of the Pension Rules after a lapse of 6 years as the alleged incident or misconduct dates back to 3.12.79 to 14.9.81 and the incompetent charge sheet was served on to the applicant on 28.10.87 by hand through Shri D.C. Pandey, PRI(P), Lucknow G.P.O.

(h) Because under no rule the respondents could/can detain and defer the payment of GPF, General insurance, leave encashment, dues for suspension period and the pay and allowances admissible in terms of revised pay scales effective from 1.1.86.

*20/10/89
C.R.D.*

(i) Because no recovery can be made from the applicant as arrear of land revenue as wrongly and maliciously initiated by the Chief Postmaster, Lucknow G.P.O. and Tahsildar, Lucknow, specially when the case is sub-judice and a huge amount of about 2 lacs has been withheld by the authorities of the department.

(j) Because the entire action of the respondents from suspending the applicant and proceeding against him departmentally and enforcing recovery from his is bad, malicious, malafide, incompetent and illegal.

6. DETAILS OF REMEDIES EXHAUSTED :

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

The applicant submitted representations as mentioned below:-

(1)	Representation dated 05.11.87	
(2)	-do-	29.01.88 (Annexure A-16)
(3)	-do-	26.02.88 (-do- A-17(a))
(4)	-do-	28.01.89 (-do- A-23)
(5)	-do-	27.06.89 (-do- A-29)
(6)	-do-	01.07.89 (-do- A-30)
(7)	-do-	30.06.89 (-do- A-31)
(8)	-do-	05.07.89 (-do- A-32)
(9)	-do-	23.07.89 (-do- A-34)
(10)	-do-	23.08.89 (-do- A-36)

Copy of 10/10/89

No reply has been received by the applicant to any of his aforesaid representations.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

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

8. RELIEFS SOUGHT:

In view of the facts mentioned in para 4 above, the applicant prays for the following reliefs:-

- (1) That this Hon'ble Tribunal be pleased to declare the chargesheet, appointment of Inquiry Officer and all departmental proceedings as also the recovery proceeding as irregular, incompetent, illegal and void.
- (2) That the respondents Nos. 1 to 6 be commanded to fix the pay of the applicant in the revised scale of Rs.1400/2300 with effect from 1.1.86 and pay him the arrears thereof, alongwith arrears of the suspension period from 24.11.82 to 31.10.87 treating it as spent on duty. They may further be directed to settle all the post retirement dues including GPF, General insurance, leave encashment and fix the pension correctly and to pay the arrears thereof and

Copy to 18/1/87

the value of the commuted pension.

{2} (3) That the respondents be directed to pay interest at 18% per annum compoundable half-yearly from the date of his retirement to the date of payment of the dues detailed in item (2) above.

(4) That the cost of the case be awarded in favour of the applicant as against the respondents.

(5) That any other relief deemed just and proper in the circumstances of the case be allowed in favour of the applicant.

9. INTERIM ORDER, IF ANY, PRAYED FOR:

Pending final decision of the application, the applicant seeks the following reliefs:-

The respondents be restrained to take any action in connection with the departmental proceeding, the purported report alleged to have been filed by the Inquiry Officer and the report of the Chief Postmaster, Lucknow G.P.O. to the District Magistrate Lucknow for recovery of amount through Tahsildar, Lucknow as arrears of land revenue and make payments of the amounts as considered due and payable by them immediately to the applicant to mitigate his distress and misery.

*Concerto
18/9/89*

A3/-23-

10. The application is being filed personally through the applicant's counsel. As the matter is urgent it is prayed that it may be heard and decided expeditiously.

11. PARTICULARS OF THE POSTAL ORDER FILED IN RESPECT OF APPLICATION FEE:

(i) Number of the Postal order DD 777 896
(ii) Date of issue 16.9.89
(iii) Name of issuing P.O. Chowk H.P. Lucknow
(iv) Name of Post Office payable Allahabad G.P.O.

12. LIST OF ENCLOSURES:

(1) A-1 to A-5 and A-5(a).
(2) A-6 to A-12 and A-12(a)
(3) A-13 to A-17 and A-17(a)
~~(4) A-18 to A-40~~

VERIFICATION

I, Ganesh Prasad Srivastava, aged about 60 years, son of late Shri Mahadeo Prasad Srivastava, Retired L.S.G. (F), Lucknow G.P.O., resident of Flat No 2, Rahman Mansion, Hata Surat Singh, Near Bagh Baba Hazara, Lucknow-226003 do hereby verify that the contents of paras 1 to 4, 6, 7, 10 & 11 are true to my personal knowledge and those of paras 4, 8 and 9 are believed by me to be true on legal advice and that I have not suppressed any material fact.

Dated : 18.9.1989

Place : Lucknow.

Signature of applicant

M. Dube

(M. DUBEY)
Advocate

Ganesh
18/9/89

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE POSTMASTER, LUCKNOW GPO

Aug 11

Aug 24

Annexure A-6

Memo No:- FX-1/Fgn LMA/82-83 Dated at Lucknow-1 11.8.82.

Whereas a case against Shri Ganesh Pd. Srivastava LSG(F) Lucknow GPO in respect of a criminal offence is under investigation and also disciplinary proceeding against him is contemplated.

Now, therefore, the undersigned, in exercise of the powers conferred by Sub-rule(I) of rule 10 of the CCS (CL&A) Rules 1965, hereby places the said Shri Ganesh Pd. Srivastava under suspension with immediate effect.

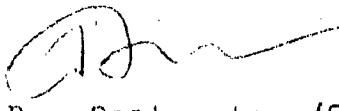
It is further ordered that during the period that this order shall remain in force the Head Quarters of Shri Ganesh Prasad Srivastava LSG(F) Lucknow GPO shall be ~~xxxxx~~ the Lucknow and the said Shri Ganesh Pd. Srivastava shall not leave the Head Quarters without obtaining the previous permission of the undersigned.

Sd/-
(D.S. Bajpai)
Dy. Postmaster (G)
Lucknow GPO-1

Copy to:-

1. Shri Ganesh Pd. Srivastava LSG(F) Lucknow GPO. Orders regarding subsistence allowance admissible to him during the period of his suspension will be issued separately. He will please report daily at 11.00 hrs. to the Dy. P.M. Delivery Lucknow GPO till enquiries are completed failing which he will cease his subsistence allowances.
2. Staff I for P. File.
3. C.R. File
4. Punishment Register
5. Dy. P.M. Accounts Lucknow GPO
6. Director of Postal Accounts Lucknow-18.
7. The PMG U.P. Circle Lucknow for information w.r.t. C.O. file No. Inv/C.D.-1/82/2 dt. 7.8.82
8. Dy. P.M. Delivery Lucknow GPO. He will please see that the official reports to him at 11.00 hrs. daily.
- 9-10. Spare.

Carried off
18/9/82


Dy. Postmaster (G)
Lucknow GPO

Allesed.
T.M. Duley
DPM

Annexure A-8

25

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER GENERAL, NEW DELHI, 226001

STANDARD FORM OF CHARGE SHEET FOR MAJOR PENALTIES (RULE 14 OF CCS (CCA) RULES 1965)

NO.

GOVERNMENT OF INDIA

MINISTRY OF

DATE:-

Memo No. FX-1/Fgn.LMA/82-83 dated 10.87

MEMORANDUM

*

The president/undersigned proposes to hold an inquiry against Shri Ganesh Pd. Srivastava under rule 14 of the Central Civil Services (Classification, control and appeal) rules 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement I) A statement of the imputations of misconduct or misbehaviour in support of each articles of charges is enclosed (Annexure II) A list of documents by which and a list of witness by whom the articles of charge are proposed to be sustained are also enclosed (Annexure II and IV).

2. Shri Ganesh Pd. Srivastava is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should therefore, specifically admit or deny each article of charge.

4. Shri Ganesh Pd. Srivastava is further informed that if he does not submit his written statement of defence on or before the date specified in para 2. above, or, does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules 1965 or the orders/directions issued in pursuance of the said rule the inquiring authority may hold the inquiry against him ex parte.

-----2/-

Received 19/9/88
19/9/88

26

5. Attention of Shri Manohar Prasad Srivastava is invited to Rule 20 of the Central Civil Services (Conduct) Rules 1964 under which no Govt. Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Shri Manohar Prasad Srivastava is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules 1964.

6. The receipt of the memorandum may be acknowledged

(By order and in the name of the
president) 11 11 11

Ta.

Shri

Ganesh Pd.Srivastava
is a (p) (u/s) Kathi Nagi Bahin Bur

Name & designation of competent Authority.

~~Wise-Saint-Singh-Holy-Saint-baba-Hisgarh~~

Lucknow

2. Vigilance statement.

- * Julesled
Te Miduhy
per

1891/81

(27)

Annexure A - 9

STATEMENT OF ARTICLES OF CHARGE PRAKASH AGARWAL & SHRI GANESH PRASAD
SRIVASTAVA LSQ P.A. DICKSON QSO (LUDHIANA SECTION).

ARTICLE - 1:

The aforesaid Shri Ganesh Prasad Srivastava while functioning as General Abstract Audit, II Room, Import branch Lucknow GRD during the period from 3.12.1979 to 14.1.1981 received 17 (seventeen) ¹⁷ (nineteen) foreign custom-duty-due articles amounting to Rs. 10964.65 ^{10964.65} but failed to credit the amount of custom duty in the Govt. account. Thus it is alleged that he acted in contravention of rules 11(3) and 182/1 of P&T Manual Vol. VI part I read with rule 4 of P&T P.H.S. Vol. I and rule 27 of P&T P.H.S. Vol. II and thereby failed to maintain absolute integrity, displayed gross negligence to duty and acted in a manner unbecoming of a Govt. servant violating thereby the revisions of rule 3(1) of C.C.S. (Conduct) Rules, 1964.

ARTICLE - 2:

The aforesaid Shri G. Ganesh Prasad while working in the aforesaid capacity during the aforesaid period failed to credit to Govt. account the amount of custom duty totalling Rs. 2,469.70 realized in respect of article no. P 244914/9690 and P 280289/161 which were received by him on 20.3.80 and 21.10.80 respectively. Thus it is alleged that said Shri G.P. Srivastava acted against the provisions of rule 11(3) of P&T Manual Vol. VI part I read with rule 4 of P&T P.H.S. Vol. I and rule 27 of P.H.S. Vol. II and thereby failed to maintain absolute integrity, displayed gross negligence to duty and acted in a manner unbecoming of a Govt. servant violating thereby provisions of rule 3(1) of C.C.S. (Conduct) Rules 1964.

ARTICLE - 3:

Shri Ganesh Prasad Srivastava while working in the aforesaid capacity during the aforesaid period at Lucknow GRD was required to maintain the Register of Foreign Articles received and disposed off neatly, clearly and carefully but he did not at all maintain the above Register for the period from 3.12.'79 to 22.7.'81. He only maintained the above register for the period from 24.7.'81 to 19.9.'81 which too is full of erasures and over striking. He also failed to witness the corrections made by putting his initials in the register as required.

P.T.O.

187/1/88
End of
187/1/88

-2-

(28)

under rule 636 of P & T Manual Vol. II, thereby he failed to maintain a devotion to duty and acted in a manner subversive of a Government servant violating provisions of Article 3(1)(ii) and 3(1)(iii) of O.C.S. (Conduct) rules, 1964.

R. B. Pandey
By. Chief Postmaster
Lucknow GPO.

*Referred
to Subject
M. S. W.*

*Concert
189/9/9*

Annexure A-10

(29)

STATEMENT OF IMPUTATIONS OF MALCONDUCT IN SUPPORT OF THE
ARTICLES OF CHARGE FILED D. AGAINST SHRI GANESH PRASAD SRIVASTAVA,
L.S.G. P.A. LUCKNOW GPO (UNBORN - CUSTODIAN)

ARTICLE - 1:

Shri Ganesh Prasad Srivastava, LSC PA worked in Registration Import branch Lucknow GPO as G.A. Clerk A.I from 3.12.1979 to 14.9.1981. He was required to receive the Custom Duty due articles, to prepare relative intimations for addressees and thereafter to deliver the articles at window after delivery of relative intimations through Post Box n. After delivery of the articles at window the said Shri Ganesh Prasad Srivastava, was required to credit the amount representing custom duty due thereon as required of him by virtue of Rule 11(3) and 182/1 of P&T Manual Vol. VI part I read with Rule 4 of P&T F.H.B. Vol. I and Rule 27 of P&T F.H.B. Vol. II.

In the said capacity and during the period aforesaid Shri G.P.Srivastava received seventeen custom-duty-due articles as per details enumerated in Annexure 'A'. Receipt of articles under reference was admitted by Shri G.P.Srivastava ~~vide~~ ⁱⁿ written statement dated 24.4.82 and 28.4.82 (copy enclosed). Audit. of Foreign Post New Delhi on the basis of references from Director of Audit, Nagpur intimated non-disposal of the articles as shown in the Annexure ~~Seven~~ ^{Seventeen}.

The addressee of twelve articles out of ~~seventeen~~ ^{Seventeen} at serials 1 to 9, 15, 16, 17, ~~18, 19, 20~~ have confirmed in writing that they have taken delivery of the articles in question after paying the due custom duty amount to the Clerk concerned at Lucknow GPO. The amount so realised has not been credited to the Govt. account. Thus the department has suffered a loss to the tune of Rs.10,964.65 on account of non-credit of proceeds of these articles for which Shri G.P.Srivastava is directly responsible.

Thus it is alleged that Shri G.P. Srivastava acted in contravention of Rule 11(3) and 182/1 of P&T Manual Vol. VI part I read with Rule 4 of P&T F.H.B. Vol. I and Rule 27 of P&T F.H.B. Vol. II and thereby failed to maintain absolute integrity, displayed gross negligence to duty and acted in a manner unbecoming of a Govt servant violating the provisions of Rule 3(1) of C.C.S. (Conduct) Rule 8, 1964.

P.T.O.

Ganesh
18/9/89

(30)

ARTICLE-2:

The aforesaid Shri G.P.Srivastava while working in the aforesaid capacity received Custom Duty due article No. D 244914/5690 for an amount of Rs.1971.20 on 28.5.80 and No. D 286289/161 for an amount of Rs.498.50 on 21.10.80 for delivery to the respective addressees after realisation of the above mentioned amounts. The aforesaid Shri G.P.Srivastava delivered the articles to the addressees on 9.6.80 and 3.11.80 after realising Rs.1971.20 and Rs.500.50 respectively. Thus Rs.2/- were realised excepts against article No.

D 286289/161. None of these amounts was credited to Govt. by said Shri G.P.Srivastava as per custom duty register of foreign articles transferred to Accounts branch maintained by Shri G.P.Srivastava himself. Thus it is alleged that with the above mentioned sums totalling Rs.2469.70 was misappropriated by aforesaid Shri G.P.Srivastava against the provisions of Rule 11(3) of P&T Man. Vol. VI part I read with Rule 4 of P&T F.A.B. Vol. I and Rule 27 of F.A.B. Vol. II and thereby failed to maintain absolute integrity, displayed gross negligence to duty and acted in a manner unbecoming of a Govt servant violating the provisions of rule 3(i) of C.C.S. (Conduct) Rules, 1964.

ARTICLE-3:

Shri Ganesh Dd Srivastava while working in the aforesaid capacity during the aforesaid period was required to maintain the register of Foreign Articles received and disposed of neatly, clearly and carefully but he did not maintain the above register for the period from 3.12.'79 to 29.7.'81. He only maintained the above register for the period from 24.7.'81 to 19.9.'81 which too is full of erasures and over figurings. He also failed to attest the corrections made by putting his initials in the register. Thus Shri G.P.Srivastava failed to observe the provisions of Rules 636 of P&T Man. Vol. II. Thereby he failed to maintain devotion to duty and acted in a manner unbecoming of a Govt. servant violating provisions of rule 3(1)(ii) and 3(1)(iii) of C.C.S. (Conduct) Rules, 1964.

Shri B. P. Srivastava
Dy. Chief Comptroller
Lucknow GPO.

*Attested
Te M. Durbar
P.W.D.*

*Ganesh Dd
10/9/81*

Annexure A-11

ANNEXURE A-11

(31)

List of the documents by which the articles of charge
preferred against Sri G.P.Briavastava, LSG PA, Lucknow GPO, are
proposed to be sustained.

