

Annexure - A
CAT- 82

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

INDEX - SHEET

CAUSE TITLE 262/89 (D) OF 198

Name of the Parties Sri. C. P. Srivastava

Versus

U.O.I & others

Part A, B and C

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4	Annexure impugned	A ₄ /24 to A ₄ /36
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A 7	Counter, Ryosinder	11, 16 12, 15
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C	C. M. Application	
<p>Confirmed that no further action is required to be taken and that the case is fit for consignment sent to the record room (D)</p>		

So (55)
Rachak
on 2/4/12

By [Signature]
24-6-11

[Signature]
5/6/11

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

18/9/89

Registration No. 262 of 1989 (L).

APPLICANT(S) G. P. Srivastava
RESPONDENT(S) Union of India & Ors.

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. Has 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/referred 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 pagging done properly? yes
9. Have the chronological details of representation made and the content 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 Examined

Endorsement as to result of examination

- | | |
|---|-----|
| 11. Is the application/duplicate copy/spare copies signed ? | yes |
| 12. Are extra copies of the application with Annexures filed ? | yes |
| a) Identical with the Original ? | yes |
| b) Defective ? | — |
| c) Waiting in Annexures | — |
| Has _____ been _____ ? | |
| 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 ? | yes |
| a) Concise ? | yes |
| b) Under distinct heads ? | yes |
| c) Numbered consecutively ? | yes |
| d) Typed in double space on one side of the paper ? | yes |
| 18. Have the particulars for interim order prayed for indicated with reasons ? | yes |
| 19. Whether all the remedies have been exhausted. | yes |

signed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 262 of 1989

APPELLANT
APPLICANT

Ganesh Prasad Srivastava

VERSUS

DEFENDANT
RESPONDENT

Union of India & Others

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---------------------------------	--	--

20.9.89

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

Shri M. Dubey, Counsel for the applicant is heard.

ADMIT.

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.

Let the copy of this order be given to the applicant as desired.

J.M.

rrm/

SB

Notices were issued on 22-9-89.

Neither reply nor any unsigned reply has been received so far.
Submitted for order

13/10

See original order on main Petition

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---------------------------------	--	--

Hon^r Mr Justice Kamleshwar Nath, V.C.

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

Shri V.K. Chaudhary files counter on behalf of all the Op.Ps. The applicant may file rejoinder, if any, within 10 days hereof. The case be listed for final hearing on 8-2-90.

A.M.

V.C.

(sns)

U/c for the applicant RA & CM 54/84 (1) to be taken up for hearing on 27/1/90

U/c for the applicant has not filed rejoinder with application for condonation of delay & CM An 2055/90 for interim relief have been filed; S.F.O.

No Sittings A.M. to 20.3.90.

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

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

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.

A.M.

J.M.

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

Hon Mr. K. Obayya, A.M.

Put up on 25.4.90

A.M.

J.M.

CM 190/90 (1) filed by U/c

CM 190/90 (1) filed by U/c for the applicant for easy hearing S.F.O. L 20/4


O.A. 262/89(U)


A/3

2/5/90 Hon. Justice Mr K. N. Madh, U.C.
Hon. Mr. K. Obayye, A.M.

On the adjournment application of applicant's Counsel: List it for orders on 24/7/90. Shri V.K. Chaudhary, Counsel for opp ps. file reply to the interim relief application. It is pointed out that the applicant is being paid ~~the~~ ^{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. Chaudhary, says that the applicant has a very minor amount to his credit in the G.P.F. ~~fund~~ 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/
RA filed today
197
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CA & RA has been
changed on interim
order.
Date is already
fixed on 27.7.90
for final hearing.
P.O. 20/8/90

O A 26/89. L

(A/4)

20.11.90

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

Dir to Sad Justice of Sri.
B. L. Srivastava Adv. Case adjourned
to 5/2/91

M. M.
AM

[Signature]

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S 291-4

Hon. Mr. Justice K. Nath. VC
Hon. Mr. K. Oberoi AM

OR N. Sully. RA
S. P. H.
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4/2

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

[Signature]
AM

[Signature]
VC

6/2/91

Hon. Mr. Justice K. Nath. VC
Hon. Mr. K. Oberoi AM

Put up tomorrow for
hearing after admission cases.

[Signature]
AM

[Signature]
VC

7-2-91 Hon. Mr. Justice K. Nath. VC
Hon. Mr. K. Oberoi AM

Arguments heard.
Judgment reserved.

[Signature]

AM

A/S

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

O.A. No.
T.A. No.

262

1999(L)

DATE OF DECISION 12/11/99 1999

State Administrative

Petitioner

Shri M. Jyoti

Advocate for the Petitioner(s)

Versus

Union of India & others

Respondent(s)

Shri V. K. Chaudhary

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. M. Bhat, V.J.

The Hon'ble Mr. K. G. Gokhale, J.

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

.....

Ghanshyam/

OF
10/11/99

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

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(A7)

- 2 -

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 suo 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

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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

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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.

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(A72)

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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

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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



9/14

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 ⁹ 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 ATLT (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

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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 proceedings 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

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- 11 -

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.

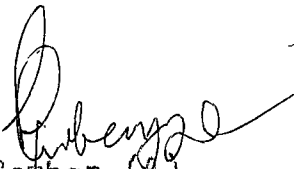
15. The next point raised is that since a criminal case is going on against the applicant for the same misappropriation the disciplinary proceedings should not continue because it is likely to prejudice the applicant's defence in the criminal case. The police charge sheet, Annexure-A.38 dated 21.10.82 mentions that on investigation of the FIR dated 30.8.82, Annexure-A37 the applicant, ~~accused~~ 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 charge sheet 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 fora. 16. 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, 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)

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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.


10.5.91

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Annexure-A.8 contains allegations regarding ^{Rs} 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,

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(A2X1)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL
ACT 1985

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

I N D E X

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

- | | | |
|----|---|----------|
| 1. | Application | 1 to 23 |
| 2. | True copy of Suspension order dated 24.11.82 (Annexure A-6) | 24 - |
| 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 | |

COMPILATION 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 - |

[Signature]
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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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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' 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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COMPILATION - II
(contd)

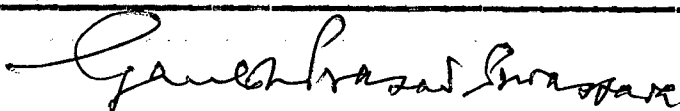
11.	True copy of Memo dated 7.11.87 regarding appointment of Shri Ashok Kumar Srivastava as Inquiry Officer	[Annexure A-14]	45 -
12.	True copy of Memo dated 7.11.87 regarding appointment of Shri R.P. Misra as Presenting Officer	(Annexure A-15)	46 -
13.	True copy of applicant's representation dated 5.2.88	(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 A18 & A19)	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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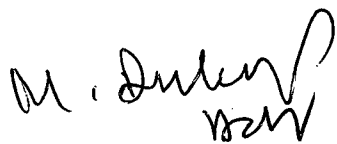
Sl. No.	Description of documents relied upon	Page No.
29.	True copy of applicant's letter dated 5.7.89 (Annexure A-32)	70 -
30.	True copy of Enquiry Proceeding dated 3.7.89 (Annexure A-33)	71 -
31.	True copy of applicant's letter dated 23.7.89 to Inquiry Officer (Annexure A-34)	72 -
32.	True copy of 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 tax police in the court (Annexure A-38)	77 to 97


Signature of applicant

For use in Tribunal's Office

Date of filing

Registration


M. Dutt

SIGNATURE

FOR REGISTRAR

(A311)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW

Registration No. 262 of 1989 (11)

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.

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*Cloned by
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- (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. 424~~ Rs. 425/640 ~~in the year 1974~~ 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 dstd 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 viz. 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 ~~xxxx~~ 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 ~~xxxxxxx~~ 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.

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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 ^{21/}~~26/~~2.88 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-17) to this application to the Director General, Posts, Dak Bhawan, New Delhi with a request that some other Inquiry

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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 chargesheet 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~~ 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. ~~of~~ Photostat copies of photostat copies could not be relevant and reliable in evidence. However, the applicant submitted a list of five

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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, ~~xxx~~ 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

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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 ~~where~~ 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's 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~~ 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 ~~has~~ 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

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[Signature]

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 ~~untold~~ 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

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 applica-nt'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

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- (xxi) That the suspension order dated 24.11.82 has merged in the retirement order ^{dated 28.10.87} 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.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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- (xxi) That the suspension order dated 24.11.82 has merged in the retirement order ^{dated 28.10.87} 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 ~~and~~ 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 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 ~~xxx~~ 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

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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. kax

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

5. GROUND 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.

Garfield
18/6/81

- (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 superannuation on 31.10.87 A.N., no suspension is deemed to be subsisting and the applicant is entitled to full 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.

