

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O A 29 of 1989 (U)

Name of the parties

Deodhya Basad

Applicant.

Versus.

Union of India

Respondents.

Part A.B.C.

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Certified that no further action is required to be taken
and that the ~~case~~ cause is fit for consideration
to the record room (D)

Bijli
22-6-204

50(5)

A2

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
Circuit Bench at Lucknow.
Registration O.A. No.29 of 1989 (L)

Ayodhya Prasad Applicant

Versus

Deputy Director, Military Farms,
Headquarter Central Command,
Lucknow and Another Opposite Parties

Hon. Justice Kamleshwar Nath, V.C.

This application under Section 19 of the Administrative Tribunals Act XIII of 1985 is for issue of order to quash an order dated 6.4.1988, Annexure-1 of opposite party No.2, the Officer Incharge, Military Farms, Dehradun directing the applicant to proceed on transfer to join at Lucknow in consequence of an order dated 4.4.1988 of opposite party No.1, the Deputy Director, Military Farms, Headquarters Central Command, Lucknow. There is also a prayer to restrain the opposite parties from transferring the applicant from Military Farms, Dehradun to Military Farms, Lucknow. The learned counsel also prayed for the payment of arrears of salary from March, 1988.

2. The facts relevant for the purpose of this case are not in dispute. The applicant was initially appointed at Military Farms, Lucknow in 1973 and was transferred by an order dated 19.2.88, Annexure-5 from that post to Military Farms, Dehradun on permanent transfer. This transfer was made on the pressing requests of the applicant that he had received threats of being murdered at the Military Farms in Lucknow and that earlier four Farms hand had already been murdered. It may be mentioned that initially the request for transfer had been turned down but when the applicant

(P.S.)

repeatedly pressed for transfer on the aforesaid ground, he was transferred to Dehradun by Annexure-5. The facts set out by the applicant in this regard are contained in paragraphs 5(4) to 5(7) of the application of which there is no specific denial in the Counter Affidavit. The established position, therefore, is that the applicant had been transferred from Military Farms, Lucknow to Military Farms, Dehradun on 16.2.88 due to apprehension of death accepted by the opposite parties.

3. It appears that the applicant was posted as Safaiwala by an order dated 21.3.88 against which he made some representation. Perhaps his representation found no favour with the opposite parties, although it is not clear; but the applicant was ordered to be transferred back from Dehradun to Lucknow on 4.4.1988 of which the impugned movement order, Annexure-1 was issued by Opposite Party No.2 on 6.4.1988.

4. The simple point urged by the learned counsel for the applicant is that once the applicant had been transferred from Lucknow to Dehradun on the ground of apprehension to his life, he could not have been transferred back to Lucknow within a short period of two months without proper reasons. The opposite parties have not given any reason in their Counter Affidavit for transferring the applicant back from Dehradun to Lucknow. All that they have said in para 3(b) of the Counter Affidavit is that the applicant had been detailed on temporary duty to Central Command at Lucknow on which the necessary movement order was issued

and the applicant noted it under protest and did not proceed to the Central Command. It is further said that on the appeal made by the applicant against his transfer, opposite party No.1 again asked the applicant to report back at Military Farms, Lucknow and yet the applicant did not move to his permanent duty station i.e. Military Farms, Lucknow.

5. In matters of transfer which constitute an incident of service, the Tribunals are reluctant to interfere; but where an order of transfer is arbitrary, it has to be interfered with. It is not necessary to inform the employee of the reason of his transfer, but when the transfer is challenged before the Tribunal, reasons therefor must be disclosed to the Tribunal. Absence of reason constitutes arbitrariness. Likewise, existence of irrelevant reason also constitutes arbitrariness.

6. The best that can be made out from the replies of the opposite parties is that since the applicant did not agree to work on the post of Safaiwala at Dehradun, the opposite parties directed him to be transferred back to Lucknow. Whether the applicant was or was not bound to work on the post of Safaiwala, need not be decided in this case. It is enough to notice that unless the reason for which the applicant had been transferred on his representation from Lucknow to Dehradun has ceased to exist or unless the opposite parties can make out that the reason would not exist in future, the retransfer of the applicant from Dehradun to Lucknow would be arbitrary and must be struck down.