1. Transfer list dated 24-4-80, containing entry in respect of article No. 288095/15H8440 at serial 2 of Annexure A.
2. Transfer list dated 10-12-80 containing entry in respect of article No. 299377/24757 at serial 3 of Annexure A.
3. Transfer list dated 10-11-80 containing entry of an article No. 28575/226556 at serial 4 of Annexure A.
4. Transfer list dated 11-12-80 containing entry in r/o article No. 1508329/300374 at serial 5 and 16 of Annexure A.
5. Transfer list dated 7-2-81 containing entry in r/o article No. 289896/568043 at serial 6 of Annexure A.
6. Transfer list dated 27-11-80 containing entry in r/o article No. 4504/22579 at serial 7 of Annexure A.
7. Transfer list dated 28-5-80, containing entry in r/o article No. 9690/24491, ✓ Not required by me.
8. Transfer list dated 21-10-80, containing entry in r/o article No. 286289.
9. Transfer list dated 30-12-80, containing entry in r/o article No. 303149 at serial 8 of Annexure A.
10. Transfer list dated 2-6-80, containing entry in r/o article No. 252757 at serial 9 of Annexure A.
11. Transfer list dated 30-1-80, containing entry in r/o article No. 797/218152 at serial 10 of Annexure A.
12. Transfer list dated 1-2-80, containing entry in r/o article No. 619/201448 at serial 11 of Annexure A.
13. Transfer list dated 8-4-80, containing entry in r/o article No. 238910, at serial 12 of Annexure A.
14. Transfer list dated 31-5-80, containing entry in r/o article No. 6725/251866 at sr. 13 of Annexure A.
15. Transfer list dated 8-5-80, containing entry in r/o article No. 246292/2676 at serial 14 of Annexure A.
16. Transfer list dated 26-11-80, containing entry in r/o article No. 38204/295188 at serial 15 of Annexure A.
17. Attendance register of Regn. Import Branch, Lucknow GPO for the period from 1-7-79 to Apr. 1982.
18. Written statement dated 26-4-82, 20-5-82 and 26-5-82 of Sri S.C.Asthana, the then LSG PA, now PRI (P) Lucknow GPO.
19. Written statement dated 19-6-82 of Shri C.B.Shakle Retd. PA, Lucknow GPO.
20. Written statement dated 24-4-82, 28-4-82, and 24-11-82 of Sri G.P.Briavastava the then LSG PA Lucknow GPO, presently under suspension.

Contd.....2

4/1/82
or enclosed
in the memo
it charges

M. S. P. M. D. D. B.
P.M. D. D. B.
P.M. D. D. B.

21. Written statement of Sri Hanuman Prasad Mishra dated 28-4-82 wrongly noted as 28-4-81 by him. ✓

22. Register of foreign articles received and despatched off for the period from 24-7-81 to 19-9-81 in the hand writing of Sri G.P. Srivastava, attested by the court of CJM, Lucknow.

23. Duty register of foreign articles, transferred to the A/Cs branch Lucknow GPO from 26-2-80 to 30-4-82 attested by the court of CJM Lucknow.

24. Letter No. 6-DRG/82-83/FP-11 dated Apr. 27, 1982 from CDRI Stores and Purchase officer to Postmaster GPU Lucknow attested by the court of CJM Lucknow.

25. Letter dated May 26, 1982 from Sri P.L. Srivastava, UDC Purchase Sec. CDRI Lucknow to Sri A.N. Shukla, C.I. Lucknow G.P.O.

26. Reply dated 3-3-82 of Store Officer NRII Lucknow, recorded over P.M. Lucknow GPO letter No. LR-Fgn. 121/81-82 dt 17-9-81.

27. W/S dated 1-5-82 of Shahnej Sultan B/o Mohd. Yaseem, House No. 215 Jhakar Bagh Lucknow recorded by Sri A.N. Shukla C.I. Lucknow GPO.

28. W/S dated 1-5-82 of Hushna Banu, 28 Machhali Mohal-Lucknow recorded by Sri A.N. Shukla, C.I. Lucknow GPO.

29. W/S dated 2-5-82 of Sri B.R. Budhram for Ram Chandra Budhram, recorded by Sri A.N. Shukla, C.I. Lucknow GPO.

30. W/S dated 1-5-82 of Shai Mohd. Shamim B/o late Sri Mohd. Nassem 116/99 Gausiazi Mandi Lucknow recorded by Sri A.N. Shukla C.I. Lucknow GPO.

31. W/S dated 1-5-82 of Sri Naushad Ali (at present), Sasta Chiken Bhendar, Nazirebad- Lucknow-16.

Verbal Roll
of Reg. Survey
Bancet and
for the period
to day Register
to be kept
for the period
of 3 months
and to be
kept for 10 years

V. A. M. May
Dy. Chief Post Master
Lockport C. P. O. 226000

Méslád
Te
M. Duker
DDV

Annexure A-12

(33)

List of witnesses by whom the articles of charges framed against Sri G.P.Srivastava, L.S.G. PA, Lucknow GPO (under suspension) proposed to be sustained.

1. Shri Hanuman Prasad Mishra, Retd. APM Regn. Import branch Lucknow GPO.
2. Sri C.B.Shukla, Retd. PA, Regn. Import branch, Lucknow GPO.
3. Sri S.C.Asthana PRT (P), Lucknow GPO.
4. Sri K.N.Shukla, the then C.I. Lucknow GPO, now SDI Gonda Dist.
5. Shri P.L.Srivastava, UGC Purchases Sac, Lahi-Lucknow.
6. Sri Ramkumar III, Retd. PA Lucknow GPO, Pan shop near the Zoo gate Lucknow.
7. Sri Devaki Nandan Mishra, the then PA Lucknow GPO, now APM Lucknow GPO.
8. Sri Rajendra Kumar PA, Lucknow GPO.
9. Shri Pancham Lal Kuril, PA Lucknow GPO.
10. Sri Muzaiz Ahmed, PA Lucknow GPO.
11. Sri Udai Singh, PA Lucknow GPO.

Dr. Chetan P. Joshi
District U.P.O. 234634

Abesha
T. M. Duley
PA

Concord
18/9/89

Annexure A-12a)

(34)

GENERAL LIST OF THE ARTICLES OF THE CUSTOMS-IMPORT-EXPORT BILL OF EXCHANGES AND OF THE DOCUMENTS FOR THE CUSTOMS-IMPORT-EXPORT BILL OF EXCHANGES.

No.	Date Assigned to Customs for Letter No.	Date Received from Customs for Letter No.	Name of Article No.	Country of Origin	Duty Calculated		Total Duty Paid to Customs for Letter No.		
					(1)	(2)	(3)	(4)	(5)
1.	3.4.81 335/81	7.3.81 257589	Switzerland	112340	1513.50	2.50	1521.10	1.5.80	
2.	3.4.81 1264/81	7.3.81 288025	U.S.A.	4757	933.45	2.50	933.45	24.4.80	
3.	" 7322/81	2.12.81 239377	"	3715	1294.90	2.50	1297.40	10.12.80	
4.	" 7102/81	17.11.81 223556	S.A.	3715	1313.30	2.50	1315.50	13.11.80	
5.	" 7945/81	9.12.81 300374	S.A.	3715	1409.75	2.50	1412.25	11.12.80	
6.	" 3287/81	18.1.82 284895	"	3715	130.70	2.50	133.20	3.2.81	
7.	" 7101/81	17.11.81 225793	"	4504	1268.75	2.50	1271.25	27.11.80	
8.	" 7670/81	29.12.81 303048	"	5033	240.00	2.50	242.50	30.12.80	
9.	" 1381/81	14.5.81 252757	S.A.	2516	180.00	2.50	182.50	2.6.80	
10.	" 9414/81	3.12.80 218152	Spain	379	270.00	2.50	272.50	30.1.81	
11.	" 8937/80	3.12.80 201448	S.K.	619	144.00	2.50	145.50	1.2.80	
12.	" 964/81	6.3.81 238940	Hilane	8140	180.00	2.50	182.50	8.4.80	
13.	" 1834/81	11.5.81 251866	Turkist	6725	216.00	2.50	218.50	31.5.80	
14.	" 1567/81	12.5.81 246292	Ste	2676	120.00	2.50	122.50	8.5.80	
15.	" 5986/81	9.11.81 295188	Panama	35204	600.00	2.50	602.50	26.11.80	
16.	" 7952/81	10.12.81 30470	S.A.	7331	180.00	2.50	182.50	11.12.80	
17.	" 1900/81	13.5.81 253112	Eccca	7802	120.00	2.50	122.50	3.6.80	
				10922.15	42.50		10944.65		

Dy. Chief Post Master
Lucknow 623001

M. J. Duley
T.C.

18/1/89
G. 22

Annexure A-39DEPARTMENT OF POSTS

XV

From :-

Chief Postmaster,
Lucknow G.P.O.-226001.

To

The District Magistrate,
Lucknow.

No. Fx-1/Fgn.LW/82-83 Dated 8.9.1988

Sub :- Proposal for recovery of Govt. money as
arrear of Land Revenue - case of Sri Ganesh
Prasad Srivastava I.S.G.(P.A.), Lucknow G.P.O.,
(Retired).

Your kind attention is invited to this office letter of even no. dated 18.12.87 and subsequent reminder dated 23.2.88 regarding recovery of Govt. money to the tune of Rs.10964.63 as arrear of Land Revenue from Sri Ganesh Prasad Srivastava S/O late Sri Mahadeo Prasad Srivastava, Flat No.2, Rahman Mansion, Hata Surat Singh, Chaupatiyan Bagh Baba Hazar, Lucknow and their copies were endorsed to the Tahsildar Collection Section Lucknow for doing the needful but no fruitful result is forthcoming.

You are, therefore, requested to issue necessary instructions to the Tahsildar Collection Section Lucknow for doing the needful early.

Sd/-

Chief Postmaster,
Lucknow G.P.O. 226001.

Copy to :-

1. The Tahsildar Collection Section Lucknow for information.
2. Sri Bansu Yadav P.R.I (P) III Lucknow G.P.O. for delivering the enclosed letters to the District Magistrate Lucknow and the Tahsildar Collection Section Lucknow for getting the needful soon early.
3. P.M.G. U.P. Circle Lucknow with reference to his file mark Inv/CD-1/82/2.
4. 6 Spare.

Sd/-

Chief Postmaster,
Lucknow G.P.O. 226001.

Attested

T. K. Reddy /
A.C.M.Concurred
18/9/88

ज० वि० आकार -पत्र 69

। नियम 236 देखिये ।

उपस्थिति-पत्र (Citation to appear)

देखों धारा 280, उ०प्र० ज०सि० और मू०व्य० ऐक्ट 1950 ई०

क्रम संख्या-

सेवा में

गोदा प्रसाद श्रीवास्तव
फ्लैट नं०-2, रहमान मैन
हाता सूरत सिंह चौपटियाँ
लखनऊ।

खाता- खतौनी- गाँव मौजा -परगना - की किशत के हिसाब
में 10, 964/- रु की बकाया धराशिा आपके द्वारा देय है, इसलिये
यदि आप पूरा बकाया तथा इस उपस्थिति-पत्र का तलबाना शीघ्र न
चुका सकें तो स्तद्द्वारा यह अमेहित है कि आप स्वयं दिनांक 28.6.89
को इस न्यायालय में उपस्थित हों।

मेरे द्वारा तथा इस न्यायालय के मुहर के साथ आज दिनांक
19-6-89 ई० को जारी किया गया।

४०/- अठनीय

हस्ताक्षर
तहसीलदार

मुहर

आपको यह ज्ञात हो कि यदि आप उल्लिखित समय और
दिनांक पर उपस्थित नहीं होंगे तो आपकी गिरफ्तारी तथा निरोधन
के लिये आपकी सम्मति की कुकीं तथा नीलाम के लिये अधिकार जारी
हो सकता है।

M. S. Patel
Te
M. J. D. Patel
N.D.W.

Concile
19/9/89

ब अदालत श्रीमान्

CAT, Circuit Bench, महोदय

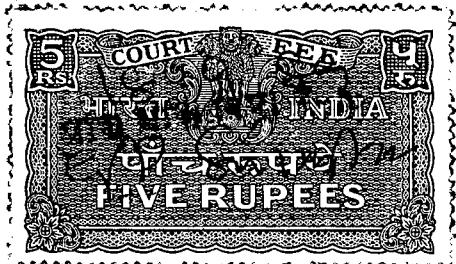
[वादी अपीलान्ट] Gyanesh Doss and

श्री
श्रुतिवादी [रेस्पाइन्ट]

Shri Ganesh Vora and
Shri Srinivasan

Sri Vaikunna का

वकालतनामा



वादी (अपीलान्थ)

Ganesh Pansare बनाम W S Dohis प्रतिवादी (रेस्पारेन्ट)
Sivaram

१०० सुकदमा

सन् १९८९

पेशी की तां

୧୯୦

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री... B. S. Sharma, Ach. High Comm
 tress... & M. Dube, Ach. & M. L. वकील
 Nasirji Ganeshganj, Nizam महोदय
 इडवोकेट

नाम अदालत	.....	.....	.....	.....	.....	.....
मुकदमा नं०	.....	.....	.....	.....	.....	.....
नाम फरीकेन	.....	.....	.....	.....	.....	.....

को अपना बकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं औह लिखे देता हूं इस मुकद्दमा में बकील महोदय एवं अथवा अथ बकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रूपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रूपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें—बकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे बकील पर नहीं होगी इसलिए यह बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आने ।

Ganesh Basak Somasree
हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक १८th महीना September सन् १९८१ ई०

स्वीकृत

W. Blomquist

② M. Dubey Dow

Annexure A-1

INDIAN POSTS & TELEGRAPHIC DEPARTMENT
OFFICE OF THE POSTMASTER, LUCKNOW PIN-226001.

Memo No. FX-1/Fgn LMA/82-83 Dated: Lucknow, Aug/Sept. 6 1982

MEMORANDUM

The undersigned proposes to hold an inquiry against
Sri G.P.Srivastava on
under Rule 14 of the Central Civil Services (Classification & Appeal) Rules, 1935, the substance of the accusations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set in the joint of statement of articles of charge (Annexure I). Support the imputations of misconduct or misbehaviour (II). A list of such article of charge is enclosed (having whence documents by which, and a list of which are the two articles of charge are proposed to be supported (Annexure III & IV)).

Shri G.P.Srivastava is directed to submit within 10 days of the receipt of this letter a memorandum written statement of his defence and also state whether he desires to be heard in person.

He is informed that an inquiry will be held by in respect of those actions of Charton are not within. He would, therefore, specifically submit an inquiry will be charge.

Shri G.P.Srivastava informed that if he does not submit his statement or defence on or before the date specified enquiring authority does not appear in person before my with the provisions otherwise makes or refuses to do so and Rule 14 of the CGS (CUSA) he said rule, the inquiring authority may hold the inquiry.

G.P. Srivastava

Attention of Shri _____ Central Civil Services (Conduct) is invited to Rule 20 of the Govt. servant shall bring or Rules, 1964 under which critical or outside influence to bear attempt to bring any injury to further his interests in respect of any superior authority to his service under the Govt. or of matters received on his behalf from another. If any representative of any matter dealt with in these proceedings in respect of that Shri _____ G.P. Srivastava it will be pressed that it has been made aware of such a representation and that action will be taken against him for his instigation and action will be taken against him for violation of rule 20 of the CCS (Conduct) Rules, 1964.

The recipient of this memorandum may be acknowledged.

Dy. Postmaster (Gazetted)
Lucknow GPO-226001

Regd. A/D, T.O.

To.

1. Shri G.P.Srivastava LSG (F) on leave, Kothi Haji Rahimbux
2. Vigilance Statement by Surat Singh neat Chauporian, Lucknow

MP120-74.

Washed
T.C.
M. Dubois
P.D.W.

AS 1 (38)
Annexure A-2

ANNEXURE I

Statement of articles of charges framed against Shri Ganesh Pd. Srivastava LSG(F) Lucknow GPO.

Article I

That the said Shri Ganesh Pd. Srivastava while functioning as G.A.II Regn Import branch Lucknow GPO during the period from 3.12.79 to 14.9.81 received foreign letter Mail air articles bearing custom duty and postage fee from bag openers from window delivery to their respective addressees after realising custom duty and postage fee ~~and~~ as per details mentioned in 'Annexure A' but he failed to intimate particulars of credit of custom duty and postage fee or further disposal of the articles. He did not mention the numbers borne by the said articles remained in deposit in his abstract. He acted in contravention of rule 11 and 154 of P&T Manual Vol. VI part I and rule 4 of the FHB Vol I.

Article II

While working as G.A.II Regn Import branch Shri Ganesh Pd. Srivastava did not transfer the registers of Fgn. articles received and disposal of, one for the period upto 7.4.81 and the other for the period from 8.4.81 to 23.7.81 and these registers were treated as lost. The said register maintained by him for the period from 24.7.81 to 19.9.81 is full of erasing and over writings with inimotives. He acted in contravention of rule 636 of P&T Manual Vol II.

Article III

By his above acts the said Shri Ganesh Pd. Srivastava LSG(F) Lucknow GPO failed to maintain absolute integrity and devotion to duty as required of him under rule 3 I(i)&(ii) of CCS (Conduct) Rules 1964.

1/1/81
Dy. Postmaster (G)
Lucknow GPU-226001

Attested
To
M. Dubey
M.M.

Concurred
18/9/81

ANNEXURE II

Annexure A 3

39

Statement of imputations of misconduct in support of the articles of charge framed against Shri Ganesh Pd. Srivastava LSG (F) Lucknow GPO.

Article I

Foreign articles bearing custom duty and postage fee mentioned in Annexure 'A' were given by bag openers to Shri G.P.Srivastava the then G.A.Clerk II Regn Import branch Lucknow GPO for effecting window delivery to their respective addressees after realising custom duty and postage fee but the said Shri G.P.Srivastava did not account for the articles. The Director of Accounts (Postal) Nagpur intimated non credit of the said amounts of custom duty and postage fee. The said Shri G.P.Srivastava was addressed to intimate disposal of the articles mentioned in annexure 'A'. In respect of articles No. D-218152 and D-201448 he intimated that the articles are not traceable to have been delivered and did give no reply in respect of article no. D-205721. He failed to intimate particulars of credit of the amounts realised from the addressees or their disposal. He did not show the numbers borne by the said articles remained indeposit, in his abstracts. He violated provision of rule 11 and 154 of P&T Manual Vol. VI part I Rule 224 of F.H.B. Part I and rule 27 of F.H.B. Vol. II.