Conceded
18/9/89

- (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 him 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) |

Completed
18/6/89

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 retireme-nt dues including GPF, General insurance, leave encashment and fix the pension correctly and to pay the arrears thereof and

Sanjay
18/6/87

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.

Conceded
18/6/81

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 *Chow 16.9.89*
(iii) Name of issuing P.O. *Chowk H.P.O. 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~~
(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. DUBEY)
Advocate

Ganesh Prasad Srivastava
18/9/89

(A4/11) (A4/24)

Annexure A-6

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

Memo No:- FX-1/Fgn LMA/82-83 Dated at Lucknow-1 31/8/82.

Whereas a case against Shri Ganesh Pd. Srivastava LSG(F) Lucknow GPU 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 GPU 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/-
(U.S. Baipai)
Dy. Postmaster (G)
Lucknow GPU-1

Copy to:-

1. Shri Ganesh Pd. Srivastava LSG(F) Lucknow GPU. 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 GPU 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 GPU
6. Director of Postal Accounts Lucknow-18.
7. The PMG U.P. Circle Lucknow for information w.r.t. C.D. file No. Inv/C.D.-1/82/2 dt. 7.8.82
8. Dy. P.M. Delivery Lucknow GPU. He will please see that the official reports to him at 11.00 hrs. daily.
- 9-10. Spare.

Dy. Postmaster (G)
Lucknow GPU

M. Duly

M. Duly

Ganesh
18/8/82

Annexure A-8

(25)

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER LOCKNOWN GPO.226001

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

(V)
25/10/81

*
--

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 articles 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 other wise fails or refuses to complywith the provisions of Rule 14 of the CCS(CCA) Rules 1965 or the orderspdirections issued in pursuance of the said rule the inquiring authority may hold the inquiry against him ex parte.

-----2/-

18/9/81
18/9/81

5. Attention of Shri Canesh Pd. 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 Canesh Pd. Srivastava is aware of such a representation and that it has been made at his instigation 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)

By. Chief Postmaster,

To,

Shri

Canesh Pd. Srivastava
ISO (P) (U/S) Kothi Wali Bahin Bux
Post Surat Singh Near Ragh Baba Hazara

Lucknow.

Name & designation of Competent Authority.

2. Vigilance statement.

-*
 M. D. J. /
 MR

18/9/89

Annexure A-9

(27)

STATEMENT OF ARTICLES OF CHARGES FRAMED AGAINST SHRI GANESH PRASAD SRIVASTAVA LSG P.A. Lucknow GPO (UNDER SUBMISSION).

.....

ARTICLE -1:

The aforesaid Shri Ganesh Prasad Srivastava while functioning as General Abstract Asstt. II Rank. Import branch, Lucknow GPO during the period from 3.12.1979 to 14.2.1981 received ^{17 (seventeen)} ~~19 (nineteen)~~ foreign custom-duty-due articles amounting to Rs. ^{10984.65} ~~13444.35~~ 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 Pat Manual Vol. VI part I read with rule 4 of Pat F.H.S. Vol. I and rule 27 of Pat F.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 provisions of rule 3(1) of C.C.S. (Conduct) Rules, 1964.

ARTICLE -2:

The aforesaid Shri G.P. Srivastava 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. B 244914/9050 and B 280789/161 which were received by him on 20.7.80 and 21.10.80 respectively. Thus it is alleged that said Shri G.P. Srivastava acted against the provisions of rule 11(3) of Pat Manual Vol. VI part I read with rule 4 of Pat F.H.S. Vol. I and rule 27 of F.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 CCS (Conduct) Rules 1964.

ARTICLE -3:

Shri Ganesh Prasad Srivastava while working in the aforesaid capacity during the aforesaid period at Lucknow GPO 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 writings. He also failed to attest the corrections made by putting his initials in the register as required

P.T.O.

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4-81 and
4-7-81
respected
Import on
sum (2000)
21-7-81
22-7-81
23-7-81

18/9/81

under rule 636 of P & T Manual Vol. 11. thereby he failed to maintain a devotion to duty and acted in a manner subverting of a Government servant violating provisions of rules 3(1)(ii) and 3(1)(iii) of C.G.S. (Conduct) rules, 1964.

R. S. Singh
By. Chief Postmaster.
Lucknow GPO.

*Merited
to
M. S. Singh
MSH*

Gandhi
18/6/81

Annexure A-10

(29)

STATEMENT OF IMPUTATIONS OF MISCONDUCT IN REPORT OF THE
ARTICLES OF CHARGE FRAME D AGAINST SHRI GANESH PRASAD SRIVASTAVA,
L.S.G. P.A. LUCKNOW GPO (UNDER SUSPENSION)

.....

ARTICLE - 1:

Shri Ganesh Prasad Srivastava, LSG PA worked in Registration
Import branch Lucknow GPO as G.A. Clerk II 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
Postman. After delivery of the articles at window the said Shri
Ganesh Prasad Srivastava, was required to credit the amount re-
presenting custom duty due thereon as required of him by virtue of
Rule 11(3) and 182/1 of Pat Manual Vol. VI part I read with Rule 4
of Pat F.H.B. Vol. I and Rule 27 of Pat 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 his written statement
dated 24.4.82 and 28.4.82 (copy enclosed). Supdt. 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

The addressee of twelve articles out of ^{seventeen} ~~seventeen~~ at serials
1 to 12, 15 to 17, ~~seventeen~~ 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 con-
travention of Rule 11(3) and 182/1 of Pat Manual Vol. VI part I
read with Rule 4 of Pat F.H.B. Vol. I and Rule 27 of Pat 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 3, 1964.

P.T.O.

18/6/81
18/9/81

(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 excess against article No.

D 286289/161. None of these amounts were 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 both 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 R.A.B. Vol. I and Rule 27 of P.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 Ganesha P. 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 23.7.'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.

R. D. Sanyal
By Chief Examiner,
Lucknow GPO.

M. S. K. Sanyal
Te M. S. K. Sanyal
Ran

Ganesh P. Srivastava
18/6/81

Annexure A-11

ANNEXURE- III

31

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

1. Transfer list dated 24-4-80, containing entry in respect of article No. 288095/1588440 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 13-11-80 containing entry in respect of article No. 85575/225556 at serial 4 of Annexure A. ✓
4. Transfer list dated 11-12-80 containing entry in r/o article No. 1508329/900374 at serial 5 and 16 of Annexure A. ✓
5. Transfer list dated 3-2-81 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. 4504/225790 at serial 7 of Annexure A. ✓
7. Transfer list dated 28-5-80, containing entry in r/o article No. 9690/744918. ✓ *Not signed 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. 303849 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. 230910, 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. 30204/255188 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. Shukla Retd. PA, Lucknow GPO. ✓
20. Written statement dated 24-4-82, 28-4-82, and 24-11-82 of Sri G.P. Srivastava the then LSG PA Lucknow GPO, presently under suspension. ✓

Contd.....2

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Dd

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18/9/82

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27/9/82
4/11/82
or enclosed
in the memo
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for the

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.F. 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 GPO 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 NERI 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 Shahnaz Sultana B/O Mohd. Yaseen, 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 Shri Mohd. Shamim B/O late Sri Mohd. Naseem 116/99 Ghausiari 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 Bhandar, Nazirebad- Lucknow-18.

By
Dy. Chief Post Master
Lucknow G.P.O. 22600

Attested
T.C.
M. Dutt
Ddr

Venue Roll
glyn dupes
Primer with
for the period 3/4/81 to 14/4/82

2) say to say Register
maintained to keep
the A/C of Regd Article
glyn dupes of stamp
containing in file, for
cash transfer to
Treasury & Bank

Gandhi
18/9/89

3) Entry in the
EB Register
26/6/81 & 24-7-81
Sub-branch
(x) copy of
A/C of
(7) 12/12/81
13/12/81
14/12/81
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Annexure A-12

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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. APN Regn. Import branch Lucknow GPO.
2. Sri C.B. Shukla, Retd. PA, Regn. Import branch, Lucknow GPO.
3. Sri S.C. Asthana PRI (P), Lucknow GPO.
4. Sri A.B. Shukla, the then C.I. Lucknow GPO, now SDI Gonda Dn.
5. Shri P.L. Srivastava, UDC Purchase Sec, LSI-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 APN Lucknow GPO.
8. Sri Rajendra Kumar PA, Lucknow GPO.
9. Shri Pancham Lal Kuril, PA Lucknow GPO.
10. Sri Nuzair Ahmed, PA-Lucknow GPO.
11. Sri Uday Singh, PA-Lucknow GPO.

Dr. Chief Post Officer
Lucknow G.P.O. 250001

Attested
TE M. July
DCH

Completed
18/6/89

EXEMPLE 19 TOILET ARTICLES WARREN CENTER-NUTTY-BEE AIRPORT 17 HIGH .BRI 100 ACCOUNTED FOR BY GAIL H. G. ILLINOIS, ILLINOIS
111. 1111 REGISTRATION IMPORT BRANCH LUCKING 012.