(AS)

7. This is not to say that the applicant is entitled to stay on at Dehradun. Indeed, the applicant's representations indicate, and the learned counsel for the applicant also confirms that the applicant may be transferred to any place except Lucknow. It is also mentioned that the applicant may not be posted to Jabalpur; but that is not the subject matter of this case. What I should like to say is that Lucknow is not the only place where the applicant may be transferred. It is open to the opposite parties to transfer the applicant out of Dehradun but not to Lucknow in these circumstances which have figured in this case.

8. In respect of the applicant's claim of arrears of salary, a point for decision is whether the applicant was bound to work on the post of Safaiwala or not. This question has not yet been examined by the Department. I do not think it proper, therefore, to express any opinion upon this point. The result is that the impugned order of transfer should be quashed but the question of arrears of salary should be examined by the opposite parties.

9. The application is partly allowed and the opposite parties' orders directing the applicant to be transferred from Military Farms, Dehradun to Lucknow is quashed. It will be open to the opposite parties to transfer the applicant according to law. The Opposite Parties are directed to consider the applicant's case of payment of arrears of salary for the period from March, 1988 onwards and pass suitable orders within a period of four weeks from receipt of a copy of this order. Parties will bear their own costs.

(H)

Dts: the 30th Aug., 1989.

RKM

Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUDHIANA.

O.A./T.A. No. 29

1989 (4)

(M)

Agodhya, Pd.

Applicant(s)

Versus

U.O.T.

Respondent(s)

Sr. No.	Date	Orders
	28.1.89	Hon. D.S. Misra, A.M. Hon. G.S. Sharma J.M. Admit. Issue notice: One month for C.A. & 15 days thereafter for R.A. before D.R. (5) As regards the interim prayer, there is no justification for grant of interim relief & the same is rejected.
	6.3.89	J.M. - A.M. <u>OR</u> Steps taken for 'services' of notices by Counsel for applicant on 6.3.89. Notices issued to the rep'ts. Shriysh Rep'l. Pdt. fixing 10.4.89. for trial hearing before D.R. (5).
	10.4.89	<u>Regd.</u> Dash 6/3/89 C.A. not filed. A representative Sri N.K. Sharma L.D.C. from respondents' side is present. He is required for a further date to file counter. 10.5.89 is fixed for the same.
	9/8	<u>OR</u> No reply filed by the rep'ts. Submitted for order. 10/4 9/8

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

No. CAT/CB/LKO/

Dated : 1/1/1981

dc

OFFICE - MEMO

Registration No. O.A. 193 of 193
T.A.

Applicant's

Versus

Respondent's

A copy of the Tribunal's Order/Judgement
dated 1/1/1981 in the abovenoted case is forwarded
for necessary action.

Paromita
For DEPUTY REGISTRAR (H)

Encl : Copy of Order/Judgement dated 1/1/1981

To.

dinesh/

Devi
Devi
Devi

29/09/89 (3) PL

Before the Central Administrative Tribunal Allahabad

Lucknow Bench, Lucknow.

Application under section 19 of the
Administrative Tribunal Act 1985.

In the Central Administrative Tribunal
Bench, Lucknow

Additional Bench, Lucknow.

Ayodhya Prasad --- Applicant.

Versus

Dy. Director Military Farms
Hd.Qrs. Central Command,
Lucknow and others. ---

Respondents.

I N D E X

Sl. Particulars Page.
No.

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2. Affidavit 10-4
3. Enclosure NO.1. Photo
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order Dt. 6.4.1988. 20

4. Enclosure NO. 2. Mercy
Appeal Dt. 24.11.1987. 21

5. Enclosure No. 3. Photo
copy of the order dated
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6. Enclosure No. 4. Photo
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7. Enclosure No. 5. Photo
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Sl. Particulars Page.
No.

8. Enclosure no. 6. Photo 26-30
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30.3.1988.

9. Enclosure No. 7. Photo 31
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25.6.1988.

10. Enclosure No. 8. Photo 32 - 35
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16.7.1988.

11. Enclosure No. 9. Photo 36
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notice Dt. 1.8.1988.

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Applicant.

Lucknow

Dt. 24.1.1989

Counsel for Applicant.

Before the Central Administrative Tribunal Allahabad

Lucknow Bench, Lucknow.

Application under section 19 of the
Administrative Tribunal Act 1985.