Article II

While working as GA II Regn Import branch Lucknow GPO Shri G.P.Srivastava did not transfer the register of "Fgn articles received and disposed" of by him, one for the period upto 7.4.81 and the other for the period from 8.4.81 to 23.7.81. The registers were treated as lost vide F.B.No.542 dt. 8.4.81 and 667 dt. 24.7.81. The said register maintained by him for the period from 24.7.81 to 19.9.81 is full of erasures and over writings. He lost the registers and made erasures and overwritings with illuminatives. He acted in contravention of rule 636 of P&T Manual Vol. II.

Article III

By his above acts the said Shri G.P.Srivastava while working as GA clerk II Lucknow GPO failed to maintain absolute integrity and devotion to duty as required of him under rule 3 I (i) and (ii) of CCS (Conduct) Rules 1964.

Dy. Postmaster(G)
Lucknow GPO-226001

Attested
Re
M. Dikshu
Wd

Copy of
18/9/89

ANNEXURE III

Annexure A-4 (60)

List of documents by which the articles of charge framed against Shri G.P.Srivastava LSG(F) Lucknow GPO are proposed to be sustained.

1. DAP Nagpur H.M. Memo No. CDS/1703/Jan.80 dt. 10/80
2. " " " CDS/1183/Jan 80 9/80
3. " " " CDS/4894/june 80 4/81
4. Abstract of Regn Import branch dt. 30.1.80 consisting of regd. list and transfer list showing entry of article no. XXXXk44R. D-218152.
5. Abstract of Regn Import branch dt. 1.2.80 consisting of regd. list and transfer list showing entry of article no. D-201448.
6. Abstract of Regn Import branch dt. 24.6.80 consisting of regd list and transfer list showing entry of article no. D-205721.
7. Abstract of G.A.II dt. 30.1.80 consisting of transfer list showing entry of article no. D-218152.
8. Abstract of G.A.II dt. 1.2.80 consisting of transfer list showing entry of article no. D-201448.
9. Abstract of GA II dt. 24.6.80 consisting of transfer list showing entry of article no. D-205721.
10. Letter no. LR Fgn-4/81-82 dt. 7.5.81 from P.M. Lucknow GPO to Shri G.P.Srivastava with acknowledgement dt. 7.5.81.
11. Reminder no. LR Fgn 4/81-82 dt. 26.6.81 addressed to Shri G.P.Srivastava.
12. Letter no. LR Fgn-5/81-82 dt. 2.5.81 from PM Lucknow GPO to Shri G.P.Srivastava with acknowledgement dt. 4.5.81.
13. Letter no. LR Fgn 171/81-82 dt. 20.1.82 from PM Lucknow GPO to Shri G.P.Srivastava with acknowledgement dt. 20.1.82.
14. Reply dt. 22.8.81 from Shri G.P.Srivastava in reply to letter no. LR Fgn-4/81-82 dt. 7.5.81.
15. Reply dt. 22.8.81 from Shri G.P.Srivastava in reply to letter no. LR Fgn-5/81-82 dt. 2.5.81.
16. Letter no. LR Fgn-5/81-82 dt. 17.9.81 addressed to Shri G.P. Srivastava.
17. Attendance Register of Regn Import branch from 1.7.79 to April 82.
18. Nominal roll of Regn Import branch from 1.10.78 to Dec. 80.
19. Written statement of Shri S.C.Asthana LSG(F) Lucknow GPO dt. 20.5.82.
20. Written statement dt. 19.6.81 of Shri C.B.Shukla retired PA Lucknow GPO.
21. Written statement dt. 10.6.82 of the Gaurishankar Shazma PA Lucknow GPO.
22. Written statement dt. 12.6.82 Buxa Singh PA Lucknow GPO.
23. Hand to hand receipt book under which the ~~books~~ were to be transferred to Treasury branch for the period from 27.11.79 to 13.3.80 and 23.6.80 to 14.10.80.
24. Error Book of Regn Import branch consisting of EB No. 542 dt. 8.4.81 and 667 dt. 24.7.81.
25. Register of Fgn. article for the period from 24.7.81 to 19.9.81.

Dy. Postmaster (G)
Lucknow GPO-226001

Attested
To
M. Dikshu
Wdly

19/9/81
Gaurishankar Shazma

Annexure IV

List of Witness by whom the articles of charges framed against Shri G.P.Srivastava LSG(F) Lucknow GPO are proposed to be sustained.

1. Shri Hanuman Pd. Misra A.P.M. Regn Import Branch Lucknow GPO
2. " C.B. Shukla Ex P.A. Regn Import branch Lucknow GPO
3. S.C. Asthana LSG (F) Lucknow GPO
4. G.S. Sharma P.A. Lucknow GPO
5. Buxas Singh P.A. Lucknow GPO

Dy. Postmaster (402)
Lucknow GPO-226001

Allied
Te
Mr. Dukhy
Wadh

Given
19/9/89

Annexure A 62

Details of foreign articles bearing custom duty amounts for which were not accounted to Shri G.P. Srivastava
GA II Regn Import Branch Lucknow GFC.

ANNEXURE A

Details of foreign articles bearing custom duty amounts for which were not accounted to Shri G.P. Srivastava

Sl. No.	Director Accts Nagpur Hafmargin Name No.	Delhi Fgn Amounts to be realised Date	Name of the addresser of article to GA of bagor - intimating disposesale. P. Sri enee of the article Date	Name of the addressee of article to GA of bagor - was addressed for from sh enee	Letter under which REPLY was received on 26.6.81 Date	Letter under which REPLY was received on 26.6.81 Date	
						No.	Date
1.	CDS/1703/Jan 80 10/80 D-218152	28.1.80 270/- 2.50 272.50	Deepa daryanani 30.1.80 S.K.Tiwari LR/Fgn-4/81-82	Replied dt. 7.5.81 and on 26.6.81	22.8.81 Artic is not tr eable to have been de livered		
		21. Nazarbagh Lucknow					
2.	CDS/1183/Jan 80 9/80 D-201448	30.1.80 144/- 2.50 146.50	Mauji Tayal 1.2.80 Late Shri LR Fgn-5/81-82 25, A Ashok Marg Lucknow	Replied dt. 2.5.81 and 17.9.81	17.9.81 no reply		
3.	CDS/4894/Jan 81 4/81 D-205721	20.6.80 99.602.50 102.10	DOS NE Riy. 24.6.80 S.C.Asthana LR/Fgn-171/81-82 Lucknow	Replied 20.1.82	No reply		

Dy. Postmaster (G)
Lucknow GPN-226001

*Mr. D. D. Dinkar
D. D. Dinkar
D. D. Dinkar*

*Govind
18/9/89*

Annexure A-7

(43)

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE POSTMASTER, LUCKNOW GPO

Memo No:-FX-1/Fgn LMA/82-83 Dated at Lucknow GPU 19-11-82.

Since Shri G.P.Srivastava LSG (F) Lucknow GPO is on long medical leave since 1.5.82 and since certain documents mentioned in Annexure III have been handed over to police for their investigation, this office charge sheet memo under rule 14 of CCS (CC&A) Rules 1965 issued against Shri Ganesh Pd. Srivastava LSG (F) Lucknow GPO vide this office memo no.FX-1/Fgn LMA/82-83 dt.6.9.82 is hereby cancelled without any prejudice to issue of charge sheet memo in due course.

Sd/-
(D.S.Bajpai)
Dy. Postmaster (G)
Lucknow GPO

Copy to:-
Regd No 1. Shri G.P.Srivastava LSG (F) Lucknow GPO on leave New Building Kothi Hazi Rohimbux Hata Surat Singh Lucknow-226003
2. Shri L.P.Kanjawia I.I. cum Inquiry officer O/O the P.M.G.U.P.Circle Lucknow,
3. Vigilance Statement.

Dy. Postmaster (G)
Lucknow GPO

Attested

To
R.Dubey
Addl. M.D.

Ganesh
19/11/82

Annexure A-13

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER LUCKNOW GPO-226001.
Mem No. B-4/Retirement dated at Lw. the 9/ Oct. 1987.

Sri Ganesh Prasad Shrivastava LSG Postal Asst.
Lucknow GPO, whose date of birth is 27-10-1929 and is under
suspension w.e.f. 24-11-82 F/N, will be deemed to have retired
from Government Service on attaining the age of superannuation
on 31-10-87 A/N.

Due to pendency of disciplinary case against Sri
G.P. Shrivastava, the pensionary benefits will be determined
upon the finalization of the case in terms of Rule 9 of CCS
(Pension) Rules 1972.

It should be ensured that the Govt. dues, if any
out-standing against the official, should be recovered from
him before his retirement takes place.

SPL
Chief Postmaster
Lucknow GPO-226001.

Copy to :-

1. Sri Ganesh Prasad Shrivastava LSG Postal Asst. Lucknow GPO under suspension, presently residing at Kothi Hazi Rahim, Bux, Hata Surat Singh, near Magh Baba Hazara, Lucknow-226003.
2. P.F. of the official.
3. Dy. Postmaster A/Cs, Lucknow GPO.
4. D.A. (P), Lucknow-10.
5. Pension Asst, Lucknow GPO.
- 6-8. Spouse.

JMN
Chief Postmaster
Lucknow GPO-226001.

Allied

TC
M. Subbarao

Concise
18/9/89

Annexure A/14

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER LUCKNOW GPO-226001.

Memorandum No. FX-1/Fgn-LMA/82-83 dated at Lucknow the 7 Nov. 1987.

Whereas an enquiry under Rule 14 of the CCS (CCA) Rules 1965 is being held against Shri Ganesh Prasad Shrivastava L.S.G. (P.A.) Lucknow GPO (Retired).

And whereas the undersigned considers that an enquiring authority should be appointed to enquire into the charges framed against the said Shri Ganesh Prasad Shrivastava.

Now, Therefore, the under signed, in exercise of the powers conferred by Sub-Rule(2) of the said Rule, hereby appoints Shri Ashok Kumar Shrivastava, C.I. Lucknow GPO as the enquiring authority to enquire into the charges framed against Shri Ganesh Prasad Shrivastava.

By, Chief Postmaster
Lucknow GPO-226001.

Copy to :-

1. Shri Ganesh Prasad Shrivastava L.S.G. (P.A.), (Retired)
Kothi Hazri Rahim Bux, Mata Surat Singh, Near Bagh Baba
Hazra, Lucknow.
2. Shri Ashok Kumar Shrivastava, C.I. Lucknow GPO.

Dy. Chief Postmaster
Lucknow GPO-226001.

Attested
T/c
M. Juker
W.W.

Received
18/9/89

Annexure A-15

(46)

(x)

82/13/187

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER LUCKNOW GPO-226001.

Memo No. FX-1/Fgn LMA/82-83 dated at Lucknow the 7 Nov. 1987.

.....

Whereas an Enquiry under Rule 14 of CCS (CCA) Rules 1965 is being held against Shri Ganesh Prasad Shrivastava LSG (P.A.) Lucknow GPO (Retired).

And whereas the undersigned considers that a presenting officer should be appointed to present on behalf of the undersigned the same in support of the articles of charge.

Now therefore, the undersigned, in exercise of the powers conferred by Sub Rule (5) (C) of Rule 14 of the said Rules, hereby appoints Shri R.P. Mishra, A.P.M. MD Paid, Lucknow GPO as the presenting officer.

Sd/-

Dy. Chief Postmaster
Lucknow GPO-226001.

Copy to :-

1. Shri R.P. Mishra APM MD Paid, Lucknow GPO (P.U.).

✓ 2. Shri Ganesh Prasad Shrivastava LSG (P.A.), Lucknow GPO (Retd) Koti Hazri Rahim Bux, Hata Surat Singh, Near Bagh Baba Hazra Lucknow.

3. Shri Ashok Kumar Shrivastava C.I. Lucknow GPO. (E.O.).

Dy. Chief Postmaster
Lucknow GPO-226001.

Allied
Te
M. Dubey
W.D.

Concert
19/9/87

Annexure A/6 A5 | 97

To

The Dy. Chief to Master,
Lucknow G.O.O.

Through : Shri Ashok Kumar Srivastava,
Complaint Inspector,
(Enquiry Officer),
Lucknow G.O.O.

Subject : Appointment of Shri Ashok Kumar Srivastava,
Colo, L.A.O. as Enquiry Officer.

Reference : I.O. memo No. B/Enquiry/87-88 dated 14.1.88
and your office Memo No. Rx-1/Fgn-1/88 dated 7.11.87

Respected Sir,

With reference to the Memos referred to above
I am to request you that any officer of my postal or R.M.O.
Division other than Lucknow G.O.O. might please be
appointed as an Enquiry Officer. I am afraid that
Shri Ashok Kumar Srivastava, Complaint Inspector, Lucknow
G.O.O. because of working in Lucknow G.O.O. will not be
impartial to me and thus justice will be denied to me.

Thanking you,

Yours faithfully,

Dated : 29.1.1988

Ganesh Prasad Srivastava
(Ganesh Prasad Srivastava)
(B/o) L.O.O. (F), Lucknow G.O.O.
Residence Flat No. 2,
Raman Mansion,
Rata Burat Singh, Chauratiganj,
Lucknow G.O.O.

Copy to Shri Ashok Kumar Srivastava, Complaint
Inspector (Enquiry Officer), Lucknow G.O.O. with the
request that he may keep the proceedings stayed till the
disposal of this application.

Ganesh Prasad Srivastava
(Ganesh Prasad Srivastava)

Alleged

T.C
M. Dubey
P.W.D.

Red. Thru Cof
R.P. (100)
Rajendra Kumar
Srivastava
Receipt etc

Annexure A-17

(x)

(48)

उपमुख्यपोस्टमास्टर लखनऊ, जो.पी.ओ. के पत्र संख्या-1/फारेन/स्ल.एस.ए.
182-३३ दि ८-२-४४ को प्राप्त जो अधिकारीकामार श्रीविजय जीव जीवकारी लखनऊ
जो जो जो का सम्बोधन है-

सेवामें

अधिकारीकामार श्रीविजय
जीव अधिकारी, लखनऊ, जो.पी.ओ.

पत्र संख्या-1/फारेन स्ल.एस.ए/१८-३३ दि ८-२-४४

विषय:- केंद्रीय गर्भवती (वर्गीकरण, नियन्त्रण इत्यअधिकारी) नियम १९५ के

नियम १५ के अधीन श्रीगणेश प्रसाद के विरुद्ध अनुशासिक कामवाही

सन्दर्भ:- आपका पत्र वी/जीव/४७-४४ दि ३०-१-४४

आपके उपरोक्त पत्र के सन्दर्भ में आपको जवाब देना है।
आपके पत्र के साम्र श्रीगणेश प्रसाद श्रीविजय का प्राप्तिवेदन दि २५-१-४४ जेवियना
अधिकारी को परिवर्तित करने से सम्बोधित भा. वद सी.सी.एस (सी.सी.ए) नियम
१९६५ के नियम १५ के अन्तर्गत भारत सरकार द्वारा प्राप्ति आदेश जी अनुदेश १५ में
निर्दित है, कि अनुसार श्रीगणेश प्रसाद श्रीविजय का प्राप्तिवेदन अधिकारी
के सम्मुख दर्शन करना। इसी अधिकारी के प्राप्तिवेदन आपका विवेचना अधिकारी
के पद से प्राप्तिवेदन करने की पार्थ्यता का कोई अधिकारी नहीं पाया है और आपको
प्रवेश विवेचना अधिकारी के रूप में काम करने रहने को जाहाज। यद्योंकि श्री
गणेश प्रसाद ने आप न पाने की आवाज का मौक़ निश्चितपण्डत प्रकरण नहीं
प्रस्तुत किया है।

अतस्य आप उक्त भास्त्रलेभे विवेचना कार्य जारी रखें। इसके सचिना
श्रीगणेश प्रसाद की भी दें।

उत्तराधिकारी:

उपमुख्यपोस्टमास्टर
लखनऊ, जो.पी.ओ.

प्रभागित

Signature
५-२-४४ विवेचना अधिकारी

परिवाद निरीक्षा
८८८ नंक जी.पी.ओ. २२६००१

Mr. Vered

Mr. Duleh
M. W.

18/9/89
Laxman

Annexure A/17(a)

To

The Director General,
Posts,
Dak Bhawan,
New Delhi

(49)

THROUGH : PROPRIETOR

Sub : Petition regarding change of Enquiry Officer.

Ref : Dy. Chief Postmaster, Lucknow GPO Memo No. F-1/Fgn.LMA/82-83 dated 5.2.88.

Respected Sir,

Being aggrieved by the above referred to order of the Dy. Chief Postmaster, Lucknow GPO communicating the decision of the Chief Postmaster, Lucknow GPO rejecting my representation dated 29.1.88 for change of Enquiry Officer, I beg to submit this petition to your goodself for favourable orders.

1. That by an order No. F-1/Fgn.LMA/82-83 dated 7.11.87 (Annexure-I) Shri Ashok Kumar Srivastava Complaint Inspector, Lucknow GPO was appointed as an Enquiry Officer in the proceedings under Rule 14 of CCS(CCA) Rules 1966 against me.
2. That I represented to the ^{Dy.} Chief Postmaster, Lucknow GPO (Annexure-II) but he rejected the the same vide Dy. Chief Postmaster, Lucknow GPO letter referred to above addressed to Shri Ashok Kumar Srivastava (Annexure - III) a true copy of which was received by me with Shri Ashok Kumar Srivastava's letter No. E/Enquiry/87-88 dated 5.2.88 (Electrostat copy enclosed).

contd...2

Recd. 9/1/89
1879/89

50

3. That Shri Ashok Kumar Srivastava, Complaint Inspector, Lucknow GPO is an officer of ~~xxxxx~~ the very office to which I belonged and I have reasons to believe that he has already been prejudiced. As such I do not hope to get justice from him.