~~18/12/18~~

Minister
TE M. Jurek
Bard

(39)

Annexure A-39

DEPARTMENT OF POSTS

XX
18

From :

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

To

The District Magistrate,
Lucknow.

No. Fx-1/Fgn.LM/82-83

Dated 8.9.1988

Sub : Proposal for recovery of Govt. money as
arrear of Land Revenue - case of Sri Ganesh
Prasad Srivastava LSG(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.10964.65 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 Nazar
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 neces-
sary 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 PRI(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 done early.
3. P.M.G. U.P. Circle Lucknow with reference to
his file mark Inw/CD-1/B2/2.
4. 6 Spare.

Sd/-

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

Ganesh Prasad
18/9/88

Noted
TE [Signature]
[Signature]

ज० वि० आकार - पत्र 69

। नियम 236 देखिये ।

उपस्थिति-पत्र (Citation to appear)

देखों धारा 280, 3090 ज० वि० और मू० व्य० ऐक्ट 1950 ई०

क्रम संख्या-

सेवा में

गणेश प्रसाद श्रीवास्तव,
फ्लैट नं०-2, रहमान मैनान
हाता सूरत सिंह चौपटियाँ
लखनऊ।

खाता- खतौनी- गाँव मौजा -परगना - की क़िश्त के हिसाब
में 10,964/- रु० की बकाया धनराशि आपके द्वारा देय है इसलिये
यदि आप पूरा बकाया तथा इस उपस्थिति-पत्र का तलबाना शीघ्र न
चुका सकें तो एतद्वारा यह अघोषित 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।

ह०/- अग्रणीय

मुहर

हस्ताक्षर
तहसीलदार

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

Comdant
18/6/89

Attested
te
M. D. Singh
MDV

(A 5137)

ब अदालत श्रीमान्
[वादी अपीलान्त]
प्रतिवादी [रेंस्पाडेन्ट]

CAT, Circuit Bench, Madras महोदय
श्री Ganesha Prasad Srinivasan का

वकालतनामा



वादी (अपीलान्त)

Ganesha Prasad Srinivasan बनाम M. S. Srinivas प्रतिवादी (रेंस्पाडेन्ट)

नं० मुकद्दमा सन् १९२९ पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री B. Solomon, Adv., High Court
Madras & M. S. Srinivas, Adv., 4th Lane, वकील
Narasimha Ganesha Gangi, Madras महोदय एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल 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 रुपया जमा करें या हारी बिपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सबंधा 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 वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

Ganesha Prasad Srinivasan
हस्ताक्षर...

साक्षी (गवाह) ... साक्षी (गवाह) ...

दिनांक ... १८९२ ... महीना ... September ... सन् १९२९ ई०

स्वीकृत B. Solomon Adv.

② M. S. Srinivas Adv.

AS/L (37)
Annexure A-1

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

Memo No. FX-1/Fgn LMA/82-83 Dated: Lucknow, AugSept. 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 Control & Appeal) Rules, 1955, the substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the report of statement of articles of charge (Annexure I). Support the imputations of misconduct or misbehaviour (II). List of of each article of charge is enclosed (Annexure II) along with the documents by which, and a list of witnesses named who are articles of charge are proposed to be submitted are also enclosed (Annexure III & IV).

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

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

3. Sri G.P. Srivastava is further informed that if he does not submit his written statement of defence on or before the date specified enquiring authority or does not appear in person before the enquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules, 1955 or the provisions of the Rules issued in pursuance of the said rule, the enquiring authority may hold the inquiry against him ex parte.

4. G.P. Srivastava Attention of Sri G.P. Srivastava Central Civil Services (Conduct) is invited to Rule 20 of the Govt. servant shall bring or attempt to bring any bribery to further his interests in connection with any superior authority to his service under the Govt. or matters pertaining to his service under the Govt. 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 G.P. Srivastava is aware of such a representation and that it has been made in his interest and action will be taken against him for violation of rule 20 of the CCS (Conduct) Rules, 1955.

5. The receipt of this memorandum may be acknowledged.

Dy. Postmaster (Gazetted)
Lucknow GPO-226001

Regd. A/D, To.

1. Sri G.P. Srivastava LSG (F) on leave, Kothi Haji Rahimbux
2. Vigilance Stationer, Hata, Surat Singh near Chauptian, Lucknow

MS-7A.

Washed
T.C.
M. Dubey
R.D.

ANNEXURE I

AS/ (38)
Annexure A-2

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 Gehl. Abstract clerk 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 opener, from window delivery to their respective addressees after realising custom duty and postage fee 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 and rule 127 of FHB Vol II.

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 illmotives. 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.

Dy. Postmaster (G)
Lucknow GPU-226001

Attested
Te
M. J. J. J.
M. J. J.

18/9/89
18/9/89

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 in deposit, in his abstracts. He violated provision of rule 11 and 154 of P&T Manual Vol. VI part I Rule XX 4 of F.H.B. Part I and rule 27 of F.H.B. Vol. I.

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" 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 ill motives. 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

M. S. S.
Te
M. S. S.
V. S. S.

Ganesh Pd.
18/9/89

ANNEXURE III

Annexure A-4 (40)

- 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. " " " " CNS/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. 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 Gauri Shankar Sharma PA Lucknow GPO.
 22. Written statement dt. 12.6.82 Buxa Singh PA Lucknow GPO.
 23. Hand to hand receipt book under which the ~~articles~~ 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
By

M. Dinkar
VCH

Gavesh
18/9/89

Annexure IV

Annexure A-5

(41)

List of Witness by whom the articles of changed fromed against Shri G.P.Srivastava LSG(F) Lucknow GPO are proposed tobe 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. Buxasingh P.A.Lucknow GPO

Dy. Postmaster (Gaz)
Lucknow GPO-226001

Attested
Te
M. Duhay
WCH

Ganesh
18/9/89

Annexure A-5 (62)

ANNEXURE 'A'

Details of foreign articles bearing custom duty amounts for which were not accounted for by Shri G.P. Srivastava
GA II Regn Import branch Lucknow GPO.

Sl No.	Director Accts Nagpur Hlafmargin Memo No.	Delhi Fgn Amounts to be realised LMA	No.	Date	Custom duty PF Total amount	Name of the addressee of article to GA II	Transfer Name of bafap- ener	Letter under which Shri G.P. Srivastava received was addressed for intimating disposal G.P. Sri- of the article vastava

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
21. Nagarbagh Lucknow at. 7.5.81 and 22.8.81
varied on 26.6.81 the article
is not tr-
acehletam
have been de-
livered
2. CDS/1183/Jan 80 9/80 D-201448 30.1.80 144/- 2.50 146.50 Mrs. Maujia Tayal 1.2.80 Late Shri LR Fgn-5/81.82
25, A Ashok Marg Lucknow C.B. Shukla at. 2.5.81 and de-
17.9.81 no reply
3. CDS/4894/Jan 80 4/81 D-205721 20.6.80 99.602.50 102.10 Shri R.S. Jain
DOS NE Rly. 24.6.80 S.C. Asthana LR/Fgn-171/81-82
Lucknow 20.1.82 No reply

Gandhi
18/9/89

Mesher
CC
M. Dubey
Nagar

Dy. Postmaster (G)
Lucknow GPN-226001

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 GPU 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 GPU 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 GPU

Copy to:-

Regd No

1. Shri G.P. Srivastava LSG(F) Lucknow GPU on leave New Building Kothi Hazi Rahimbux Hata Surat Singh Lucknow-226003
2. Shri L.P. Kanyawlia I.I. cum Inquiry officer O/O the P.M.G.U.P. Circle Lucknow.
3. Vigilance Statement.

19/11/82
Dy. Postmaster (G)
Lucknow GPU

Attested

TE

Re Dubey
now

Ganesh Pd
19/11/82

Annexure A-13

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER LUCKNOW GPO-226001.
Memo No. B-4/Retirement dated at Lw. the 27 Oct. 1987.

(44)

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.

Sd/-
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 Bagh Baba Hazara, Lucknow-226003.
2. P.F. of the official.
3. Dy. Postmaster A/Cs, Lucknow GPO.
4. B.A. (P), Lucknow-1B.
5. Pension Asst. Lucknow GPO.
- 6-8. Spere.

/mm
Chief Postmaster
Lucknow GPO-226001.

Q

Attested

TC

M Dubey
Hav

Ganesh Prasad
18/10/87

Annexure A-14

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 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.

Dy. Chief Postmaster
Lucknow GPO-226001.

Copy to :-

1. Shri Ganesh Prasad Shrivastava L.S.G. (P.A.), (Retired)
Kothi. Hazi 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

Te
M. Duker
Mw

18/6/81

Annexure A-15

(46)

(X)
13/11/87

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 inquiry 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 case 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.O.).
2. Shri Ganesh Prasad Shrivastava LSG (P.A.), Lucknow GPO (Retd) Kothi Hazi Rahim Bux, Hata Surat Singh, Near Bagh Baba Hazra Lucknow.
3. Shri Ashok Kumar Shrivastava C.I. Lucknow GPO. (E.O.).