Date of filing

Date of receipt

By post

Registration No.

In the Central Administrative Tribunal ,

Lucknow Bench, Lucknow

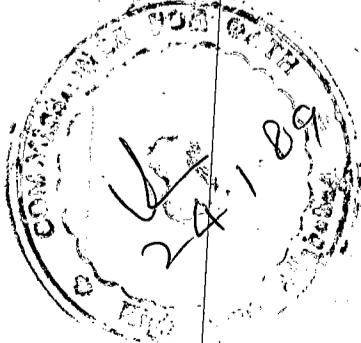
Additional Bench, Lucknow.

Ayodhya Prasad aged about 34 years son
of Sri Sant Prasad , Resident of Village
and Post Arjun Ganj, Lucknow

--- Applicant.

Versus

1. Deputy Director Military Farms , Head.
Quarters Central Command, Lucknow.



2. Officer Incharge, Military Farms,
Dehradun.

--- Respondents

Details of application

1. Particulars of the applicant.

(i) Name of applicant :- Ayodhya Prasad

(ii) Name of father :- Sri Sant Lal

(iii) Designation and office in which he is employed. :- Farm hand ,Military Farm Dehradun.

(iv) Address :- Working under Officer Incharge Military Farm, Dehradun.

(v) Address for service of notice. :- Village and post Arjunganj District Lucknow.

2. Particulars of the respondents

(i) Name and designation of the respondents. :- 1. Deputy Director Military Farm , Headquarter, Central Command Lucknow.

2. Officer Incharge, Military Farm, Dehradun.

(ii) Office address of:- 1. Military Farm Head -
the respondents Quarter, Central Command,
Lucknow.

2. Military Farm,
Dehradun.

(iii) Address for 1. Deputy Director,
service of all Military Farm, Head-
notices. Quarter Central
Command, Lucknow.

2. Officer Incharge,
Military Farm.
Dehradun.

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

The application is against the following
orders :-

(i) Order No. :- 660416/1GP/ 'D' /DDN/
E/F-2 Dt. 04 April,
1988 passed by the
Officer Incharge,
Military Farm,
Dehradun.

(ii) Date :- 04th April, 1988.

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PL

(iii) Passed by

:- Office Incharge, Military Farm Dehradun.

(iv) Subject in brief

:- Vide impugned order it is stated that the applicant has been transferred from Military Farm Dehradun to Military Farm Lucknow even though the petitioner applicant was permanently transferred from Lucknow to Dehradun 1-1/2 months earlier on his own request vide order dated 19.2.1988 and the respondents are not giving salary of the applicant since March, 1988 onwards.

2. *Dehradun*

4. Jurisdiction of the Tribunal.

The applicant declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

5. Brief facts of the case

The facts of the case are given below :-

1. That the present application is being



filed feeling aggrieved by the arbitrary, malafide and without jurisdiction order of the opposite party no. 2 thereby passing an order of movement from the Military Farm Dehradun to the Military Farm Lucknow and not giving him his regular salary since March 1988 onwards. A copy of the impugned order of movement/ transfer dated 6.4.1988 passed by the opposite party no. 2 is being ~~enclosed~~ herewith as Annexure No. 1 to this application.

2. That the applicant was appointed as a Farmhand on 14.9.1973 by the Deputy Director, Military Farms Headquarter, Central Command, Lucknow and he was posted at Military Farm, Lucknow. He falls in the category of IVth class employee.

3. That the work and conduct of the applicant was always satisfactory and had been appreciated by the superior authorities. However, no adverse entry or remarks have been given to the applicant by his superiors till date.

4. That certain notorious persons gave open threat to assault and murder the applicant in the Farm at Lucknow, as because of this threat and fear of death and the fact that in near past four Farmhands had already been murdered at Lucknow, he made a written appeal to the respondent no. 1 on 24.11.1987 thereby requesting him to transfer

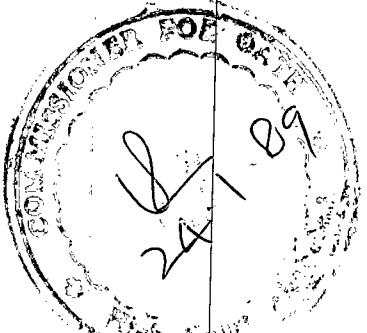
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the applicant from Lucknow to any other place so that his life may be saved. A photo copy of the mercy appeal for transfer on his own expenses dated 24.11.1987 moved by the applicant is being annexed herewith as Annexure No. 2 to this application. However, the above noted mercy appeal was rejected on absolutely frivolous grounds by the opposite party no. 1. Photo copy of the order dated 4.12.1987 thereby rejected the mercy appeal of the applicant is being enclosed herewith as Annexure No. 3 to this application.