4. That Shri Ashok Kumar Srivastava, Complaint Inspector, Lucknow G.P.O. is working under direct control of the Dy. Chief Postmaster, Lucknow GPO who is the Disciplinary Authority in the case and as such he will not be able to return an impartial finding as I have reason to believe that he is being pressurised by the officers and officials of Lucknow GPO.

5. That there are specific orders on the subject that the Enquiry Officer in the Postal Department in the case of an enquiry under rule 14 of CCS(CCA) Rules 1965 should be appointed from a different arm of the postal wing particularly where various officers of the various arms of the postal wing are available at the same station.

6. That the persistent pressure and insistence of the Disciplinary Authority to keep Shri Ashok Kumar Srivastav as an Enquiry Officer gives me enough room to doubt that there is something fishy in the matter.

Secret/ 09/09/09

AS/ (51)

DEAYER

Wherefore, it is respectfully prayed that the Disciplinary Authority may kindly be directed that an Inquiry Officer of some other arm of the postal wing be appointed to enquire into the charges so that I may not be denied natural justice.

Thanking you,

Yours faithfully,

Dated : 20.2.1988

Amrit Singh
(GANESH PRASAD BHIVANTAVA)
O/c Flat No. 2, Rahman Mansarovar,
Hata Turat Singh,
Near Bach Baba Hazara,
Lucknow - 220008.

1. Copy to Shri Ashok Kumar Srivastava, Complaint Inspector, Lucknow CFO (Inquiry Officer) with the request that the proceedings may be kept in abeyance till the disposal of this petition. Any further action taken by him will be at his risk.
2. Copy sent direct by registered A.P. post to ~~the~~ ^{and Annexure II} Director General, Posts & Tel. Bhawan, New Delhi, for favour of information.

Amrit Singh

*T.C. Dukheri
M. Dukheri*

Concurred
10/9/89

Annexure A-18

Chief Post Master
Lucknow G.H.Q. 226001

52

Bar/88-TC
8/3/88

Sir, Ganesh Rd Sivasthi
Retired ISG(E)
Flat No 2 Rahman Chowk
Hata Sutat Singh
Near Bazar Baba Haider

No Fx-1/Fgn LMA/82-83 Ltr No 23-2-88

Subject: Change of Emergency No.

Ref: your Representation dt 21-2-88

The decision of the
C.P.M. L.M.A. taken on the matter
is communicated as under: -

Since nothing new has
been put forward by the
petitioner. See no reason
to change the E.O.

Dy. Chief Post Master
Lucknow G.H.Q. 226001

Attested

T. Dubey
M. Adm

General
1/3/88

Annexure A-19

SB

OFFICE OF THE CHIEF POSTMASTER LUCKNOW U.P. 26001.
MEMO NO. FA-1/ Fgn. LMA/ 82-83 Date 9-3-83

Whereas an inquiry under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 is being held against Sri Ganesh Pd. - Privyatee L.S.P. (Retd)

Whereas Sri Ashok Kumar Privyatee C.I. Lucknow S.P.O. was appointed Inquiry Authority to inquire into the charges framed against Sri Ganesh Pd. Privyatee L.S.P. (Retd) vice this office memo No. FA-1/ Fgn. LMA/ 82-83 dated 7.11.87.

And whereas Sri Ashok Kumar Privyatee after having heard and examined the listed documents has since been considered not to continue as C.I. and it is necessary to appoint another officer as inquiring authority to inquire into the charges framed against Sri Ganesh Pd. Privyatee.

Now therefore, the undersigned in exercise of the powers conferred by sub. rule (2) read with sub. rule 22 of Rule 14 of the C.C.S (Cn) Rules, 1965 hereby appoints Sri B.L. Verma S.B.O. Lucknow as inquiring authority to inquire into the charges framed against the said Sri Ganesh Pd. Privyatee vice Sri Ashok Kumar Privyatee.

By Chief Postmaster,
Lucknow U.P. 26001.

Copy to:-
1. Sri B.L. Verma, S.B.O. L.W. for information and a/c.
He will please obtain the relative file from Sri A.K. Privyatee C.I. L.W. U.P.U.
2. S.P.D.B. L.W. for information.
3. Sri Ashok Kumar Privyatee C.I. L.W. U.P.U (C.I.). He will please transfer the relative file to Sri B.L. Verma S.B.O. L.W.
4. Sri R.P. Misra A.P.M. M.O. P.M. L.W. S.P.O (P.O) for information
✓ 5. Sri Ganesh Pd. - Privyatee L.S.P. (P.A) L.W. S.P.O (Retired)
Kothi Haz. Rehman Sux, Hata, Surat Singh, Naar Bagh
Baba Hazra Lucknow with reference to his petition
at 26.2.88.

By: Chi of Postmaster,
Lucknow U.P. 26001.

SB

Attestation

To
M. Juker
W.D.

Copy of
18/3/89

Annexure-20

6/18
25/1/88
SLP

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER LUCKNOW GPO 226001.

Memo No. PL-1/Pgn.LMA/82-83 dt. 21.4.88

whereas an enquiry under rule 14 of the central civil services (Classification, control and appeal) Rules 1965 is being held against Sri Ashok Kumar Srivastava LSC(PA(Retired)) whereas Sri Ganesh Pd. Srivastava LSC(PA(Retired)) was appointed Inquiring Authority to inquire into the charges framed against Sri Ganesh Pd. Srivastava LSC(PA(Retired)) vide this office memo No. PL-1/Pgn.LMA/82-83 dated 7.11.87.

And whereas Sri Ashok Kumar Srivastava after having heard and examined the listed documents has since been considered not to continue as P.D. and it is necessary to appoint another officer as inquiring authority to inquire into the charges framed against Sri Ganesh Pd. Srivastava.

Now therefore, the undersigned in exercise of the power conferred by Sub-rule(2) read with sub-rule 22 of Rule 14 of the CCA(CCA) Rule 8 1965 hereby appoints Sri N.L.Gupta A&P Investigation Officer MNC UP Circle as inquiring authority to inquire into the charges 8/0 MNC UP Circle as inquiring authority to inquire into the charges framed against the said Sri Ganesh Pd. Srivastava Vice Sri Ashok Kumar Srivastava. This office memo of even No. dt. 9.3.88 stands

concluded.

By. Chief Postmaster,
Lucknow GPO 226001.

Copy to:-

1. Sri N.L.Gupta A&P Investigation of the MNC UP Circle Lucknow. He will please obtain the relative file from Sri A.K.Srivastava CI Lucknow GPO.
2. Sri Ashok Kumar Srivastava CI Lw.GPO(LO) He will please transfer the relative file to Sri N.L.Gupta A&P Investigation office of the MNC UP Circle Lucknow.
3. Sri R.P.Singh A&P MO Paid Lw.GPO(PO) for information.
4. Sri Ganesh Pd. Srivastava LSC(PA) Lw.GPO(Retired)Kothi Hasi Sahim Bur Hata Surat Singh Near Bagh Baba Hazra Lucknow with reference to his petition dt.26.2.88.

By. Chief Postmaster,
Lucknow GPO 226001.

Attested

TC

M. Dukher
DAM

18/4/88
Ganesh

Annexure A2

DEPARTMENT OF RECORDS
OFFICE OF THE CHIEF POSTMASTER GENERAL AND C.G.O.C.I.
Memo No.Fx-1/Fgn.LRn/62-63

dated 14-5-88

whereas an enquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rule 1965 is being held against Sri Ganesh Pd. Srivastava (Ex-G Patwari) whereas Sri Ashok Kumar Srivastava C.I. Dw.GCO was appointed Inquiring Authority to inquire into the charges framed against Sri Ganesh Pd. Srivastava LSG PA Lucknow CPO (actd) vide this office memo no. Fx-1/Fgn.LRn/62-63 dated 7.11.87. And whereas Sri Ashok Kumar Srivastava after having hard and examined the listed documents has since been considered not to continue as E.O. and it is necessary to appoint another officer as inquiry authority to inquire into the charges framed against Sri Ganesh Pd. Srivastava.

Now therefore, the undersigned is exercise of the power conferred by Sub-Rule(2) read with sub rule(2) of Rule 14 of the CCA(CCA) Rule 1965 hereby appoints Sri A.H.Srivastava D.P.I. Lucknow as Inquiring Authority to inquire into the charges framed against the said Sri Ganesh Pd. Srivastava vice Sri Ashok Kumar Srivastava. This office memo of even no. 21.4.60 is same cancelled.

By, Chief Postmaster,
Lucknow CPO 226001.

Copy to:-

1. Sri A.H.Srivastava D.P.I. East Lucknow he will please obtain the relative file from Sri A.H.Srivastava C.I. Lucknow CPO. Excom
2. Sri Ashok Kumar, C.I., Dw.CPO (Ex) He will please transfer the relative file to Sri A.H.Srivastava D.P.I. East Lucknow.
3. York P.Misra APM MO Pd. Dw.CPO (Ex) for information.
4. Sri Ganesh Pd. Srivastava LSG (PA) Dw.GCO retired) &othi Hazi Ashim Bux Hata Surat Singh Near Bagh Babu Hazra Lucknowthk reference to his petition at.26.2.88.

By, Chief Postmaster,
Lucknow CPO 226001.

Attest
Te
M. Duleep
Doh

Cancel
10/9/88

Amesure A 22

(56)

Regd. Ad.

The First of January
S.P.O (East)
Lucknow Civil Prison
Lucknow
Uttar Pradesh

Subject: Inquiry made in C 14 J
COS (East) Luck 1965

Sir,
On going through the proceeding,
of the above inquiry dated 20.1.81
of your Province & State dated 20.1.81
I am forced to state that it is well
represented by you that it is
said to be caused by my wife
myself and that the said case
accepted statement is not only
anything before in this regard
whether I should commit my case
myself or defend myself through
a defense counsel.

This is submitted for your

Best and
Supt Court Service
Supt Court of Lucknow
Date: 21.1.89
Date: 21.1.89

Dated: Lucknow
the 20th January
1989.

Yours faithfully
P. Singh
Supt Court Service
Supt Court Service
Rahman Masjid
Hata Street
Near Bagh Baba Hizra
Lucknow - 226003

Attest
M. Dubey
Adm.

Contra
Supt
Supt

To

The Dy. Chief Postmaster,
Lucknow G.P.O. - 226001.

Sir,

With reference to your charge sheet dated 20.10.87 issued vide Memo No. EX-1/Fmt.LMA/82-03 I am raising the following preliminary objections:-

1. That the charge sheet indicates two authorities who have issued the charge sheet. Such a charge sheet is invalid and no proceedings can be drawn on that basis.
2. I was holding the substantive post in the cadre of L.S.G. My appointing authority is Director Postal Services. The charge sheet given by you is thus invalid, being contrary to Article 311 of the Constitution of India.
3. That on the same charges I am taking criminal trial and therefore the present charge sheet is invalid as any reply/statement given by me would be prejudicial to my defence in the criminal trial.
4. That by letter dated 8.9.88 addressed to the District Magistrate, Lucknow the penalty of recovery of Rs.10,964.68 has already been imposed upon me. The continuance of the present proceedings on the basis of the charge sheet amounts to double jeopardy, which is not permissible under the law.

I, therefore, most respectfully pray that the charge sheet may kindly be cancelled/withdrawn and the Enquiry Officer may be informed accordingly.

Yours faithfully,

Ganesh Prasad Srivastava
(GANESH PRASAD SRIVASTAVA)
Retired L.S.G. (F),
Lucknow G.P.O.
Residing Flat No. 2,
Rehman Mansion,
Hata Suret Singh,
Near Bagh Baba Hazara,
Lucknow - 226003.

Reff A.P
Copy to:-

Shri A.N. Srivastava, S.D.I. (East), Lucknow Sub-Divn., Lucknow and Enquiry Officer for favour of information and necessary action.

Ganesh Prasad Srivastava
(GANESH PRASAD SRIVASTAVA)

Merli
Tc
M. Juker
Bdr

*OK
10/10/89
OK*

Proceeding (P-228)

Accused remitted to P. in 228

and Com. recd. the file Enquiry
against Shri Ganesh Prasad Sarker
USG P.A. due from 826 & 827 and
less 150/- Cr. 1865. The following
have attended the enquiry today -
1. Shri Ganesh Prasad (intervy.)

2. Mr. B. Mitra (P.M. 155) P.O.
Gariahat P.O. and S. V. C. A. S.
S. S. stated that he had informed
an application to my chief Postmaster
P.O. at 28-1-89 and handed over
to him S. P. at 28-1-89 with a copy to
S. S. sent under Regd. post from Almora
(P.O. Dehradun P.D. - 439 on 28-1-89) S. S.
application was then to me. The S. S.
has the right to the application of this
has send the charge sheet and requested
for cancellation of the charge sheet.
My said application has been received
at Dehradun S. P. and has been
passed on by my chief Postmaster
S. S. I have no any orders
from my chief Postmaster tell this
date I am continuing the
enquiry as already fixed. The
S. S. is requested to cooperate/afford
the enquiry till further order/s
any by my chief postmaster
Today the additional documents
are to be shown. The P.O. will
Please get the additional documents
supplied by today -

Additional documents may be
supplied with complaint
as per the order of the
Almora P.M. dated 28-1-89

Te. M. Sarker
P.M.

Amexwest-25

Chittaranjan
S.O.I. (East) Lucknow
Lucknow & Enquiry Office

Sub: Engineering ~~etc~~
Rule 14 (es (etc) Rules 1965

Say, with reference to your
Proceedings dated 2nd Feb 87 I
am ~~at~~ to state that since
I have already raised certain
preliminary objections ^{to the proposed} in my
application of 28.1.1889 I ~~do not~~ now
answering ^{now} unable to say anything
in the enquiry till my
request for cancellation of additional
~~of the charge~~ sheet to be made
for laying the ~~by~~ check forwarded
acknowledged.

Caroline Her

Yours faithfully

allegation
levied against D/A at
this stage is not acceptable
at this end I am continuing
enquiry & giving 2 or 3
regards to
attend the
enquiry. Best known
form fair

Frank Sorenson
Sonabara
Rello L. G. (+)
Residence: Lachin, S.P.
Residence: Flat no 2,
Lachin, S.P.
Hate Sweet English
New. Eng. Berlin 1423
Lachin 1423 - 22600

met exilia
Te M. Dubey
Poem

Annexure A-26

(60)

To,

Sir A. N. Somasundaram

S.D.O. (East) Lucknow Sub Division

Lucknow and Enquiry Officer

Lucknow GPO

Sub: Part III Enquiry against me.

Sir,

In this application I am sorry to say that I had again along with the Medical Certificate fallen victim to the same ailment viz. in original was Hypertension with T.H.D. since last evening sent through my son, Sudhir

As such I find myself unable to attend the above Enquiry fixed for 10 A.M. today, the 3-2-89 as I have been ^{met} by Dr. R. Misra, ^{presuming} advised complete bed rest for ^{the} month officer the by my attending Doctor. A Medical certificate in support of my illness is enclosed herewith.

upto 1.30 P.M.

upto which time

my a/c - dated

and son

waited for

him to have 3/2/89

over the

application

with M.C. having

wanted for him D.A.

(60) upto 1.30 P.M. Medical Certificate.

Sir R. Misra was

requested by me

my son to receive the application with M.C. but

he declined to receive the same. Instead he

suggested to send the same by Registered to the

C.O. affecting it was sent under Park P.O. No. RL no 577 dated 3.2.84 added to the C.O. Grand

3/2/89

Alber

to M. Dikshu
Recd

(61)

Sarbagh 98

P.W. 14/4/89
873Sub Divisional Post Office, Bhopal
Sub Divisional Post Office

Bhopal

62
21/4/89No PE-1/4 Bhopal/89 dt 17-4-89.
Sub Rule 14 Enquiry against S/o
Ganesh Prasad Srinivas S/o
(SS-PA Lakhimpur -)The next date of hearing in
the above case is fixed 9/08
20-4-89 in the office of Postmaster
Bhopal G.P.O. at 11.00 hrs.The following are despatched to attend
the enquiry. The S.P.S is ordered to attend
enquiry alongwith his defense assistant
Failure of which the case will be continued
to be held ex-parte. Abnormal delay
has been made by S.P.S by whom
has been requested me now no more will be
permitted and if promised it will
be taken as "I avoid to attend enquiry"Addrs 1. Mr. Ganesh Prasad Srinivas S/o
Rahim Monsoor R.P. Moda A.P.O. NO 166 Bhopal
Hita Surya Prasad D.P.O. Bhopal
Digh Path P.O. BhopalG.M. of above office/ D.G. of Bhopal P.O.
2. Chhankaran Singh D.P.O. Bhopal
7/F XI/ Bgn/ LMA/ 0283 (W.M.H. No.
Eldo) dated 20/2/89 15:30

Attestd

To

M. Dinesh
D.P.O.

Ganesh 18/4/89

(b2)

REGISTERED A.D.

To

Shri A.N. Srivastava,
Sub Divisional Inspector Post Offices,
East Sub-division, Lucknow.
AND
Enquiry Officer.

Subject : Enquiry under rule 14 of
CCS(CCA) Rules 1965.