R. Mishra
Dy. Chief Postmaster
Lucknow GPO-226001.

*Attested
By
M. Dubey
MDV*

Ganesh
18/9/87

Annexure A/16

AS/47
(X)

To

The Dy. Chief Quartermaster,
Lucknow G.P.O.

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

Subject : Appointment of Shri Ashok Kumar Srivastava,
C.I., Lucknow G.P.O. as Enquiry Officer.

Reference : G.O. memo No. B/Enquiry/87-88 dated 14.1.88
and your office Memo No. xx-1/Fgn-LHA/88-89
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.C.
Division other than Lucknow G.P.O. will please be
appointed as an Enquiry Officer. I am afraid that
Shri Ashok Kumar Srivastava, Complaint Inspector, Lucknow
G.P.O. because of working in Lucknow G.P.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)
(Nets) L.P.O. (F), Lucknow 070
Residing Flat No. 2,
Ramesh Mansion,
Hata Bazar Singh, Chhatrapatiyan,
Lucknow G.P.O.

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

Ganesh Prasad Srivastava
(Ganesh Prasad Srivastava)

Attested
T.C.
M. J. J. J.
M. J. J.

Ganesh Prasad
18/1/88

Ind. Three copies
B. 30/1/88
Sd/- Rajendra
Kumar
Srivastava
Receipt clear

Annexure A-17

(x)

(48)

उप मुख्य पोस्ट मास्टर लखनऊ जी.पी.ओ. के पत्र सं. स्फ-1/फारेन/स्ल एम.ए.
182-88 दि 5-2-88 की प्रतीति जो अशोक कुमार श्रीवास्तव जॉब सी.सी.एस लखनऊ
जी.पी.ओ. को सम्बोधित है।

सेवा में

अशोक कुमार श्रीवास्तव
जॉब अधिकारी, लखनऊ, जी.पी.ओ.

पत्र सं. स्फ-1/फारेन स्ल एम.ए./82-88 दि 5-2-88

विषय: - केन्द्रीय कर्मचारी (वर्गीकरण, नियमन एवं अपील) नियम 1965 के
नियम 14 के अधीन श्रीगणेश प्रसाद के विरुद्ध अनुशासिक कार्यवाही
सन्दर्भ: - आपका पत्र बी/जॉब/87-88 दि 30-1-88

आपके उपरोक्त पत्र के सन्दर्भ में आपको अवगत कराना है कि आपके पत्र के साथ श्रीगणेश प्रसाद श्रीवास्तव का प्रतीवेदन दि 24-1-88 में विवेचना अधिकारी को परिवर्तित करने से सम्बन्धित भा.वह सी.सी.एस (सी.सी.ए) नियम 1965 के नियम 14 के अन्तर्गत भारत सरकार द्वारा पारित अधिनियम 14 में निहित है, के अनुसार श्रीगणेश प्रसाद श्रीवास्तव का प्रातःकृत अधिकारी के सम्मूर्ण प्रस्तुत किया गया। प्रातःकृत अधिकारी ने आपका विवेचना अधिकारी के पद से परिवर्तित करने की प्रार्थना का कोई औचित्य नहीं पाया है और आपके पूर्ववर्त विवेचना अधिकारी के रूप में कार्य करते रहने को कहा है। क्योंकि श्रीगणेश प्रसाद ने ग्राम न जाने की आशंका में कोई निश्चित प्रमाण प्रस्तुत किया है।

अतएव आप उक्त मामले में विवेचना कार्य जारी रखें। इसकी सूचना श्रीगणेश प्रसाद को भी दें।

हस्ताक्षरित:

उप मुख्य पोस्ट मास्टर
लखनऊ, जी.पी.ओ.

प्रमाणित

Shri Anand Kumar

5-2-88 विवेचना अधिकारी

परिवाद निरीक्षण

लखनऊ जी.पी.ओ. 226001

Attested

T. S. Jha
for

18/9/89

Annexure A 17(a)

49

To

The Director General,
Posts,
Dak Bhawan,
New Delhi

THROUGH : PROPER CHANNEL

Sub : Petition regarding change of Enquiry Officer.

Ref : Dy. Chief Postmaster, Lucknow WPO Memo No.
E-1/Egn.LMA/82-83 dated 5.2.88.

Respected Sir,

Being aggrieved by the above referred to order of the Dy. Chief Postmaster, Lucknow WPO communicating the decision of the Chief Postmaster, Lucknow WPO 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. E-1/Egn.LMA/82-83 dated 7.11.87 (Annexure-I) Shri Ashok Kumar Srivastava Complaint Inspector, Lucknow WPO was appointed as an Enquiry Officer in the proceedings under Rule 14 of CCS(CCA) Rules 1965 against me.
2. That I represented to the Dy. Chief Postmaster, Lucknow WPO (Annexure-II) but he rejected the the same vide Dy. Chief Postmaster, Lucknow WPO 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

General
18/9/89

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 prejudiced 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 Srivastava as an Enquiry Officer gives me enough room to doubt that there is something fishy in the matter.

contd...3

6/8/69
18/9/69
Caveat

AS/ (5)

P R A Y E R

Wherefore, it is respectfully prayed that the Disciplinary Authority may kindly be directed that an Enquiry 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 : 20.2.1968

Ganesh Prasad Srivastava
(GANESH PRASAD SRIVASTAVA)
Flat No. 2, Rahman Bastion,
Hata Purat Singh,
Near Bath Baba Hazara,
Lucknow - 226003.

1. ✓ Copy to Sri Ashok Kumar Srivastava, Complaint Inspector, Lucknow CPO (Enquiry 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.D. post to ^{with Annexure I & II} ~~the~~ Director General, Posts & Telegraphs, New Delhi, for favour of information.

Ganesh Prasad
18/6/68

M. S. Dube
TC
M. Dube
ndv

Annexure A-18

Chief Post Master
Lucknow G.P.O. 226001

52

Ca 83/88 - to

Sri Ganesh Lal Singh
Retired LSG(E)
Flat No 2 Rahman Choudhary
Halt Sadat Singh
Near Bagh Bahi Haryana

No Fx-1/Fgm LMA/82-83 Kt Lw 23-2-88
Subj: Change of Enquiry Officer

Ref: your Representation dt 21-2-88

The decision of the
C.P.M. Lw & Co. taken in the matter
is communicated as under: -

"Since nothing new has
been put forward by the
pensioner I see no reason
to change the E.O."

Dy. Chief Post Master
Lucknow G.P.O. 226001

Received
18/6/89

Attested

Te. Duleep
H.W.

Annexure A-19

53

OFFICE OF THE CHIEF POSTMASTER, LUCKNOW LPU 226001.
Memo No. FA-1/Fgn.LNA/82-83 L.L. Dated: 9-3-83

Whereas an inquiry under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1955 is being held against Sri Ganesh Pd. Srivastava LSG PA (Retd)

Whereas Sri Ashok Kumar Srivastava C.I. Lucknow SPO was appointed inquiry authority to inquire into the charges framed against Sri Ganesh Pd. Srivastava LSG PA Lw. SPO (Retired) vice this office memo No. FA-1/Fgn.LNA/82-83 dated 7.11.82.

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

Now the refore, the undersigned in exercise of the powers conferred by sub.rule (2) read with sub.rule 22 of Rule 14 of the L.S.(C.A) Rules, 1955 hereby appoints Sri H.L. Verma SDO Lucknow as inquiring authority to inquire into the charges framed against the said Sri Ganesh Pd. Srivastava vice Sri Ashok Kumar Srivastava.

Sd/-
By Chief Postmaster,
Lucknow LPU 226001.

Copy to:-

1. Sri H.L. Verma, SDO Lw. for information and a/c. He will please obtain the relative file from Sri A.K. Srivastava LI Lw. LPU.
2. SPO Lw. for information.
3. Sri Ashok Kumar Srivastava LI Lw. LPU (EC). He will please transfer the relative file to Sri H.L. Verma SDO Lw.
4. Sri R.P. Misra ex APM MU Paid Lw. SPO (PD) for information
- ✓ 5. Sri Ganesh Pd. Srivastava LSG (PA) Lw. SPO (Retired) Kothi Nazim. Rashid Huss, Hata Surat Singh, Naar Bagh Haba Hazra Lucknow with reference to his petition dt. 26.2.88.

Sd/-
By Chief Postmaster,
Lucknow LPU 226001.

8/3

Attested
By
M. Dubey
D.V.