Sir,

This is to state that Lalbagh P.O., Lucknow
Registers letter No. 98 dated 13.4.89 containing your
letter No. PE-1/G.P.Srivastava dated 11.4.89 was
delivered to my son at my residence on 21.4.89.
As such the question of my attending the above enquiry
on 20.4.89 fixed vide your above letter did not arise.

It is, further to state that I am still
undergoing medical treatment for my ailment of heart
trouble.

This is for your information please.

Yours faithfully,

Dated 22.4.89

Ganesh Prasad Srivastava
(GANESH PRASAD SRIVASTAVA)
c) Flat No.2, Rahman Mansion,
c) Hata Surat Singh,
near Bagh Baba Hazara,
Lucknow. 226003.

Copy forwarded to the a.m. by. Chief
Postmaster, (box no. d), Lucknow G.P.O. for informa-
tion with reference to his file no. Ex-1/Egn.Let/82-83. The allegation of the enquiry officer that
the production of a medical certificate further by
me will be taken as an avoidance to attend enquiry
is baseless and malicious. In this connection it
is submitted that I am still undergoing medical
treatment for my ailment of heart trouble.

Ganesh Prasad Srivastava
(GANESH PRASAD SRIVASTAVA)

Attested
T. M. Jukar
R.D.W.

Contra
18/9/89

To

Shri A.N. Srivastava,
Sub-Divisional Inspector,
East Sub-division, Lucknow
AND
ENQUIRY OFFICER.

Sub: Ex parte proceedings of Enquiry under Rule 14 of
CCS (CCA) Rules 1965.

Sir,

This is to state that Lucknow G.P.O. Regd. letters Nos. 1425 dated 10.6.89 and 652 dated 16.6.89 --- the former containing copy of above cited Enquiry proceedings dated 10.6.89 with copies of statements of 5 (five) witnesses and the latter containing copy of the sa-id Enquiry proceedings dated 16.6.89 and your letter No. P.E.-1/Ganesh Prasad Srivastava dated 16.6.89 fixing the next date of the said enquiry on 24.6.89--- were delivered to me on 26.6.89.

In this connection this is to state that I am surprised to learn as to how the ex parte proceedings were drawn by you on 10.6.89 and 16.6.89 without any information to me of those dates. It is further surprising for me to note from your copy of proceedings dated 10.6.89 that I did not attend the enquiry on 10.6.89 inspite of information having been given to me by registered post. It is not understood how this fact has been mentioned therein when no information to that effect was given to me at all.

As for my absence on 24.6.89, this is to state that the question of my attending the enquiry on that date did not arise in face of the delivery of Lucknow G.P.O. Regd. letter No. 652 dated 16.6.89 containing your letter dated 16.6.89 regarding the said date of enquiry viz. 24.6.89---on 26.6.89.

This is for your information. Any further ex parte proceedings ~~arbitrarily~~ arbitrarily drawn under similar circumstances as aforesaid will be your responsibility.

Yours faithfully,

Dated : 27.6.89.

Ganesh Prasad Srivastava
(GANESH PRASAD SRIVASTAVA)
Flat No.2, Rahman Mansion,
Hata Surat Singh,
Near Bagh Baba Hazara,
Lucknow - 226003.

Copy to the Dy. Chief Postmaster, Lucknow G.P.O.
for information with reference to his office File No.
Px-1/Fgn.LMA/82-83.

Altered
Tc
M. Jukher
D.W.

Under Act 14 of 1878
Pending
Enquiry Officer

To

Shri A.N. Srivastava,
Sub-Divisional Inspector,
East Sub-Division,
Lucknow

AND
Enquiry Officer

Sub Ex-parte proceedings of Rule 14 enquiry

Sir,

This is again to inform you that the Lucknow C.P.O. Regd. Letter No. 1780 dated 24.6.89 containing your above Enquiry Proceedings dated 24.6.89 and fixing the next date of the said enquiry as 28.6.89 was delivered to me on 30.6.89. As such, the question of my attending the said enquiry on 28.6.89, the date fixed by you, did not arise.

The fact of holding the said enquiry earlier without any information to (as stated in my previous reply dated 27.6.89) and subsequently in such a quick succession with late information to me with your ill intention of depriving me of the opportunity of attending the enquiry on the dates fixed, is indicative of the fact that you are conducting the said enquiry against me ex-parte with a biased and prejudiced mind, which is not fair and impartial on your part.

This is again for your information with the assertion that any further ex-parte proceedings arbitrarily drawn against me will be your responsibility.

Yours, faithfully,

Dated 1.7.1989

Ganesh Prasad Srivastava

(GANESH PRASAD SRIVASTAVA),
Flat No. 2, Nehru Mansion,
Vista Surat Singh,
Near Dagh Baba Kizara,
Lucknow - 226003.

Copy to the Dy. Chief Postmaster, Lucknow C.P.O. 226001 for information and necessary action with reference to his office file No. Fix-1/Fgn-LM/32-03. This is also in continuation to my previous reply dated 27.6.89 addressed to the Enquiry Officer and copy endorsed to him.

Attested

T. S. Dube
P. D. B.

Cancelling
18/9/89

The Dy. Chief Postmaster, (Gazetted),
Lucknow S.P.O.-226001.

Sir,

Kindly refer to my representation dated 28.1.89. I regret that no reply has so far been received from you to that representation.

2. For the reasons stated and detailed in my representation dated 28.1.89, aforesaid, the charge-sheet issued by you is incompetent, without jurisdiction and hence, null and void and consequently no proceedings can be taken on it.

3. Since you are not the Disciplinary Authority of the applicant, the appointment of Shri A.N. Srivastava as I.O., by you is also incompetent and illegal and as such, he has no valid authority to make enquiry against the applicant. Besides, the said Shri A.N. Srivastava, having worked as a clerk in Lucknow S.P.O. in a junior capacity with the applicant harbours certain prejudices against the applicant and the applicant has reasons to believe that he will not act in a fair and impartial manner. His continuance as I.O. in the case is prejudicial to the case and the interest of the applicant is not safe. It has also been decided by the D.G. P&T, New Delhi in letters nos. 20/1/71-145c dated 9.12.71 and 6-8/74 145c-1 dated 21.9.74 that the Inquiry Officer should belong to another arm of service at the same station and from a different division preferably at the same station or nearby. In view of the clear instructions of the D.G. P&T, New Delhi Shri A.N. Srivastava cannot function as I.O.

4. The applicant submitted a representation dated 26.2.88 to the Director General (Post), Dak Bhawan, New Delhi against functioning of Shri A.N. Srivastava, the former Inquiry Officer and he was changed. Shri A.N. Srivastava, having already worked in a junior capacity in Lucknow S.P.O. with the applicant and having prejudices against him cannot function as I.O. in an unbiased and fair manner and the applicant has no hope of getting justice from him.

5. It may further be stated that the applicant is being constantly harassed and although he retired on superannuation on attaining the age of 58 years, his retirement benefits have been held up for no valid reasons and he is made to suffer the pangs of paucity of funds and to face untold hardships and to lead a miserable life. None of his post-retirement dues has been paid and a huge amount to the extent of over Rs 14 lacs approximately has been illegally detained as shown below:-

Branch 180/81

- (i) His pay in the new scale effective from 1.1.86 has not been fixed which has deprived him of the arrears of pay and allowances from 1.1.86 to 31.10.87 the date of his retirement.
- (ii) Due to non-fixation of pay in the new scale, the provisional pension has been fixed at a much lower level.

(iii) Although more than 20 months have passed the applicant's suspension has not been fixed finally with the result that he is being paid a very meagre amount as provisional pension which can hardly meet the bare necessities of life. He has also been deprived of the benefit of commutation of pension which could procure him a lump sum amount for major expenses of his old age.

(iv) The P.C.R.G. amounting to Rs.35,000/- approximately has not been paid.

(v) Amount of General Insurance has not been paid inspite of an application having been made by the applicant.

(vi) Leave encashment to the extent of Rs.12,000/- approximately has been held up.

(vii) The balance standing to the credit of G.P.A. Account of the applicant has also not been paid.

(viii) The applicant was placed under suspension on 24.11.82 and the charge-sheet issued by Memo No. Fx-1/Fgn.LMA/82-83 dated 6.9.82 was cancelled by Memo No. Fx-1/Fgn.LMA/82-83 dated 19.11.82. A fresh charge-sheet vide Memo No. even dated 26.10.87 was issued maliciously almost on the same charges and delivered only three days before the retirement of the applicant. The applicant was retired on 31.10.87 (A.D.) on completing the age of superannuation of 58 years and on his retirement the suspension automatically stood revoked. The applicant is, therefore, entitled to full pay and allowances for the period from 24.11.82 to 30.10.87 which has not so far been paid.

(ix) That all the amounts vide items (i) to (vii) above have been held up arbitrarily and illegally and the applicant is entitled to interest @ 10% per annum on the held up amounts.

6. That Rule 14 of the CCS(CCA) Rules does not permit the continuance of enquiry against a Govt. servant who has retired from service as held by the Supreme Court of India in State of Punjab versus Khond Ram AIR 1970 S.C. 714 wherein it has been held:-

sought
 "There can be no doubt that if disciplinary action is sought to be taken against a Govt. servant, it must be done before he retires as provided by the said rule. If a disciplinary enquiry cannot be concluded before the date of such retirement the course open to Govt. is to pass an order of suspension and refuse to permit the concerned public servant to retire and retain him in service till such enquiry is completed and a final order is passed thereon."

The disciplinary proceedings cannot extend beyond the date of superannuation is also clear from the decision of the full Bench of Kerala High Court in AIR 1979 Kerala 135 R.P. Nair versus Kerala State Electricity Board. In this decision while considering Rule 3 Part II Chapter I of the Kerala State Rules which is similar to Rule 9 of CCS(Pension) Rules, the full Bench observed as follows:-

"The rule does not authorise the continuance of disciplinary proceedings as such against a Govt. servant after his retirement, both on principle and on authority such a position cannot be easily countenanced. It allows only a limited type of enquiry to be proceeded with, namely as enquiry in regard to withholding or withdrawing pension or ordering recovery from pension by reason of any misconduct or negligence during the period in service of the employee under clause (a) of the proviso to Rule 2(a) of CCS Pension Rules, the departmental proceeding, if instituted during the service of the employee is to be deemed to be a proceeding under the rule and may be continued and completed even after his retirement. To this limited extent alone is provision made under the rule for continuance of a disciplinary proceeding beyond retirement. That too is by transfiguring it by fiction to be an enquiry under the rule. Beyond this, we cannot understand the rule as in any way permitting the authorities either to launch or to continue disciplinary proceeding after the retirement of the employee. That would be destruction of the concept of relationship of employer and employee which has come to an end by reason of the retirement of the employee, beyond which the disciplinary control cannot extend."

In the case D.D. Sheri vs. Union of India reported in 1976 (I.S.S) S.C.C. 155, it has been held as under:-

"But obviously the suspension order came to an end by the compulsory retirement of the appellant. After retirement from service he could no longer be deemed to be under suspension".

In the cases K. Padmanabha Rao vs. A.G. A.P.I. Hyderabad and others (II(1987) A.I.L.T. 39) and T.A. No. 76 of 1986 (S.P.no. 2231 of 1980) decided on 7.4.87, it has been held as under:-

(i) That rules do not permit the continuance of enquiry against a Govt. servant who has retired from service. The disciplinary proceeding cannot extend beyond the date of superannuation (Para 6).
(ii) Civil Service Pension Rule 9, can the disciplinary authority withhold or impose a cut in the pension and can the gratuity be withheld — NO

Held that it would, therefore, not be open to the disciplinary authority to impose a cut in the pension of the applicant or withhold the pension and gratuity due ~~even~~ cannot be withheld.

(iii) Whether suspension already continuing is valid when permitted to retire ?
- Firstly suspension order stands revoked on acquittal and secondly on the department allowing the employee to retire, no suspension order is deemed to be subsisting. Petitioner is entitled to full pay and allowances for the period of suspension treating it as on duty (Page 8)

7. That under Rule 9 of the Pension Rules, the applicant could be proceeded against within four years of the alleged misconduct and incident. In the instant case, the alleged incident or misconduct dates back to 3.12.79 to 14.9.81 and the charge sheet dated 26.10.87 was issued to the applicant on the verge of his retirement and delivered to him on 26.10.87, only three days before his retirement and that too not by a competent authority as already represented. The action against the applicant is malafide, prejudicial, incompetent, without jurisdiction, illegal and null and void. He cannot be proceeded against, against the rules maliciously and arbitrarily. The entire proceedings are a nullity in view of the facts, circumstances and reasons stated above.

8. That it would be in the interest of equity & justice that the disciplinary proceedings be recalled forthwith and all the dues including full pay and allowances for the period of suspension and all the retirement benefits viz. General Insurance, gratuity, G.P.F., and arrears of pension due and disbursed, commutation of pension and the arrears of pay and allowances in the new scale effective from 1.1.86, leave encashment be worked out and paid to the applicant with 10% interest thereon immediately.

It is, therefore, most respectfully prayed that the applicant's case be immediately considered in the light of submissions made by him, his dues paid to him immediately and he be favoured with a reply promptly. In case, justice is not done to the applicant and no reply is given to him within a week, the applicant will have no alternative but to knock the door of justice at your cost and expense. The applicant has been desperate, vexed and faced with untold hardships and miseries of life due to non-payment of his dues.

Yours faithfully,

Sd/-

Dated : 30.6.89

(GANESH PRASAD SHIVASTAVA)
Retd. LSG(F), Lucknow G.P.O.,
R.O. Flat No. 2, Nehman Mansion
Hata Surat Singh,
Near Bagh Baba Hazara,
Lucknow-226003.

Attested

Tc
Mr. Dukhey
M. P.D.W.

contd...5

(69)

-5-

Copy for information and necessary action
forwarded to :-

1. Shri A.N. Srivastava, S.D.I. (East), Lucknow
Sub-Division, Lucknow and so called Inquiry Officer.
He has no right and authority to conduct any enquiry
under Rule 14.

2. The Director Postal Services, Lucknow Region,
Lucknow.

3. ~~The Postmaster General, U.P. Circle, Lucknow.~~

4. ~~The Secretary to the Ministry of Communication,
Govt. of India, Department of Posts, New Delhi.~~

The authorities from 2 to 4 are earnestly
requested to intervene and take immediate action in the
matter to ease the tension, hardships and miseries
of the applicant in his old age after his retirement
from Govt. service.

Gangesh Prasad Srivastava
(GANGESH PRASAD SRIVASTAVA)

Mailed
To
M. Director
D.P.W.

General
19/9/81

UNDER CERTIFICATE OF MAILING

(70)

To

Shri A.N. Srivastava,
ACIO, Bareilly
and
Enquiry Officer

Sub : Export of Enquiry of Rule 10 enquiry.

Sir,

In acknowledging receipt of copy of letter ACIO dated 26.6.82 & the above enquiry along with copy of statement of Shri Jagat Kaur dated 23.6.82 in re LKSS case 2506/82, Lucknow, I am pleased to inform you that I have referred to the enquiry letter dated 26.6.82 to inform you that due to the difficulty in the above mentioned letter on the following day of date of enquiry viz. 27.6.82, there was no question of my attending the enquiry.

As for the mention by you in the copy of enquiry proceedings dated 26.6.82 that I insisted on dates of enquiry and the proceedings were sent to me by registered post, I refer to my previous replies, in reply to your such question, to the effect of late delivery of all the registered letters, to be resulting in any damage from the enquiry proceedings.

As far as my knowledge, I did not receive any such letter, being in such a position, as a result of which I was unable to attend the enquiry and was being so in such a quite successful and full execution of my duty of the opportunity of attending the enquiry hidden behind.

This is for your information. Holding of exports enquiry (interested) under the circumstances narrated above is your responsibility.

Yours faithfully,

Dated : 27.7.1982

Ganesh Prasad Srivastava
(ACIO, Bareilly, India)
Flat No. 2, Shanti Bhawan,
Sector 20, Sector 24, A.P.T.B.S.,
Bareilly, U.P. 243003.

Copy forwarded for information and necessary action to :-

1. The Dy. C.O. of Bustmaster, Lucknow (enr. no. 238/82).
2. and ref. to his office files Jx-1/Pr-LMA/82-83
the D.P. W.C., and the Enquiry Officer Branch,
Lucknow G.P.O. and presenting Officer in the
aforesaid enquiry.

Ganesh Prasad Srivastava
(ACIO, Bareilly, India)

✓
Ganesh
Prasad
Srivastava
1/5/82

Alfred
T.C.
M. Subir
P.W.

4728786 140 03-11-1970

(Main Hall/Chancery) 372-10192 of 1172197-133 (Part 3 of 4)

Revised (S. PA) by GPO in 1973 24721 Ex. 100
Original (S. PA) dated 1965 24721

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અને એટા એવી વિધાન કરી રહેલી હોય કે એટા વિધાન કરી રહેલી હોય

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~~Part 1 अन्य बोर्ड अधीक्षित दस्तावेज~~
~~Part 3 अन्य न अधीक्षित दस्तावेज~~

W. E. Gould
The Mudhens
1911-12-13
03-728 51175
Bartles

(72)

Shri A.N. Srivastava,
ASPOs, Barabanki
AND
Enquiry Officer.

Sir,

I received the copy of your ex-parte enquiry proceedings dated 3.7.89 - sent under Lucknow G.P.O. Regd. letter No. 1119 dated 3.7.89 - on 17.7.89 together with the Brief of the Presenting Officer - sent by him under Lucknow G.P.O. Regd. letter no. 1120 dated 3.7.89 - on the same date.