Covered
18/9/83

Annexure A-20

69 (P)
25/4/88
(54)

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

Memo No. FL-1/Pgn.LMA/82-83

dt. 2/4.88

Whereas an enquiry under rule 14 of the central civil services (Classification, control and appeal) Rules 1965 is being held against Sri Ganesh Pd. Srivastava LSG(PA) (Retired) whereas Sri Ashok Kumar Srivastava C.I. Lucknow GPO was appointed Inquiring Authority to inquire into the charges framed against Sri Ganesh Pd. Srivastava LSG PA Lucknow GPO (Retired) vide this office memo No. FL-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 I.O. 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 1965 hereby appoints Sri N.L. Gupta ASP Investigation O/o POC 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 ASP Investigation of the POC 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 ASP Investigation office of the POC UP Circle Lucknow.
3. Sri R.P. Mishra AFM NO Paid Lw. GPO (PO) for information.
- ✓ 4. Sri Ganesh Pd. Srivastava LSG(PA) Lw. GPO (Retired) Kothi Hazi Bahin Bux 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. Duker
HNV

Ganesh
18/6/89

Annexure A-2

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER, LUCKNOW GPO 226001.
Memo No. Fx-1/Fgn.LHA/82-83
Date: 4.5.88

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 LSG PA (retd.) whereas Sri Ashok Kumar Srivastava C.I. Lw. GPO was appointed Inquiring authority to inquire into the charges framed against Sri Ganesh Pd. Srivastava LSG PA Lucknow GPO (retd.) vide this office memo no. Fx-1/Fgn.LHA/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 I.O. 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 is exercising the power conferred by Sub-rule (2) read with sub-rule 22 of Rule 14 of the CCA (CCA) Rule 1965 hereby appoints Sri A.N. Srivastava S.D.I. East 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. 21.4.88 is thus cancelled.

By. Chief Postmaster,
Lucknow GPO 226001.

Copy to:-

1. Sri A.N. Srivastava S.D.I. East Lucknow he will please obtain the relative file from Sri A.N. Srivastava C.I. Lucknow GPO from
2. Sri Ashok Kumar, C.I. Lw. GPO (EO) He will please transfer the relative file to Sri A.N. Srivastava S.D.I. East Lucknow.
3. For P. Mishra APM EO Paid Lw. GPO (PO) for information.
- ✓ 4. Sri Ganesh Pd. Srivastava LSG (PA) Lw. GPO (retired) Kothi Hazi Rahim Bux Hata Surat Singh Near Bagh Bab Nagra Lucknow in reference to his petition dt. 26.2.88.

By. Chief Postmaster,
Lucknow GPO 226001.

Attested
To
M. Dubeey
Bdr

6/8/88
18/9/88
Ganesh Pd.

(56)

Regd. AD.

The District Engineer
S.D. (East)
Lucknow Sub Division
Lucknow
Enquiry Officer

Subject: Enquiry made on 14/1/89
CCS (or A) Rules 1965

Sir,

On going through the proceedings of the above enquiry dated 20/1/89 your proceedings & developments are surprised to note that as has been mentioned by you therein that I said so to confirm that my case myself and that the same was accepted whereas I did not say anything definitely in this regard. Whether I should conduct my case myself or depend myself through a defence counsel.

This is submitted for your

information.

Sent under
High Court Bench
Lucknow on 15/1/89
Dated 21/1/89

Dated Lucknow
the 20th January
1989.

Yours faithfully

General Prasad
S.D.
Residing Flat no. 2,
Rahman Manzoon
Hada Surot Singh
Near Bagh Bahi Kizora
Lucknow GPO-226003

M. S. Dubey
M. Dubey
Adv.

Case No.
189/89

Annexure A-23

57

To

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

Sir,

With reference to your charge sheet dated 26.10.87 issued vide Memo No. FX-1/Pon.LMA/82-83 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.10,964.05 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,
Bahman Mansion,
Hata Surat Singh,
Near Bagh Baba Hazara,
Lucknow - 226003.

Dated : 28.1.1989

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)

Merited
Te
M. Duker
Bdr

Ganesh Prasad Srivastava
18/6/89

Proceeding No. (2.2.8)

Allocated work under S/O in 22.89

and confirmed the role of engines
against the Grand Total Station
USG PT under S/O which under
CES (CA) in 1985. The following
have attended the engines today -

1. Sanjiv Kumar Prasad (1985)

2. R. P. Mishra (1985) PO

Sanjiv Kumar Prasad (1985) PO
S/O stated that he had mobilised
an application by Dy Chief Postmaster
under S/O dt 28.1.89 and handed over
at USG in 31.1.89 with a copy to
S/O sent under Regd post from Amrit
S/O dt 28.1.89 (439 dt 28.1.89). In this
application was shown to me the S/O
was challenged the authenticity of who
has used the stamp and requested
for cancellation of the charge sheet.

The said application has been received
at USG S/O and has been
passed on by Dy Chief Postmaster.
Since I have no any orders
from Dy Chief Postmaster till this
date I am continuing the
enquiry as already fixed. The
S/O is requested to cooperate/attend
the engines till further orders if
any by Dy Chief Postmaster.

Today the additional documents
are to be shown. The PO will
please get the additional documents
inspected by today -

Additional documents may be
seen & inspected with the complaint for
seen to

attested
Te. N. Sahu

for

1

Completed
18/9/89

(+)

Chen A. S. Somabara
SdJ (East) Lucknow
Lucknow & Enquiry Officer

Encl: Engineering and ~~Att~~
Rule 14 (C) (C) Rules 1965

Sir,
With reference to your
proceedings sheet of 2.2.87 I
am ~~to~~ state that since
I have already raised certain
preliminary objections ^{vide my}
application of 28.1.1989 ^{add to sheet of 2.2.87} I ^{am}
unable to say anything
in the enquiry till my
request for cancellation/withdrawal
of the charge sheet is accepted
to, by the Dy. Chief Probationer
Lucknow.

Sincerely

Yours faithfully

Chen A. S. Somabara
Bt. L. G. (7)
Residing at no. 2,
Lal Bahadur Shastri
Mata Street, Singh
New Bazar, Bala Nagar
Lucknow-226003

The allegation
levelled against D/A at
his stage is not acceptable.
at his end. I am continuing
enquiry & enquiry
request to
attend the
enquiry. Best Yours.

2.2.87
Rule 14 (C) (C)
2289
M. S. Dubeey
M. S.

Annexure A-26

60

To,

Shri A. N. Srivastava

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

Lucknow and Enquiry Officer

Lucknow G.P.O.

Sub: Pte 11 Enquiry against me.

Sir,

This application I am sorry to say that I had again
along with the Medical Certificate
in original was Hypertension with I.H.D. since last evening
sent through my son, Luthal

As such I find myself unable
to attend the above enquiry fixed for
today, the 3-2-89 as I have been
advised complete bed rest for ^{one} month
by my attending doctor. A Medical
Certificate in support of my illness is
enclosed herewith

upto 1.30 pm
upto which time
my aforesaid son
waited for
him to bring
over this
application
with M.C. Sharma

wanted for him

(E.O) upto 1.30 pm Medical Certificate

Shri R. Misra was

requested by son

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

he declined to receive the same. Instead he

suggested to send the same by Regd post to the

E.O. Accordingly it was sent under Park Post to the

RL no 511 dated 3.2.89 added to the E.O. Enquiry

Yours faithfully

James Prasad Srivastava
(Reld) L.S.G.(+)

Lucknow G.P.O.

Noted

CC M. Dube

3/2/89

Annexure A-28

(62)

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
Register 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)
Flat No. 2, Rahman Mansion,
Bata Surat Singh,
Near Bagh Baba Hazara,
Lucknow. 226003.

Copy forwarded to the xxxxx Dy. Chief
Postmaster, (xxxxxx), the xx xx G.P.O. for infor-
mation with reference to his file no. Ex-1/Enq.Ltr/
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

M. Jukar
Adv

Ganesh Prasad
18/6/89

Annexure A-29
(63)

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 ~~enq~~ 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,

Ganesh Prasad Srivastava

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

Dated : 27.6.89

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

Attested
cc
M. Dubey
sdh

Considered
18/6/89

Under Section 8
Pending

Annexure A-3

MAINTENANCE

64

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 G.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 me (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 date 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, Rahman Mansion,
Near Surat Singh,
Near Bugh Baba Hazara,
Lucknow - 226003.

Copy to the Dy. Chief Postmaster, Lucknow G.P.O.-226001 for information and necessary action with reference to his office file No. Ex-1/Fgn-120/82-83. This is also in continuation to my previous reply dated 27.6.89 addressed to the Enquiry Officer and copy endorsed to him.

*Attested
Te
M. Duhay
M*

*Ganesh Prasad
18/6/89*

Annexure A-31

(15)

To

The Dy. Chief Postmaster, (Gazetted),
Lucknow G.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 G.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.C. P&T, New Delhi in letters nos. 20/1/71-Lisc dated 9.12.71 and 6-8/74 Lisc-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.C. 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 (Posts), Dak Bhawan, New Delhi against functioning of Shri A.N. Srivastava, the former Inquiry Officer and he was charged. Shri A.N. Srivastava, having already worked in a junior capacity in Lucknow G.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 ₹ 14 lacs approximately has been illegally detained as shown below:-

- (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.

18/6/81
18/9/81
[Signature]

AS/ (16)

-2-

- (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 D.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 C.P.F. 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 6.2.82 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.N.) 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 @ 18% per annum on the held up amounts.

2.2 on 28-10-87

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 Nam AIR 1970 S.C. 714 where-in 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."

contd...3

67

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:-

negligence

"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 (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 transmitting 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. Shari vs. Union of India reported in 1976 (L&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. Padmonabha Rao vs. A.C. A.P.I. Hyderabad and others (II(1987) A.I.L.J. 39) and T.A. No. 76 of 1986 (W.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

General
18/9/89

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 ~~xxx~~ 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 (Para 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 28.10.87, only three days before his retirement and that too not by a competent authority as already represented. The action against the applicant is mala fide, 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 18% 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,

Dated : 30.6.89

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

contd...5

*Altered
Te
M. J. J. J.
D. J. J.*

*General
18/9/89*

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.

Ganesh Prasad Srivastava
(GANESH PRASAD SRIVASTAVA)

*Misled
to
M. Duler
D.V.*

Ganesh Prasad Srivastava
18/9/89

UNDER CERTIFICATE OF MAILING

(70)

To

Shri A.M. Srivastava,
AFCO, Barabanki
and
Enquiry Officer

Sub : Ex-ports proceedings of Dule January.

Sir,

In acknowledging receipt of copy of proceedings dated 25.6.82 of the above enquiry alongwith copy of statement of Shri Jagjit Kaur dated 28.6.82 in the Lucknow G.P.O. dated 28.6.82. This is to inform you that delivered to me on 2.7.82, this is to inform you that due to the delivery of the above registered letter on the following day of date of enquiry viz. 3.7.82, there was no question of my attending the enquiry.

As for the mention of you in the copy of enquiry proceedings dated 25.6.82 that instructions of dates of enquiry and the proceedings were sent to me by registered post, I am to refer to my previous replies, in reply to your such communications, to the effect of late delivery of all the registered letters to me resulting in my absence from the enquiry proceedings.

my
I am sorry to hear that, in the enquiry hearing, some important matters were not in my absence. I am quite sure that your full attention of depriving me of the opportunity of attending the enquiry hidden behind.

This is for your information. Fording of ex-ports enquiry (aforesaid) under the circumstances narrated above is your responsibility.

Yours faithfully,

Dated : 3.7.1982

James Prasad Srivastava
(Late 11 P.O. and 11 P.O.)

Plot No. 2, Lucknow Extension,
Jeta Forest Camp,
near Jeta Forest Camp,
Lucknow - 226003.

Copy forwarded for information and necessary action to :-

1. The Dy. Chief Postmaster, Lucknow (P.O. 226003).
2. Shri A.M. Srivastava, A.F.C.O., Enquiry Officer, Lucknow G.P.O. and Presenting Officer in the aforesaid enquiry.

James Prasad Srivastava
(LATE 11 P.O. AND 11 P.O.)

All ended
T.C.

M. Julep
PCW

James Prasad Srivastava
18/9/82

3115 (3003.7, 8) in (6502, 7)
(2003.7, 8) in (6502, 7) (2003.7, 8) in (6502, 7)



17.1

2/3

॥ ४ ॥ हर श्री गणेशाय नमः
प्रसादात् सर्वपापेभ्यो मुक्तिरप्नोते
कर्मफलं च तद्गुरुः प्रदद्यात् कृपाया
कथा श्री गणेशाय प्रसादात् श्री गणेशाय नमः
शिवो एव जगते पूजित इति श्रुत्वा ज्ञानं
(५) अथ रामायणे

[illegible]

अनवरत को \Rightarrow अचित्त भाग्य भाग को
 इस बात को ध्यान में रखते हुए/ प्रमाण दोगम प्रमाण
 किया गया कि \Rightarrow अचित्त भाग में अनवरत
 न होकर अनवरत भाग अनवरत को अनवरत
 कि। अनवरत अचित्त को अनवरत पर अनवरत
~~अनवरत~~ अनवरत न अनवरत हो। अनवरत

Miles
to M. D. D. D.
now

03-729 01121221
AS Branch

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 V.O. vide 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 Surat Singh,
Near Bagh Baba Hazara,
Lucknow - 226003.

Attest

Te
M. Duleep
Adv

Received
18/9/89

भारतीय डाक विभाग
DEPARTMENT OF POSTS INDIA

ANNEXURE A 35

72

69/3/7/8

From

उत्तर देते समय कृपया
समस्त संदर्भ दें
In reply
Please quote

सेवा में
To

क्रम संख्या
No.

Dated at

SUBJECT

Dated at _____
 PE-1/9 **विषय** 1st 25-7-88
SUBJECT

Rule 11, concerning parent stock
of Smeekens.

Your letters of 5-7-88
23-7-88 and 21-7-88
and 25-7-88 respectively
have been sent to CPM
(under GPO for disposal
Since I have submitted
report I am no more
engaging 'Official'. In future
you may please have
correspondence with CPM GPO
if any.

सहायक डाक संचालक
वा. नं. 22500

Mithel
 Te
 M. Duler
 10/1/17

1899/89
Gandhi

ANNEXURE A-36

To

The Chief Postmaster,
Lucknow G.P.O.

7/8

Subject : Rule 14 enquiry against me.

Sir,

It has been intimated to me by the Enquiry Officer, Shri A.N. Srivastava, ASPes 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,

Dated : 23/8
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~~ -226003.

*Witnessed
By
M. Juleus
MAY*

*Ganesh Prasad
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 Shrivastava 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 thirtygive only).

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

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

Ganesh Prasad
18/9/82

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.

Attested
Te
M. Dube
WNV

Received
18/9/89

मु० अ० सं० ११५/८२ पृ० ५०९ पृ०

(7)

पाना दजतगज लेखन
काम

Annexure A-38

अनेश प्रसाद

आरोप पत्र (मूल)

प्रथम सूचना संख्या १०१०

१३-४-८२

आरोप पत्र संख्या ३७५

अपराध संख्या ११६

खाना - १ - श्री B.N. प्रसाद पोस्ट मास्टर अफ
P.O. दजतगज लेखन

खाना - ३ - अनेश प्रसाद S/O महादेव प्रसाद
— श्रीवास्तव P.O. हाजी रहिम लेखन कोठी मुख
सिद्दी को हाता चौपटिना आहाद गैज P.O.
दजतगज लेखन

खाना - ५ - इस गान जो निवेदन है कि वार्ड
को दिनांक ३१-४-८२ को पाना हाजा पर
सूचना किता जा कि उसके BPO के बाबू
अनेश प्रसाद ने जो अपराध रजिस्ट्रार औरन
को डिब्रीकर को परजु अपना चार्ज डाक
खाने में जगा नहीं किता है मुकदमा
जाया हो जा (अनेश) को गैज मुलाजिम
के खिलाफ अर्द्धांश ५०९ पृ० को
अपराध साबित पाना गाना - बालन अपराध
किता जाता है कृपया सूत्र प्रमाण
अभिप्रेत को दखित करने को कृपया जेश

खाना - ८ - सावला रंग गोल चेहरा और

जाया जान किता ३३ वर्षीय

५३ वर्षी

Sd- अपहनीप

३१-४-८२

अनेश प्रसाद
१३/४/८२

1 (3)
सूचना प्राप्त संवत् १९८२

79

महोदय स्टेशन मास्टर

Indian Post & Telegraphs Department

आदेशावली कक्षा

निम्न सेवक

महोदय

please post

सेवा

From Postmaster

Lucknow L.P.O. 226001

सेवा में,

To, The Station Officer,

The Police Station, Hazratganj

Lucknow 226001

आदेशावली

No FX/Fgy LMA/82-83

packed at Lucknow 226001

Aug. 30. 1982

विषय
SUBJECT

Misappropriation of Government money by Shri Eknesh Bosed Srivastava Postal employee of Lucknow GPO

Sir,

The following foreign letter mail articles bearing custom duty and postage fee were given to Shri Eknesh Bosed Srivastava, General Abstract Class II, Registration Import Branch, Lucknow and under receipt for affixing window delivery at Lucknow GPO after realizing 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 Eknesh Bosed Srivastava did not credit

6/6/82
18/9/82
Gandhi

(8)

Yours faithfully
 Sch —————

Rest me. s. l. o.

[illegible]

189/89
Candell

बपान श्री M.R. शुक्ला - श्री M.R. शुक्ला

S/o - श्री बड़ी प्रसाद शुक्ला 140 Wd

गाहनाग पादक मतन LK-6 हाल

बैंग 04/05/80 SPO LK-6 ने पहुँचे जहाँ बताया

कि मैं इस जमाने में इस पद पर करीब

3 साल से नियुक्त हूँ दिनांक 24-4-80

को एक पारसिल जो D-288095 R.R.