I participated in the enquiry on 2.2.89 but thereafter I could not get an opportunity to attend the enquiry as I was ill on 3.2.89 for which proper application was sent and the intimations of the enquiry dated fixed for 20.4.89, 10.6.89, 16.6.89, 24.6.89, 28.6.89 and 3.7.89 were received on 21.4.89, 26.6.89, 30.6.89 and 4.7.89 and through R.Ls Nos. 98, 1425, 652, 1780, 1215 dated 13.4.89, 10.6.89, 16.6.89, 24.6.89 and 28.6.89 respectively which were delivered to me on 21.4.89, 26.6.89, 30.6.89 and 4.7.89 only. Thus I was denied the due opportunity of participating in the inquiry for want of timely information and the ex-parte proceedings were held arbitrarily and maliciously.

I submitted representations against the propriety of the Disciplinary authority, the charge sheet and the appointment of Y.O. v/s my letters dated 28.1.89 and 30.6.89 but neither any action was taken on them nor any reply has been received by me. The whole proceeding is, therefore, biased, incompetent, malicious, prejudicial, illegal and null and void.

However, I have been required to submit my Brief in the case and for this purpose it would be essential to inspect the relevant documents which may please be allowed to be inspected under the provisions of Rule 14(11) of the CCS(CCA) Rules 1965 after fixing a date for the purpose with prior intimation to me.

Yours faithfully,

Dated : 23.7.89

Ganesh Prasad Srivastava
(GANESH PRASAD SRIVASTAVA)
Flat No. 2, Rahman Mansion,
Hata Suxat Singh,
Near Bagh Baba Hazara,
Lucknow - 226003.

Allegria

To
M. Dilip
Adv.

20/7/89
C.P.S.
C.P.S.

पश्चिमहार-22
Corr-22भारतीय डाक विभाग
DEPARTMENT OF POSTS INDIAप्रेषक
Fromउत्तर देते यमय कृपया।
माम संदर्भ दें।
In reply
Please quoteसेवा में
Toदिनांक
Dated atक्रम संख्या
No.PE-1/8 प्रियजन संघर्ष
SUBJECT 1/8 25-7-88G. P. Ganguly
Locality LSS P.M.
Flat no 2, Sagar Baba Marg
Chandigarh - 160003Reqd

29/7/88

Rule 11, Enquiry against Staff
Employees.

Your letter dt. 5-7-88
 23-7-88 came on 21-7-88
 and 25-7-88 respectively
 where I am duty to CPM
 Chandigarh GPO for disposal
 Since I have submitted
 report, I am no more
 enquiry officer. In future
 you may please have
 correspondence with CPM GPO
 if any.

जिन्होनें
 विध्यक डाक अधिकारी
 नं. 22561

M. S. S.

To
M. S. S.

Chandigarh
25/7/88

ANNEXURE A.3b

To

The Chief Postmaster,
Lucknow G.P.O.

7/1

Subject : Rule 14 enquiry against me.

Sir,

It has been intimated to me by the Enquiry Officer, Shri A.N. Srivastava, ASPGs Barabanki vide his letter No. PB-1/G.P.Srivastava/89 dated 25.7.89 that my two letters dated 5.7.89 and 23.7.89 addressed to him have been sent to your for disposal.

I am, therefore, ^{to} request you kindly to favour me with your reply to my aforesaid letters so as to enable me to submit my detailed representation in the matter.

Thanking you very much,

Yours faithfully,

23/8
Dated : 10.7.89

Ganesh Prasad Srivastava

(GANESH PRASAD SRIVASTAVA)
Retired L.S.G.(F),
Lucknow G.P.O.
Residing at Flat No.2,
Hata Surat Singh,,
Near Bagh Baba Hazara,
Lucknow 226003.

Altered
Re
M. Dikus
W.M.

Concurred
10/7/89

Annexure A-37

75

From :

Postmaster,
Lucknow G.P.O. - 226001.

To

The Station Officer,
I/C Police Station,
Hazratganj,
Lucknow -226001

No. Fx/Fgn/LMA/82-83

Dated Lucknow 226001 Aug.30, 1982

Sub : Misappropriation of Government money by Sri
Ganesh Prasad Srivastava, Postal employee of
Lucknow G.P.O.

Sir, The following foreign letter mail air articles bearing custom duty and postage fee were given to Sri Ganesh Prasad Srivastava, General Abstract Clerk II, Registration Import Branch, Lucknow G.P.O. under receipt for effecting window delivery at Lucknow GPO, after realising custom duty and postage fee from the addressees of the articles. The addressees have informed that they have received the articles on payment of full amount but Shri Ganesh Prasad Srivastava did not credit the amounts to Government and misappropriated the same causing total loss of Rs.11161.35 (Rs.Eleven thousand one hundred sixtyone and paise thirtyfive only).

The details of the articles whose amount was misappropriated by the above official are furnished below:-

<u>No. of articles</u>	<u>Name of addressees</u>	<u>Amount realised from addressees</u>			<u>Date on which article was received and given to Shri G.P. Srivastava</u>
		Custom duty	Postage	Total fee	
1. D288085 13/79	Central Drug Research Institute, Chhattar Manzil, Lucknow	930.45	2.50	938.95	24.04.80
2. D 200377 11/81	-do-	1294.90	2.50	1297.40	10.12.80
3. D 226556 3/79	2do-	1513.00	2.50	1515.50	13.11.80
4. D 300374 11/80	-do-	1409.75	2.50	1412.25	11.12.80
5. D 289896 10/80	-do-	630.70	2.50	633.20	03.02.81
6. D 225790 11/80	-do-	1268.75	2.50	1371.25	27.11.80
7. D 237689 2/4/80	-do-	1618.60	2.50	1621.10	01.05.80

Ganesh Prasad

-2-

8.D 244914	N.B.R.I., Rana Pratap Marg, Lucknow	1968.70	2.50	1971.20	28.05.80
9.D 286289 10/81	-do-	498.00	2.50	500.50	21.10.80
	Total	11138.85	22.50	11161.35	

The case is being reported to you for registering the same under proper section of I.P.C. and taking the investigation at an early date. The official is on leave from 1.5.82 and his residential address is as under

Shri Ganesh Prasad Srivastava,
L.S.G.(F) on leave
S/O late Baboo Mahadeo Prasad
Kothi Hazi Rahimbux,
Hata Surat Singh,
Near Chaupatiyan
Lucknow - 226003

Yours faithfully,

Sd/-
(B.N. PRASAD)
Postmaster
Lucknow GPO-226001.

M. S. Dukher
M. Dukher
M. Dukher

Concurred
18/9/81

मुं अम सं १९६२ वि ८ न०९ ई

(7)

भाना द्वारा दोषन्त्र

Annexure A-38

बोम

गनेश पुस्तक

गारोप नाम (गुरु)

गुरु शुभना संगम १०१०

३-८-६२

विष्णु एवं संगम ३७५

गुप्तराम संगम ७७६

राना - १ श्री B.N. गुरु द्वारा नाम संगम ३८०

PS द्वारा दोषन्त्र

राना - ३ गनेश पुस्तक ८१० गवायेष पुस्तक
— शिवारुद्ध ५० दाजी रहीर लक्ष्मी बोली रुद्र

सिंह लो हात दोपहिना शाहदर गंड १०

द्वारा दोषन्त्र

राना - ५ शिवारुद्ध जी निवेदन हो कि वर्षों
में दिनोंक ३१-४-६२ लो भाना दाजी वा

शुभना गिरा वा कि उसके ईपो के बारे
शुभना भुज भुज में जो विद्युत रजिस्टरी नाम
की डिलीवर लो पर्हे विद्युत वार्ड ईपो के
वर्षों में जो डाक नहीं दिया दो मुकदमा

लोगो हो लो गोली लो गोड़ मुलजिंग
के शिवलाल शुभना संगम ५०९ ईपो

गुप्तराम सामेत पाना चाला चाला विष्णु

विद्युत जाता हो विद्युत विद्युत केले लो विद्युत विद्युत

राना - ५ - शावला एंग गोल चिह्न विष्णु

विष्णु विष्णु विष्णु विष्णु विष्णु विष्णु

८३ वर्षी

SD - विष्णु

३१-४-६२

15/8/62
Gandhi

1 (3) 79
Post Office Lucknow 192002

→ भवती स्टेशन रोड (पीटी)

Indian Post & Telegraph Department

बाह्यकर्ता प्राप्ति अधिकारी

निवास संपर्क देवी

मार्गदर्शक

प्लेसमेंट

पुराना

Postmaster

Lucknow 226001

संस्था नं.

To, - The Station Officer,
H.C. Police Station, Hazira Deogarh
Lucknow 226001

मार्गदर्शक

No. F/X/Fony LMA/82-83

Parked at Lucknow 226001

Aug. 31. 1982

प्रति-प्राप्ति

SUBJECT

Misappropriation of Government
money by Shri Girish Prasad Srivastava
Postal employee of Lucknow G.P.C.

Sirs,

The following - Foreign letter and
air mail articles bearing custom duty and
postage fee were given to Shri Girish
Prasad Srivastava, General Alberto
Chile II, Registration Import Branch
Lucknow on 22 under receipt after affixing
window delivery at Lucknow Gate
after collecting custom duty and
postage fee from the addressee
of the contents. The addressee
have informed that they have
received the articles on payment
of full amount but Shri Girish
Prasad Srivastava did not exceed

Bank of
India
1982

6

81

The case is being referred to the
for registration. The same under
booker Section of I.P.C. and taking
the investigation at an early date.
The official is on leave from 1-5-82
and the residential address is as
under:

L. S. C. (F) ~~and~~ ~~now~~

Shri Ganesh Bhai Shrivastava,
S.C. Lake Bawali Makarba, Pore Sabda
Kothi Huzi Rachimbaux, Fleeta
Sewat. Gingo. Hesar - Chauhanpura
Lucknow - 226003.

Yours faithfully
S. C. —

(B, N, \mathbb{R} -valued)

Postmaster

1651 messe
Ludwigsburg 22.6.0011

काम लावना यांच्या निवारणासाठी लाभ नाही
- जिल्हापत्र श्री २०२० रोपन निवारण
क्रो ५/१४४६ रोपन गुणांग देशी देशी निवारण
क्रोडांचो निवारण देशी देशी निवारण
क्र.व.क. निवारण, ए निवारण राजांगन
क्रिफ्टो ए डोन्यु लुकिंग व्हा. ४ नव्हारात्रि १९८८
को प्रयोग केवळ एवं वापरावाल्यांना
क्रोड निवारण निवारण निवारण निवारण
क्रोडांचो निवारण निवारण निवारण निवारण
को लाप्ती तारीख : ३१/१२/७५ देशी निवारण को ला
१५-वा ला देशी देशी देशी देशी देशी देशी
देशी देशी देशी देशी देशी देशी देशी देशी

Conrad 1891/09/13

बाबू श्री M.R. शुल्का - १११० रुपया

510 श्री बड़ी उसाद झज्जरा १५० रुपया

माहोना आदर्श रेलवे LKO-6 हाता

स्ट्री अपनी SPO LKO के पुहने पर लगाया

जिस में इस आमाजन में इस पर आवार्ड

३ माह से लिपुत्र हुआ दिनांक २५-५-८०

में २७८ रुपये जा० ०-२७८०७५ R.P.

१३४.५० ओं R.M. के को में २२७१ वर्ष

आमा या इस बीमा को जोन ५८ दिन

खोला या आम रात्रि में लिंग में लाभ

OMT - श्री गणेश उसाद - शाम दिवं यो

दृष्टिकोण या आम उसाद यात्रिल पुकार

के पास के दृष्टिकोण वाला हो आम

या उसी तो जो उसके राय वह दृष्टिकोण

यो दिना जो आम उसाद दृष्टिकोण

यो पहचानता है उसके दृष्टिकोण

सुपरिकेन्स BF सम्पर्क निपुत्रना R.P.

जिसका को पर्याप्त

बाबू श्री जेन्ट उसाद - श्री जेन्ट उसाद

510 पुस्तीताल ५० गाँवापुरा R.P. ओ०७८८

जिस लोकाली हाल उसकी SPO

जुलाई बाल वर्षामें पुहने पर वर्षाके

गोरी पर्सेंट SPO में एवं boy अपना

हो दिनोंक १०/१२/८० ओं एक दौरा

यात्रिल मुद्रा R.P. ५ रु. ०५ रु. D-२९९३७

रु. १२९७.५० जिसका या ओं उसका रात्रि रात्रि

२५/१२/८० लिंग में लाभ - श्री गणेश उसाद

माहोना SPO को दो बारका एवं दो

18/9/89
Gandhi

लाल गांव वी ग्रामपाली दाना को अमावस्या १५

पुष्टि वर्ष वर्ष १३-१४ रु. ११८ रुपये

लोकल वी वर्ष १३/१४/०८/०८

रुपये वाली नो. D-22658 रु. १५८०/५०

लोकल वी वर्ष १३/१४/०८/०८

ग्राम पाली

87

लगान हीरानगर ॥ जी सिंगनगर १० लंगलेले
प्रतिवार अवलम्बन निवारनकामी असते पर
भुकदमा दोनो को विवाह शी लक्षणी १४ (१४)
तः इस दोनो औपनी को लाभाव नाही असते
१० प्रतिवार लगानी शी अवलम्बनकामी
संवादी नी, उपरातीन असे वारी आपावल
सिंगनगर २२ (२२) २२ नामावरी नाही असते
आपावल की स्वतांत्र्य लगावी ला तवा नी
प्रतिवार शुभा नी, तर एवं एवं गोपनी विवाह
दोनो लगानी उपरातीन असते असते
जी उपरातीन दुवा लाई असते असते
Registers, their date, kind २२ (२२) २२
पार्क कलाना दिवार राज्याने नी येता नाही
जी उपरातीन दुवा लाई असते असते
१४ आपावल नी, निवारन असते असते
दिवार लगानी नी असते असते असते
Import See. नी ४७ आपावल नो असते
शुभा असते ना प्रतिवार असते दोनो लगावी
प्रतिवार अपावल नी निवारन असते
प्रतिवार दिवार नी निवारन असते
नी २२ नामावरी असते असते असते
नी देवाली, आपावल अपावल अपावल
-ही जाली पर नी - (नो २२ (२२)) यावलावला
ही उपरातीन दुवा लाई असते असते
प्रतिवार अपावल अपावल अपावल
दुवा जो दुवा असते असते असते
गोपनी १४ गोपनी असते असते असते
प्रतिवार अपावल अपावल अपावल

13

68

इसने दिन दैसा बाही जाना किया ले तो ~~इसे~~
Finally वहें जानी चाही तो आते बहुती लाजी पहिले
उस दूरवासा वहीने लोक चाही तो आते बहुती लाजी
उस जिली उपर उस जिली लोक बालों होने
दिन जब किसुम घेरे उसी उस जिली का
उस उपर उस जिली का लिया लगाया
प्रसाद हो रहे उस जिली का लिया लगाया हो लिया लगाया
उसके बताने २१ २००० लोक लोक उस जिले
दूरिया हो उन्हे भाक भै लोक उस जिले
उस दौली पाना चाहा उस जिले पर लोक २१

कानून अंतर्गत है कि यहाँ लाला S/O late
Soni के लाला नाम से व्यापार व्यवसाय VP है परिवार
Sect. CDRI द्वारा बनाई गई लोकवान ने
यहाँ पर लिंगांग की ओर डॉ. बोंडीग
आधिकारिक रूप से लिंगांग एवं प्रतिवेदा
संस्थान अंसर सन 1966 के लोकवान
जिसका Important registered Bond
Bonds के लाला भविल SPO से लाला
लाला द्वारा दाखिला दाता है जिसने
लाला द्वारा दाखिला हो दिया है एवं रजिस्टर
की दर्जी दाता है जो कि उसे एवं
गारिक दाता द्वारा हो गया है एवं
प्रतिवारिंग SPO एम्पोर बोन्ड की
प्रतिवारिंग द्वारा हो वह गोरी विश्वास
आदि इसके अप्रति Sect. अंसर की
विकारी प्रतिवारिंग है जो कि उसका

BB 19/12/87
evidence re crash

~~January 1899~~

के ऊंचासा परा अग्नि दाने रहा तो तो किंवा
मेरी जनी जनी भी भी भी भी भी भी भी भी
हो दिया तो यहां लो लो लो गी न गी यह
पर्हा, जो दिया हुए थे तो क्यों है यह
यह यह यह यह यह यह यह यह यह

Central Drug Research Institute
Chloroquine Phosphate 100 mg
Lucknow 226004 (India)

No. 6 - NPK:Ca/8:8:8 1/2 P 11 April 27, 1932.

The Post Master,
G.P.O. Lucknow

Dear Sirs
With reference to your letter of date of
26-4-82. it is cont'd. at the following
articles & were received from London
GPO & were often fragment. of
each day and other charges and
additions to the letters on the date &
not of arrival such a list along with
the necessary documents for returning the articles, &

1- D-257689	R\$. 16.21.10	13-11-80
2- D-2818095	R\$. 938.95	11-7-80
3- D-299377	R\$. 12.17.40	2-4-81
4- D-226556	R\$. 15.15.50	26-6-81
5- D-300376	R\$. 1412.25	19-3-81
6- D-209096	R\$. 633-20	13-4-81
7- D-225790	R\$. 1271.25	10-2-81
Yours faithfully Sd- S. Sodam S. Sodam P. B. J. Sodam		

payment of Rs 500.50 (Rupees Five
hundred and one rupee fifty only)
towards custom duty and other
postage charges for postal
advertisements G P O Lucknow.

purchase officers
National Botanical Research Institute
Lucknow (India)

कांव फा P.N. २००८ - फा P.N. २००९
Purchase Officers नियमित गोदान वाहा
पुस्तप गार्फ वाहा देखावान लावांड, जो पुस्तप
पर उपकरण उत्पादन के लिए लावांड की
पारिल अ. D-२८६७१५ दा २६/८/८० दो
निवार दोन वी. बी. (पू. दारिल) Sigma
प्रौद्योगिकी अ. U.S.A. के लिए जो गोदान
वाहा तो दिनांक ७/१०-६-८० दो एवं
मध्यम रुपरुप १७/१२० प्रौद्योगिकी
पर्स के लिए लावांड द्वारा छुटाकर
जाना जाना हो तो द्वारा दारिल अ.
D-२८६२८७ तो द्वारा दिनांक ११/८/८०
प्रौद्योगिकी अ. गोदान वाहा तो वह
ए. दिनांक ३/११८० दो ८०/८० प्रौद्योगिकी
द्वारा द्वारा जाना हो गोदान वाहा तो

250000) की ओर दूरवारी तभी आ
निकल सकता है. Antibody letter अनुसार
कृष्णन ने 13 दिनों की अवधि तक अपनी

Constance

(19) उसी दर परिवार का आज्ञा अनुसार
जो एक जाति वे विवरणों
में उल्लिखित हुयी एक जाति का रहे हैं।

लाल सुन्दरी ने नी फूट दुगाल डॉ विजय
लाल STC संस्थान के राज विद्यालय Seel
SPO UKC प्र० १० अड्डा इनापुर शहर पुराना
लाल-३ की इनुक दमो बिहारीलाल की विद्या
में पुर्ण एवं विद्या की में SPO लाल-३ की
STC संस्थान की पर्द पर जान लाल-३ की
शिक्षा जान ना या ना या ना ना ना
संस्थान की जान की रिकार्ड की बाजुसारा
प्राचीन लाल ना जिनके विद्यालय की नी-
रिपोर्ट की है D-29937, D-226556,

~~Concord 1899~~

AS/97

91

के प्रभाव रखने के अपने ही विषयों

पर तर तर रिकॉर्ड का दोनों Article

जानकार्या SA F.Y.A गोपनीयाद्य का

दिलानी होते हुए उनका उपयोग की

सिलवर का उपयोग होता है।

deliver योंके द्वारा हजार वर्षों

हजार वर्षों लिखित पुस्तकों का भावात्मक

स्वाक्षर योंके द्वारा disposal की जाती

रिकॉर्ड योंके 1972 की तिथि

जानकारी अंतर्गत 1996/02 U.S. N.Y.P.C

परन्तु इतनोंका लोकान्तर GP. 02-वर्षान्तरोंमें
जानकारी प्रसाद्य नहीं होती।

2/25
S

		पर्याप्त
		Sawpfer
		Under Section
Regard Officer	Foreign Envoy Power	
		(A) <input type="checkbox"/>

Concile
18/9/81

Index ① 02/201 जानूर्या गोपनीय

यह यहांतर गोपनीय होता है।

Set - 3

21-4-82

Mesher
T. M. Duley
M.A.

ACT

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW
C.M. No. 2100(L)
O.A. No. 262 of 89(L)

Ganesh Prasad Srivastava ... Petitioner/Applicant

-vs-

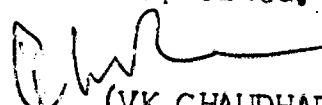
Union of India and others .. Opp. parties.

APPLICATION FOR CONDONATION OF DELAY IN
FILING COUNTER AFFIDAVIT.

The humble applicant/Opp. parties begs to submit as under:-

1. That the counter affidavit could not be filed earlier due to want of information, which took time in collecting the same! The counter affidavit is being filed herewith with this application.
2. That the delay in filing the counter affidavit was not intentional.
3. That the counter affidavit being filed herewith may be taken on record of this Hon'ble CAT and the delay in filing the same may be condoned.

Wherefore, it is respectfully prayed that the Hon'ble CAT may be pleased to condone the delay in filing of the counter affidavit on behalf of the Opp. parties and the same be taken on record in view of the reasons and circumstances explained.


(VK CHAUDHARI)
Addl. Standing Counsel for Central
Government.
Counsel for the Opp. parties.

Lucknow,

Dated: 3.1.90.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW
O.A. NO. 262 of 89(L)

(A612)

Ganesh Prasad Srivastava ... Applicant

-vs-

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

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES.

I, CHETRAM SAXENA

aged about 57 years, son of Shri SRI RAM SAXENA
at present posted as Dy. Chief Postmaster Lucknow
in the office of the Chief Postmaster, Lucknow

G.P.O., Lucknow do hereby solemnly affirm

and state as under:-

1. That the deponent has been authorised to

file this counter affidavit on behalf of all

the Opp. parties and he is well conversant

with the case and he is in a position to give parawise

comments /replies and facts as hereinunder:-

2. That before giving parawise comments,

it is pertinent to give brief history of the case

as under:

Chetram
Srivastava

A 6 | 3

(a) That the applicant was recruited as Clerk in Postal Department on 15.6.1948. During the period 1979 to 1981 ~~gaxxxxxxxxxxxxxxx~~ he misappropriated the amount of custom duty, realized from the addressees of the foreign parcels and other postal articles at the time of delivery of such articles. The amount so realised as shown in the annexure was not accounted for in the government account. The case was reported to the police and is pending in the Court of CJM, Lucknow under suit No.293/83 under Section 409/82, simultaneously departmental proceedings were also initiated. A charge sheet under rule 14 of CCS(CCA)Rules 1965 was issued to the said Shri GP Srivastava on 6.9.1982. Later on it was noticed that certain documents were in the police custody and in court, so the charge sheet was cancelled informing the ~~xxxxxxxx~~ applicant that the conciliation was without any prejudice to issue of charge sheet memo. The required documents could be obtained from the court only on 12.10.87 and fresh charge sheet was issued on ~~26~~ 26.10.87.

Thm (b) That the applicant attended the enquiry only on few dates and later on he did not participate in the enquiry. The enquiry officer has followed

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A64

the procedure rightly and submitted his report dated 4.7.89 received at Lucknow GPO on 24.7.89. The charges against the applicant have been proved and the case has been submitted for decision under rule 9 of CCS(Pension) Rule 1972 as the official was retired on 31.10.1987 after attaining the age of superannuation.

3- That in reply to the contents of para 1(a) of the application it is submitted that the applicant was placed under suspension because he was involved in a criminal case ie. misappropriation of custom duty ~~relalised~~ on foreign articles at the time of delivery but not accounted for in the Government ⁴ accounts.

4. That in reply to the contents of para 1(b) of the application it is submitted that the departmental proceedings were initiated.

5. That the contents of para 1(d) of the application are incorrect as stated, hence denied and in reply it is submitted that the Revenue Authority were requested.

6. That in reply to the contents of para 1(d)(c) of the application it is submitted that the applicant was supposed to attend the enquiry.

S.R. Saxena

A6/5

7. That the contents of para 2 and 3 of the application need no comments.

8. That in reply to the contents of para 4(i) of the application it is submitted that the applicant was a clerk in the Postal Department and he retired from service on 31.10.1989. Rest of the allegations are not admitted and the his conduct is under criminal investigation.

9. That the contents of para (4(ii) to 4(iv) of the application are not disputed.

10. That in reply to the contents of para 4(v) of the application it is submitted that the applicant moved for the change of the inquiry officer. The request was not acceded on merits.

11. That in reply to the contents of para 4(vi) of the application it is submitted that the Inquiry authority was changed on the administrative instructions. The services of Shri BL Verma and Shri NL Gupta were required elsewhere by the department.

12. That in reply to the contents of para 4(vii) of the application it is submitted that the departmental proceedings can take place simultaneous to the court proceedings.

13. That the contents of para 4(viii) of the application are incorrect as stated, hence denied and in reply it is submitted that the photostat copies duly attested are material evidence. The applicant attended enquiry on 19.12.88 and on 4.1.89. The rest of the contents of this para are not admitted as he did not

BB Laxmi

A6/6

move the application before the Inquiry officer for production of additional documents.

14. The the contents of para 4(ix) of the application are incorrect as stated, hence denied and in reply it is submitted that the Inquiry officer had categorically informed the applicant that he is required to take assistance from a Government servant and he should bring such a Govt. servant on the next date of hearing.

15. That the contents of para 4(x) of the application are incorrect as stated, hence denied and in reply it is submitted that the charge sheet was issued by the department are proper and competent authority to issue such ~~max~~ charge sheet.

16. That the contents of para 4(xi) of the application are incorrect as stated, and in reply it is stated that the Inquiry officer has to follow the prescribed procedure as per rules.

17. That the contents of para 4(xii) of the application are not admitted being incorrect and in reply it is submitted that the notice was issued on 11.4.89 and there was ample time before the ~~date~~ date fixed for enquiry.

18. That the contents of para 4(xiii) of the application are not admitted being false and in reply it is submitted that proper notices were

E. Pearson

issued by the Inquiry officer for the hearings dated 10.6.89, 16.6.89 and 24.6.89 under Regd. letter no.124 dated 5.6.89, 1425 dated 10.6.89 and 652 dated 16.6.89 issued from Barabanki HO and Lucknow GPO respectively. Thus it is clear that ample time was provided to the applicant by the H.O. Keeping in view speedy disposal of long pending case as per instruction of the higher authorities issued time to time. It is evident from the proof furnished by the applicant in the para that the applicant had received the above notices but avoided to participate in the departmental enquiry. The intention of the Enquiry officer was not prejudicial or malafide at all.

19. That the contents of para 4(xv) of the application are incorrect as stated hence denied and in reply it is submitted that provisional pension is being paid and the case will be finalised after the outcome of the departmental proceedings for which the case has been referred to Director Postal Services Lucknow for taking decision under CCS(Pension) Rules, 1972.

20. That in reply to the contents of para 4(xvi) of the application it is submitted that the date of hearing dated 3.7.89 was communicated to the applicant vide Lucknow GPO RL No.1205 dated 28.6.89 requesting his attendance on 3.7.89 positively but he failed to do so.

BB Basu

21. That the contents of para 4(xvii) of the application are incorrect as stated, hence denied and in reply it is submitted that the Enquiry officer has followed the rules and instructions of departmental proceedings. The applicant has willfully avoided to attend the departmental enquiry only after perusal and obtaining photostat copies of records and written statements relating to the case.

22. That the contents of para 4(xviii) of the application are incorrect as stated, hence denied and in reply it is submitted that there was sufficient opportunity for appearing in the enquiry was given vide letter dated 3.7.89. He always pleaded late receipt of regd. notice by one or two days only after when he has received all the copies of records prior to this stage he received notices and attended the enquiry timely.

23. That the contents of para 5 4(xix) of the application are incorrect as stated, hence denied and in reply it is submitted that there is no such provision under CCS(CA) Rules as alleged by the applicant.

24. That the contents of para 4(xx) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant could have presented his case before the enquiry officer, but he failed intentionally.

E B Sareen

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- 7 -

25. That the contents of para 4(xxi) of the application are incorrect as stated, hence denied and in reply it is submitted that the decision will be taken in accordance with the rules on the subject.

26. That the contents of para 4(xxii) of the application are incorrect as alleged, hence denied and in reply it is submitted that the charge sheet issued during the service period of the employ is covered under Rule 9 of the CCS(Pension) rules, 1972.

27. That the contents of para 4(xxiii) of the application are admitted to the extent that FIR was lodged with the police as the applicant misappropriated the amount collected on delivery of foreign postal articles charged with custom duty.

28. That the contents of para 14 (xiv) & (xxv) are incorrect as stated, hence denied and in reply it is submitted that the Postmaster, Lucknow was requested vide letter No.FX-1/Pgn-LMAp82-83 dated 2.1.84 to take necessary action for alienation of any sale and transfer etc. of any immovable property held in the name of the applicant or in the joint name of his family etc. till finalisation of the Court case.



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29. That the contents of para 4(xxvi) of the application need no comments.

30. That the contents of para 5(a) of the application are incorrect as stated, hence denied and in reply it is submitted that the Deputy Postmaster(Gazetted) is fully competent in the matter.

31. That the contents of para 5(b) of the application are incorrect as stated, hence denied and in reply it is submitted that the administration did not consider to transfer the applicant to another unit due to gravity of the case.

32. That the contents of para 5(c) of the application are incorrect as alleged, hence denied and in reply it is submitted that the action taken by the Department was under the provisions of the rule.

33. That the contents of para 5(d) of the application are incorrect as stated, hence denied and in reply it is submitted that Shri AN Srivastava, Sub. Divisional Inspector, Lucknow ; Sub Division, Lucknow was appointed as enquiry officer. There is no such provision that an official who is promoted in a higher scale and holding a superior post can not hold enquiry against his co-worker working in junior capacity.

34. That the contents of para 5(e) of the

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application are incorrect as stated, hence denied.

35. That the contents of para 5'f) of the application are admitted to the extent that the applicant continued the suspension till 31.10.87 and the remaining part of this para are false.

36. That the contents of para 5(g) of the application are incorrect as stated, hence denied and in reply it is submitted that the charge sheet was delivered to the applicant when he was in service.

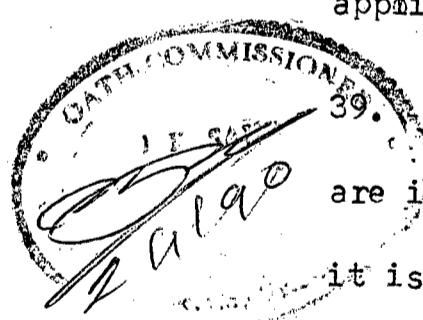
37. That in reply to the contents of para 5(h) of the application it is submitted that the disciplinary proceeding under rule (9) of CCS(Pension) Rules is pending for decision in the office of the Director, Postal Service Lucknow Region, Lucknow. After decision of the case the action for payment will be taken.

38. That the contents of para 5(i) & (j) of the application are incorrect as stated, hence denied.

39. That the contents of para 6 of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant did not move any appeal against the order of the Dy. Chief Postmaster which lies to Chief Postmaster Lucknow, GPO. No appeal lies against the order of the enquiry officer.

40. That the contents of para 7 of the application need no comments.

R.B.Saxena



41. That the contents of para 8(1) to (5) of the application need no comments. The reliefs sought by the applicant are not maintainable in the eyes of law.

42. That the contents of para 9 to 12 of the application needs no comments.

43. That in view of the facts, reasons and circumstances stated in the above paragraphs, the application filed by the applicant is liable to be dismissed with costs to the Respondents/Opp parties.


Deponent.

Lucknow,

Dated: 2/1/90

Verification.


I, the above named deponent do hereby verify that the contents of paragraphs 1 to 5 is true to my personal knowledge, those of paragraphs 6 to 12 are believed to be true on the basis of record and information gathered, and those of paragraphs 13 to 22 are also believed by me to be true on the basis of legal advice. No part of this affidavit is a false and nothing material has been concealed.


Deponent.

Lucknow

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


(VK Chaudhary)
Advocate, High Court,
Counsel for the Opp parties.

Solemnly affirmed before me on
at am/pm by the deponent.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,

Circuit Bench, Lucknow.
C.M. Am. No 55/90 (S)
O.A. No. 262 of 1989 (L)

FF 8-2-90

Ganesh Prasad Srivastava	...	...	Applicant
Versus			
Union of India and others	...	...	Respondents

APPLICATION FOR CONDONATION OF DELAY IN FILING

THE REJOINDER AFFIDAVIT

The humble applicant respectfully submits as under:-

1. That the Rejoinder Affidavit could not be filed in time by the applicant due to personal unavoidable reasons of his counsel.
2. That it would be expedient in the interest of justice that the delay is condoned and the Rejoinder Affidavit taken on record.

It is, therefore, most respectfully prayed that the delay in filing the rejoinder affidavit be condoned and the same be taken on record.

Lucknow :

Dated : 19.1.90

M. Dikshyuk
Adv.

COUNSEL FOR APPLICANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,

CIRCUIT BENCH, LUCKNOW

O.A. No. 262 of 1989(L)

Ganesh Prasad Srivastava Applicant

Versus

Union of India and Others Respondents

REJOINDER AFFIDAVIT

I, Ganesh Prasad Srivastava, aged about 60 years, son of late Shri Mahadeo Prasad Srivastava, resident of Flat No.2, Rahman Mansion, Hata Surat Singh, Near Bagh Baba Hazara, Lucknow-226003 do hereby state on oath as under:-

1. That the deponent is the applicant in the above noted case and is fully conversant with the facts of the case deposed to in this rejoinder affidavit.
2. That the deponent has read and understood the contents of the counter affidavit submitted on behalf of the respondents and is replying to the same.
3. That in reply to the contents of para of the counter affidavit, it is stated that the answering deponent, Shri Chet Ram Saxena, Dy. Chief Postmaster, Lucknow G.P.O. has not filed the alleged authority or authorities authorising him to file the counter affidavit for and on behalf of other respondents also, and for reasons of that his reply for other respondents is incompetent and liable to be ignored.