938.50 का R.R. को बैंग में स्टेशन से

आया था इस बैंग का मैंने उसी दिन

खोला था और दोनो पारसिल लिस्ट में दर्ज

का - श्री राजेश प्रसाद - मैं वास्तव में

दे दिया था और उन्होंने पारसिल प्रवेज

के पान के दरवाजा खोला है और

तो डाली है मैं उनके साथ बहरीने

जाया दिया है और उनका हस्ताक्षर

का पहचान है उनके जाय का मैं

सुपारिवेज उन संग्रह नियुक्त - श्री M.R.

मिया का था

बपान राजेन्द्र कुमार - श्री राजेन्द्र कुमार

S/o पुनीतलाल 110 गहनाग प. डी. डी. डी.

जिला बाराबंकी हाल कलकत्ता 30

उससे बॉन्ड बरतन में पहुँचे जहाँ बताया

मेरी किस्टिंग SPO में एक bag 04/05/80

है दिनांक 10/12/80 को एक पारसिल

पारसिल मुझे R.R. से जम्मा D-299377

रि. 12/17/80 जिला का मैंने उलटा हस्तगत

राजेश लिस्ट में दर्ज है - मैं राजेश प्रसाद

मैं वास्तव में मैं देता उनका हस्ताक्षर

18/9/89

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8/15/81
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कमान लेवल २१० : - १६८ - लेवल २१२-४० सुनी
गुना १७० 62 आर का डिमा लाल लेवल
हल SPO कमाण के गुवागा हाजा के विपय
से पुनः पा बसाया गे है दिनांक 21-X-0000
SPO cul important fact में ध्यान वा रखें।

इतने दिन पैसा नहीं जमा किसे वे तो specially उन्हें उन्हीं जिनामत मुकदमे लायी पहिले भी परन्तु उन्होंने कोई जिनामत नहीं की। न मिली। तब वे मिली को जाके होने दिया। जबकि हाथ पा पा जो इससे सम्बन्ध है ^{उन्के हस्ताक्षर और मुद्रा} इस प्रकार इस गगन के लिए वेगमेश प्रसाद ही एक जिम्मेदार नहीं हो मिलहाल में उनको लगाने की 2000/- काट लेने का कोटि दे दिया है। उन्हें मात्र में 1000/- suspension का दोषी पाया गया है। जैने यह कोटि 14/9/82 को दिया है।

मान्य मेलाश :- मैं पदार्थ लाल S/O लाल मान्य मेलाश :- मैं पदार्थ लाल S/O लाल मान्य मेलाश :- मैं पदार्थ लाल S/O लाल

Sect. 201 की हस्ताक्षरित लखनऊ ने

पूछने पा बताया कि मैं इस जोड़ी में आसक्ति अनुसन्धान केन्द्र पर प्रवेश सेवान्वित में सन 1966 से लायित है जिसमें Important member of the किन्तु उनको केवल में ही S/O से लाया है और लाया दारिद्र्य लाता है जिसदिन लाता है खेलता है जिस दिन शजिरर में रुझी लाता है लोने के बाद वह वारिक बता सकता है मैं गैरों प्रसाद श्रीवास्तव S/O Important member ला आटही सहजानता है वह मेरी विश्वास लाती इसको Important Sect में जो नी पिदेसी पाली लाते हैं वे भूमि कुल्लको

19/12/87
evidence
received

18/9/87

91

ਦਿੱਤਾ ਗਿਆ ਹੈ। 17/3

করা = ২২৬০০। (৩১১২)

Central Drug Research Institute
Lucknow

ehrelos ausgeht. Post d. 10/73

Lecture 10 - 226004 (India)

No. 6 - NYC/82-87/154 " April 27, 1982.

* The Post Master,

G. P. C. Lar Yindon

D.200 S.6

With reference to the above note dated
26-11-82, it is recorded that the following
articles were received from London
and received after payment of
Custom duty and other charges and
indemnities to the above entitled
note of a guarantee is also attached
with necessary documents for clearing the articles.

1-D-237689	Rd. 16 21.10	13-11-80
2-D-288095	Pd. 938.95	11-7-80
3-D-299377	Pd. 1207.40	2-4-81
4-D-226556	Rd. 1515.50	26-6-81
5-D-300374	Rd. 1412.25	19-3-81
6-D-209096	Rd. 633-20	13-4-81
7-D-225790	Rd. 1271.25	10-2-81

Yours faithfully Sd/- S. Sarda, S. Vines & P. Office.

6/8/81
Gandhi

payment of ⁽¹⁷⁾ Rs 500.50 (Rupees Five hundred and one paise fifty only) towards custom duty and other postal charges etc in postal collection G P O Lucknow

Yours faithfully
Sd - [Signature]

Purchase Officer
National Botanical Research Institute
Lucknow (India)

आमंत्रित P.N. खाना - P.N. खाना

Purchase Officer - नेशनल बोटनिकल रिसर्च इंस्टीट्यूट
प्रमाणित आदेश द्वारा फल-सामान, जैविक-
पदार्थों के अधिग्रहण के लिए।
प्राप्त आदेश क्र. D-244714 तारीख 24/5/80 और
जिनमें आदेश क्र. 100/14 प्राप्त सिग्मा
केमिकल ऑफ U.S.A. के यहां से आदेश
आया जो दिनांक 9/10-6-80 को एच
मैक्सवेल से Rs 197/20 पैसा देकर और
यहां के जिला ऑफिस द्वारा छुटकारा
लाया गया है जो द्वारा प्राप्त आदेश क्र
D-286289 जो गैरस्थित जिला निमित्त
आदेश क्र. 100/14 से आदेश आया वह
आदिनांक 3/11/80 को 500/50 पैसा
देकर छुटकारा आया है यह जो आदेश
स्थानों के और छुटकारा लाया आ
आदेश द्वारा Authority letter आदेश
होना है इसका कोई बिना हमारे सामने

18/9/81

(19)
उन्से इन पासिलों में पैसा जमा करने के
बाद में पूछा गया है तो वे डिवाइस को
न उठा दिया है वन कोड रिपोर्ट बनाई
वे इसीलिए दुर्घटना पर जाते जा रहे हैं।

कानून प्रवृत्तियों - इस प्रवृत्ति में 10 विधायी
बिलों सहित एक पत्र जोड़ा है।
SPD LXO 110 पदों में बनाया है। सीनियर
लव-नर को अनुकूलता उपरोक्त के विषय
में पूछने पर बताया कि मैं SPD लव-नर में
SPD सहित एक पत्र पर जाते जा रहे हैं।
गैर जात - मैं गैर जात सीनियर
सहित जाते जा रहे हैं रिपोर्ट के अनुसार
पासिल फोन 140 जिनके विषय में मैंने
रिपोर्ट की है D-29937, D-226556,
D-380374, D-289896, D-225790,
286289 के विषय में जो जाते जाते
जाते हैं उनका जार्ज खजाने में डिवाइस
जमा होने के कारण प्राप्त हुए हैं
उनकी जांच रिपोर्ट के अनुसार करवाई गई है।
उपरोक्त 6 डिवाइस पासिलों को जाना गया
जिसे प्रसाद SAM को देने तक को मिलाने
परन्तु जिसे प्रसाद ने जाना किता उनके
में से विलीन किता पैसा वहाँ ले जाये कुछ
गैर रिपोर्ट में जाते हैं उनमें जब लिखित
इनके विषय में पूछा गया तो गाना खड़े हुए
कुछ - मैं उम्मा डिवाइस नहीं दिते हैं
रिपोर्ट - मैं जाते जा रहे हैं