4. That in reply to contents of para 2(a) of the counter affidavit, it is not disputed that the deponent was recruited as clerk on 15.6.48 but the respondents have suppressed to disclose that the deponent was promoted to 20% L.S.G. post with effect from 1.6.74. It is wrong and malicious to say that the deponent misappropriated the amount of custom duty, realised from the addressees of foreign articles and other postal articles at the time of delivery and this allegation is emphatically denied. The matter is already pending in the court of C.J.M., Lucknow and the deponent has denied the charges there. The respondents have expressed their verdict of misappropriation against the deponent notwithstanding the fact that the matter is pending adjudication in the court of C.J.M., Lucknow and is sub-judice. The alleged chargesheet issued to the deponent by Memo dated 6.9.82 (Annexures A-1 to A-5(a)) was cancelled and the deponent was placed under suspension by Memo dated 24.11.82 (Annexure A-6) and fresh chargesheet was issued to the deponent till 26 Annexures A-8 to A-12A). On the eve of his retirement only 3 days before his retirement another fresh chargesheet was delivered to him on 28.10.87 and he was retired effect from 31.10.87 (A.N.). The respondents could not obtained the copies of the required documents still in the Police custody and in court and expedited instead of persecuting the deponent, harassing him continued suspension against the Government order of issuing him a chargesheet only three days before retirement. The action of the respondents has

malicious, arbitrary and prejudicial to the interest of the deponent. The deponent could not be continued under suspension on the flimsy plea of contemplated enquiry with effect from 24.11.82 to till 31.10.87, the date of his retirement when the initial chargesheet was cancelled and no fresh chargesheet was issued to him till 28.10.87.

5. That the contents of para 2(b) of the counter affidavit are denied as stated. It is wrong to say that the deponent attended the enquiry only on few dates and later on he did not participate in the enquiry. The deponent attended the enquiry when he received notice in time and whenever he was not in a fit state of health, he informed the Inquiry Officer of the fact and also submitted medical certificate in support of his illness. But when the notices for enquiry were received late and the date/dates of enquiry had already passed, it was practically not possible for the deponent to attend enquiry and intimation to the effect was immediately sent to the Inquiry Officer. There was no deliberate or intentional lapse on the part of the deponent for not attending the enquiry as maliciously alleged. It is wrong to say that the Inquiry Officer had followed the procedure rightly. He acted maliciously, arbitrarily and prejudicially without affording the deponent reasonable opportunity of defence and his said report dated 4.7.89 is ex-parte, ~~was~~ biased, against rules, malicious, illegal and null and void. It is wrong and malicious to say that the charges against the deponent have been proved when no opportunity of defence was given to the deponent and no opportunity of attending enquiry, cross-examining the prosecution witnesses and adducing his own evidence was afforded. The entire proceeding conducted

Om Nath Sonawane

by the Inquiry Officer was against rules, illegal and void and no action can be taken on it. It is stated that the applications/representations made to the Inquiry Officer were not considered and replied by him and he acted arbitrarily against rules and natural justice. The rest of the contents of the para under reply are denied.

6. That the contents of para 3 are denied as stated except that the deponent was placed under suspension which was due to prejudice and bias and against Govt. orders. It has been laid down in D.G., P&T letter No. 201043076 Disc. dated 15th July 1976 that while placing an official under suspension the competent authority should consider whether the purpose cannot be served by transferring the official from his post to a post where he may not repeat the misconduct or influence the investigations, if any, in progress. If the authority finds that the purpose cannot be served by transferring the official from his post to another post then he should record reasons therefor before placing the official under suspension. But no objective consideration was given to the matter, the propriety of the case for placing the deponent under suspension was not considered in terms of aforesaid instructions and no reasons were recorded before placing the deponent under suspension. It may be pointed out that the foreign articles and other articles of the nature bearing dues on them are kept in joint custody and the deponent could not be singled out and isolated prejudicially and maliciously. It is pertinent to state that the suspension order was dated 24.11.82 but no proceeding was ~~xxx~~ initiated till the deponent was in service viz. upto 31.10.87.

7. That in reply to contents of para 4 it is stated that so called departmental proceedings were initiated after the retirement of the deponent maliciously and illegally with intention to harass him and cause him injury. His post retirement dues have been wrongly, arbitrarily and maliciously withheld by the respondents without any authority and the existence of the deponent and his family members has been at stake.

8. That the contents of para 5 are denied. Annexure's A-39 and A-40 would clearly indicate that the respondents took punitive measures against the deponent without any justification. There was absolutely no basis for requesting the Revenue Authority to effect recovery as arrears of land revenue, when the matter was pending before the C.J.M., Lucknow and was under enquiry departmentally and approximately 1½ lac were due to the deponent as retiral benefits, which have been arbitrarily and illegally withheld by the respondents.

9. That the contents of para 6 are vague and are denied as stated. The deponent did attend the enquiry as and when intimation was received by him in time and he was able to attend the enquiry. He could not attend the enquiry when the intimation was received late or he was ill and for that information was duly sent.

10. That para 7 needs no reply.

11. That the contents of para 8 are denied as stated and those of para 4(I) of the application are re-asserted.

12. That para 9 needs no reply.

13. That in reply to the contents of para 10, it is stated that it has been decided vide C.S. (Department of Personnel) O.M. No. 39/40/70-Ests.(A) dated 9.11.1972 that whenever an application is moved by a Government servant against whom disciplinary proceedings are initiated under CCS(CCA) Rules against the Inquiry Officer on ground of bias, the proceedings should be stayed and the application referred alongwith the relevant material to the appropriate reviewing authority for considering the application and passing appropriate orders thereon. The D.G., P&T by his letter No. 7/28/72-Misc.I dated the 19th March 1973 has clarified that reviewing authority would ~~not~~ normally be the appellate authority. The ~~report~~ of the deponent for changing the Inquiry Officer was not placed before the appropriate authority for passing appropriate authority for passing appropriate orders and the same was arbitrarily not acceded to. The rest of the contents of the para under reply are denied and the contents of para 4(V) of the application are re-asserted. It is further stated that in terms of D.G.,P&T letter No. 6-8/74 Disc-1 dated 21.9.1975, the Inquiry Officer should be from a different division preferably at the same station or nearby. The appointment of Inquiry Officer in the instant case was in accordance with D.G.,P&T said instructions and for reason of that the enquiry was vitiated.

14. That in reply to the contents of para 11 of the counter affidavit the deponent re-asserts the contents of para 4(VI) of his application and the averments made in pre para.

15. That the contents of para 12 of the counter affidavit as stated are denied and the contents of para 4(VII) of the application are re-asserted. It is pointed out that para 12 of the counter affidavit are not relevant to para 4(VII) of the application. It is stated that on the same charges both criminal and departmental proceedings cannot run concurrently.
16. That in reply to the contents of para 13, it is stated that the photostat copies are not admissible in evidence in absence of the relevant original documents. The deponent attended enquiry on 19.12.88, 4.1.89 and 20.1.89 on receipt of notices. The rest of the contents of para under reply are denied and the contents of para 4(VIII) of the application are re-asserted.
17. That the contents of para 14 of the counter affidavit are denied as stated. It is stated that there is no rule under which the deponent is required to bring his defence assistant personally with him. It was/is the duty of the Inquiry Officer to send notice to the Assisting Government servant and to inform his controlling authority to relieve him well in time to attend the enquiry under Rule 14(8) of the CCS(CCA) Rules 1965 and the instruction issued thereon as contained in G.I.(18) contained in Swamy's compilation. The failure of the Inquiry Officer to summon the defence assistant direct and direct the deponent to bring him personally was against rule, highly biased and the deponent was deprived of that assistance solely because of the indifferent attitude adopted by the Inquiry Officer. The Inquiry Officer had clearly breached Rule 14(8) and denied the privilege of taking the assistance of any other Government servant to present his case. The deponent was

prejudiced and ~~his~~ the entire proceeding was vitiated. the rest of the contents of para under reply are denied and the contents of para 4(IX) of the application are re-asserted.

18. That the contents of para 15 of the counter affidavit are denied as stated and those of para 4(X) of the application are re-asserted. No reply to his representations were given by the respondents to the deponent.
19. That the contents of para 16 of the counter affidavit are denied as vague, indefinite and irrelevant and the contents of para 4(XI) of the application are re-asserted.
20. That the contents of para 17 of the counter affidavit are denied as stated. The deponent has stated the fact in his application which has not been controverted. The letter dated 11.4.89 fixing the date of enquiry on 20.4.89 was received by the deponent on 21.4.89 and he immediately after receipt of the notice of enquiry intimated the Inquiry Officer on 22.4.89 that due to late receipt of the letter it was not possible for him to attend the enquiry on 20.4.89, adding that he was still unwell and under treatment ~~as~~ for ailment of heart/ trouble (Annexure A-28). It was not a fault of the deponent that the letter dated 11.4.89 sent under registered cover on 13.4.89 was delivered at the address of the deponent on 21.4.89 after the date of enquiry fixed on 20.4.89 had expired. The deponent, however, took prompt action to apprise the Inquiry Officer of the fact. The contents of para 4(XII) of the application are re-asserted.

21. That the contents of para 18 are denied as stated and those of paras 4(XIII) and 4(XIV) of the application are re-asserted. As stated in the application the notices said to have been issued by the Inquiry Officer were either not received or received late after the expiry of the date of enquiry and the deponent was handicapped in attending the enquiry and the Inquiry Officer proceeded prejudicially notwithstanding and caring the service of the notices of enquiry to the deponent late and nor ensuring their service in time so as to enable him to attend the enquiry and defend the case. The Inquiry Officer was under obligation to ensure that the notices were served on the deponent in time and even the applications/representations made by the deponent that the notices were not served on him before the dates of enquiry, were not considered by him and the enquiry was conducted prejudiciously, maliciously and illegally behind the back of the deponent violating all norms of natural justice and denying opportunity of defence to the deponent. As stated earlier the charge-sheet dated 6.9.82 was cancelled and no action was taken till 28.10.87 when another charge-sheet was served on the deponent after more than 5 years and only 3 days before his retirement. The deponent was under suspension and no action was taken by the department and the respondents for over 5 years and after his retirement not only his dues were not settled, he was also subjected to torture and harassment by denying the constitutional right to defend himself. The action of the respondents including the Inquiry Officer was highly malicious, prejudicial, arbitrary, against rules and instructions issued by the Govt. as well as by the department. The Inquiry Officer did not act according to rules

and he deprived the deponent of his right of defence. His action was wholly prejudicial and malafide.

22. That the reply contained in para 19 of the counter affidavit is evasive and cryptic as it does not say anything about the payment of retiral dues which the respondents have no authority to withhold. The contents of para 19 are denied as stated. The payment of deponent's G.P.F., Leave Encashment, Gratuity, General Insurance, the difference of pay and allowances for the suspension period from 24.11.82 to 31.10.87 has not arbitrarily and maliciously been made to the deponent during all this period and the same is illegally retained by the respondents after his retirement with effect from 31.10.87(A.N.). The pay of the deponent has also not been fixed in the revised scale of Rs.1400/2300 effective from 1.1.86 and his provisional pension according to his enhanced pay admissible from 1.1.86 in the said revised scale, has also not been maliciously and prejudicially fixed and paid. The deponent has been highly prejudiced and rendered to suffer untold hardships in the last days of his life after his retirement. The rest of the contents of para under reply are denied and the contents of para 4 (XV) of the application are re-asserted.

23. That the contents of para 20 are ~~denied~~ denied as stated and those of para 4(XVI) of the application are re-asserted. The reasonable opportunity, fairness and natural justice has been denied to the deponent.

24. That the contents of para 21 are denied as stated those of para 4(XVII) of the application are re-asserted.

25. That the contents of para 22 are denied as stated and the contents of para 4(XVIII) of the application are re-asserted. The deponent did not show any laxity and always replied to the notices promptly after their late receipt but the Inquiry Officer did not care at all to inform the deponent well in time to enable him to attend the enquiry and he deprived the deponent of his right of defence arbitrarily and maliciously. In fact, there was no enquiry at all and the proceeding rushed ~~by~~ through by the Inquiry Officer was against rules, natural justice, equity and hence illegal and void. The averments made by the respondents based on surmises are baseless and unsustainable and are emphatically denied.

26. That the contents of para 23 are denied as stated. Since the deponent was advised by the Inquiry Officer to have correspondence with the Chief Postmaster, Lucknow G.P.O. as stated in para 4(XVIII) of the application he (the deponent) addressed his letter dated 23.8.89 to the Chief Postmaster, Lucknow G.P.O. to whom his earlier representations dated 5.7.89 and 23.7.89 made to the Inquiry Officer had been sent for further action. No reply to this letter dated 23.8.89 was received by the deponent who was greatly prejudiced in the matter. There was nothing wrong or against the provisions of CCS(CCA) Rules 1965 in making representations by the deponent. The contents of para 4(XIX) of the application are re-asserted.

27. That the contents of para 24 are denied as stated. It is wrong and malicious to say that the deponent

could have presented his case before the Inquiry Officer but he failed intentionally. As stated earlier in the application and also in this rejoinder affidavit that the deponent was not afforded reasonable opportunity to present and defend his case and all his representations were ignored and no reply was ever given to him. The allegation against the deponent is false, baseless and malicious and the same is emphatically denied and the contents of para 4(XX) of the application are re-asserted.

28. That the contents of para 25 of the counter affidavit are denied as evasive and cryptic. The respondents have no power to withhold the retiral benefits and the arrears which they have arbitrarily retained. They are under obligation to pay the same with compound interest at Bank's rate immediately. The contents of para 4(XXI) are re-asserted.
29. That the contents of para 26 are denied as stated and the contents of para 4(XXII) of the application are re-asserted. Even otherwise under Rule 69 of Pension Rules the provisional pension should be equal to the maximum pension which would have been admissible on the basis of qualified service, but neither the pay of the deponent was fixed in the revised scale of Rs.1400/2300 from 1.1.86 nor due and admissible provisional pension on it has been allowed to him to his great prejudice. Rule 9 of the CCS(Pension) Rules 1972 does not prohibit payment of retiral dues which have been arbitrarily retained by the respondents. Under the said rule 9 the President reserves the right of withholding or withdrawing a pension or part

thereof, whether permanently or for a specified period and of ordering recovery from a pension of the whole or part of any pecuniary loss caused to the Government, in any departmental or judicial proceedings if the pensioner is found guilty of grave misconduct or negligence during his service. This right cannot be exercised by any other authority and that proper and competent enquiry in accordance with rules has to be conducted, but in the instant case the charge-sheet was issued by the Dy. Postmaster who was/is not the competent authority after 7 years of the alleged incident and the appointment of Inquiry Officer and the enquiry conducted by him was incompetent, against rules, arbitrary and malicious. The deponent was not given any reply to his various representations made to Inquiry Officer as well to other respondents and no action can be taken after long lapse of time in terms of rules.

30. That the contents of para 27 repugnant to the contents of para 4(XXIII) of the application are denied and the contents of the said para of the application are re-asserted.

31. That the contents of para 28 of the counter affidavit are denied. It is wrong to say that the District Magistrate, Lucknow was requested vide letter dated 2.1.84 to take necessary action for alienation of any sale and transfer etc. of any immovable property held in the name of the deponent or in the joint names of his family etc. till finalisation of the court case.

The averment does not disclose as to who requested the District Magistrate as stated in the averment. The contention of the respondents is belied by Annexure A-39 to the application which clearly indicates that the Chief Postmaster, Lucknow asked the District Magistrate, Lucknow to cause recovery of Rs.10,064.65 as arrear of land revenue from the deponent. This action of the respondent No. 4 was highly irregular, unfair unjust and distressing. The contents of paras 4(XXIV) and 4(XXV) of the application are re-asserted. No action of distress could be taken when ~~his~~ dues payable to the deponent were retained/detained by the department to the extent of about Rs.1½ lac.

32. That the contents of para 29 of the counter affidavit need no reply except that the respondents have admitted that the deponent was/is aggrieved by the arbitrary, malicious, prejudicial and illegal action of the respondents and had no alternative but to file the instant application before this Hon'ble Tribunal.
33. That the contents of paras 30 to 38 are denied as stated and thos of paras 5(a), 5(b), 5(c), 5(d), 5(e), 5(f), 5(g), 5(h), 5(i) and 5(j) are re-asserted.
34. That the contents of para 39 are denied and those of para 6 of the application are re-asserted.
35. That para 40 needs no reply.
36. That in reply to the contents of para 41 it is ~~stated~~ denied that reliefs sought for by the deponent are ~~not~~

maintainable. The reliefs sought for by the deponent are based on sound footing, they are maintainable and liable to be allowed with costs.

37. That the contents of para 42 need no reply. It is, however, stated that the interim ~~relief~~ ^{relief} prayed for vide para 9 of the application has been admitted by the respondents. The Tribunal may, therefore, be pleased to issue directions accordingly.
38. That the contents of para 42 ~~are~~ are denied as stated. On the facts and circumstances stated by the deponent in his application and also in this ~~rejoinder~~ affidavit, the application filed by the deponent is maintainable and liable to be allowed with costs against the respondents.

Lucknow :

Dated : 19.1.90

Ganesh Lonsad
DEPONENT *Ganesh Lonsad*

VERIFICATION

I, the above named do hereby verify that the contents of paras 1 to 32, 34 and 35 are true to my personal knowledge and those of paras 33, 36, 37 and 38 are believed to be true on legal advice. No part of it is false and nothing material has been concealed or suppressed, So help me God.

Lucknow :

Dated : 19.1.90

Ganesh Lonsad
DEPONENT

I identify the deponent who has signed before me.

M. DUBEY, Advocate.