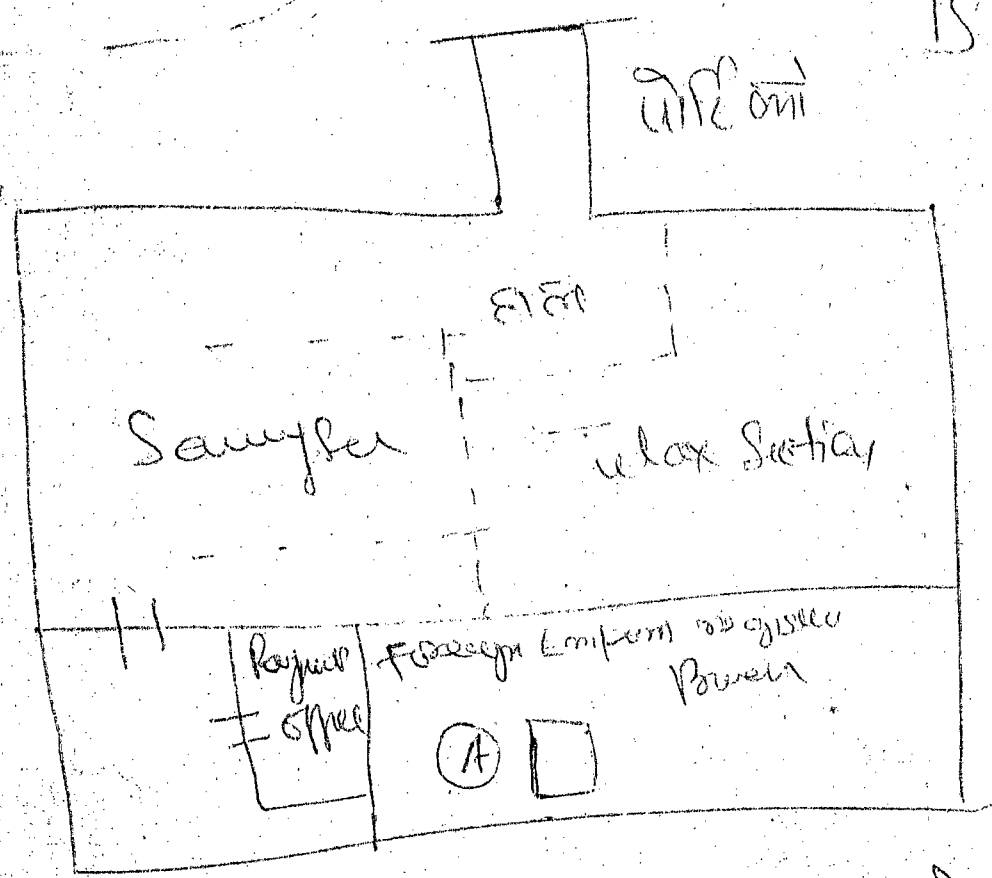
18/9/88

(21)

कै पैसा रखाने में जज्जा होने को विफल में
 प्राप्त हुए में रिफाई देना दोनां अच्छे
 भाई हो गया SA 4 मी जमेज प्रसाद को
 दिनां जमेज हो परन्तु डिजका disposal को गरी
 मिलता हो उहोनां 21/4 लाता हो की
 deliver आके पैसा हजार जमेजिना हो
 हमने उनसे लिखित पुछाही परन्तु डिजितक
 हवाब न हो दिनां डिजका disposal को मोरी
 रिफाई गरी 21/4 2 दिनां रिफाई

जमेजा जमेजी 0000000000/82 US 100/10
 पाना हजारकोज लोवने के जमेज 02-पन लोवने के
 जमेज जमेज प्रसाद मीवातव

21/4
 S



18/9/89
 18/9/89

Index 1 (A) वह स्थान जहाँ पर जमेज
 प्रसाद मीवातव गुजिनिं लोवने

Sd - 21/4-82

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AC/11

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW
C.M. An No. 2/100(S)
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.

FT
3/1/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. NO.262 of 89(L)

(A6/2)

Ganesh Prasad Srivastava

... Applicant

-vs-

Union of India and others

... Opp. parties.

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES.

I, CHETRAM SARENA

aged about 57 years, son of SHRI SRI RAM SARENA

at present posted as Dy Chief Postmaster Lucknow GPO

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 Sarena



A 6/3

(a) That the applicant was recruited as Clerk in Postal Department on 15.6.1948. During the period 1979 to 1981 ~~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 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 ~~25.~~ 26.10.87.~~

~~The~~ (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

the

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 realised on foreign articles at the time of delivery but not accounted for in the Government 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.

PRG

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 else-where 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

26/1/90

CBG

A6/6

- 4 -

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.

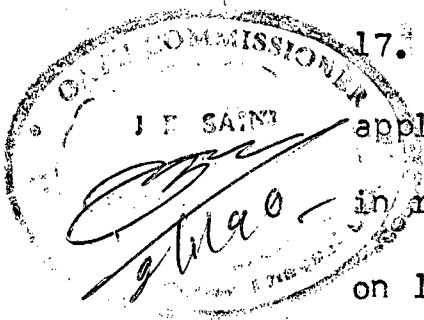
15. That the contents of para 4(x) of the application are incorrect as stated, hence denied and in reply it is submitted that the charge sheet was issued by the department are proper and competent authority to issue such ~~xxx~~ charge sheet.

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.

& (xiv)

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

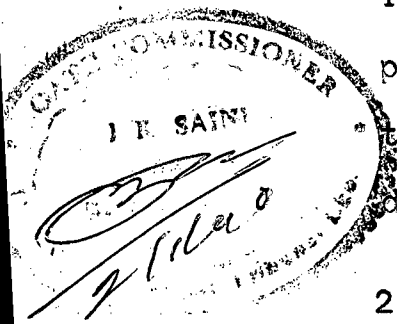


[Handwritten signature]

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 E.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 xxx 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.



B. B. Barua

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. Saxena

A6/9

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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 ⁴~~(xxiv)~~ & (xxv) are incorrect as stated, hence denied and in reply it is submitted that the ^{S. M.} 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.



CB Saxena

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

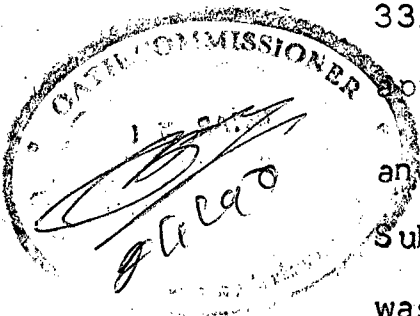
30. That the contents of para 5(a) of the application are incorrect as stated, hence denied and in reply it is submitted that the Deputy Postmaster(Gazetted) is fully competent in the matter.

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



R. B. Sharma

AG/12

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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.

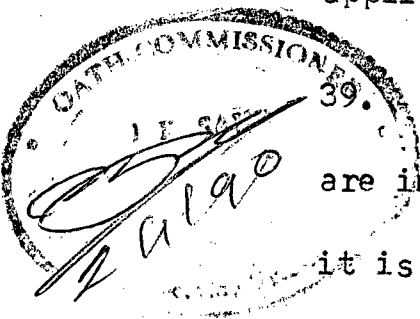
36. That the contents of para 5(g) of the application are incorrect as stated, hence denied and in reply it is submitted that the charge sheet was delivered to the applicant when he was in service.

37. That in reply to the contents of para 5(h) of the application it is submitted that the disciplinary proceedings 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.



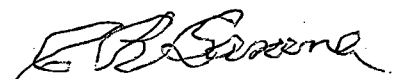
AB Saxena

AC/12

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.


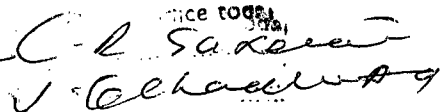
Lucknow, 

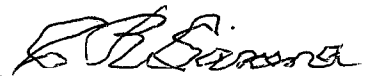
Dated: 2/1/90

Verification.

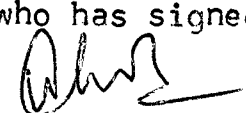
I, the above named deponent do hereby verify that the contents of paragraphs 1 to 4 is true to my personal knowledge, those of paragraphs 2 to 42 are believed to be true on the basis of record and information gathered, and those of paragraphs 43 to 4 are also believed by me to be true on the basis of legal advice. No part of this affidavit is a false and nothing material has been concealed.




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

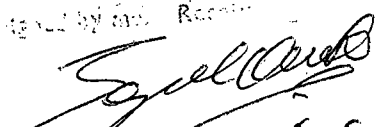

Deponent.

Lucknow

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

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

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


2/1/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,

Circuit Bench, Lucknow.
C.M. An. 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. Dubey
Adv

COUNSEL FOR APPLICANT

F.T.
25/1/90

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 26.10.87 (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 with effect from 31.10.87 (A.N.). The respondents could have obtained the copies of the required documents stored in the Police custody and in court and expedited the same instead of persecuting the deponent, harassing him with continued suspension against the Government order and issuing him a chargesheet only three days before his retirement. The action of the respondents has

contd

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, ~~xxx~~ 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

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 ~~initiated~~ 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 ~~xxxxxx~~ servant against whom disciplinary proceedings are initiated under CCS(CCA) Rules against the Inquiry Officer on ground of bias, the proceedings should be ~~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 ~~be~~ normally be the request 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 ^{not} 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.

contd...7

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 inreply 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 ~~of~~ 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 and those of para 4(XVII) of the application are re-asserted.

General Counsel
Srinivasan

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 ^{the} ~~his~~ dues payable to the deponent were retained/detained by the department to the extent of about Rs.1 $\frac{1}{2}$ 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 those 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} ~~xxxix~~ 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 ~~xx~~ 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 Prasad Srivastava
DEPONENT

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 Prasad Srivastava
DEPONENT

I identify the deponent who has signed before me.

(M. DUBEY)
(M. DUBEY), Advocate.