5. That in the above noted rejection order it was mentioned that all precautionary measures have been taken for safety of the applicant. When in spite of the said assistance the petitioner had again been given threats of being murdered in the open fields of the Farm at Lucknow and as he had himself seen in the past that four persons were murdered by the gang of notorious person. He moved another mercy appeal on 17.12.1987 for transfer on his own expenses to the Respondent No. 1. A photo copy of the mercy appeal dated 17.12.1987 is being annexed herewith as Annexure No. 4 to this application.

However, as no orders were passed by the respondent for transfer to the petitioner, the applicant moved another appeal dated 23.1.88 for transferring him from Military Farm Lucknow to another place. It would be relevant to mention herein that the applicant had requested



in his appeal dated 23.1.1988 that he may be transferred from Lucknow to any other place except Jabalpur where some of the assailants were posted and resided.

6. That thereafter the ~~ext~~ applicant was called for interview by the Deputy Director Military Farms, Headquarters, Central Command, Lucknow vide letter no. 660416/1/GFD/LKO/C/ME-2/HQ/CC Lucknow 226002 dated 9.2.1988, when the above said interview was held before the opposite ^Wparty no. 1, the Assistant Director of Military Farms and Officer Incharge Military Farm, Lucknow was also present at that time and interview was held on 11.2.1988 properly.

7. That after the above interview the officer incharge military Farm and the other authorities became fully satisfied and convinced that the ~~ext~~ applicant was perfectly just and proper and he accordingly passed an order dated 19.2.1988 of permanent transfer of the applicant from Military Farm Lucknow to the Military Farm Dehradu. A photo copy of the transfer order dated 19.2.1988 passed by the Officer incharge Military Farms Lucknow is being enclosed herewith as Enclosure no. 5 to this application.

B.M.D.
24/2/88
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8. That unfortunately arbitrarily and malafidely the respondent no. 2 who is officer incharge of the Military Farm Dehradun

on 21.3.1988 assigned the duties of 'Safaiwala' to the applicant without perceiving the work and conduct of the applicant. Feeling aggrieved the applicant requested to the respondent no. 2 to give and assign him duties of written work which work he was doing ever since his initial appointment. But the opposite party no. 2 had refused to assign the said work of writing to the applicant and insisted to do the work of Safaiwala, which was not the job of the applicant.

9. That feeling aggrieved by the above said arbitrary and malafide order which was also wholly violative of Article 14 and 16 of the Constitution of India, the applicant moved a representation to the respondent no. 2 assigning him written work. He had stated in his letter dated 30.3.1988 that he is the senior most employee of the military farm and that he was always assigned the duties of written work and he has only experience of the same and no experience of the job of Safaiwala and that while his juniors who were simply daily workers have been assigned the duties of written work. A photo copy of the letter dated 30.3.1988 is being ~~enclosed~~ herewith as Enclosure no. 6 to this application.

10. That after receiving the above said letter moved by the applicant the respondent no. 2 without applying his mind and becoming

biased from the applicant, passed the impugned order of transfer / movement dated 6th April, 1988 in a most arbitrary manner and with malafide intention thereby re-transferring the petitioner to Lucknow.

11. That feeling aggrieved by the above said order of movement the applicant took shelter of the departmental Union which supported the cause of the applicant. The Secretary of the above said union called as Military Farm Civilian Employees Union, Dehradun (hereinafter to be referred as Union) through its Secretary who wrote a letter dated 10.6.88 to the opposite party no. 2 thereby requesting him not to transfer the applicant from Dehradun and allow him to remain posted at Military Farm, Dehradun. However, no order was passed in favour of the applicant and instead a written threat of the transferring the secretary of the aforesaid Union was given by the Respondent vide letter dated 25.6.1988 as he had dared to write a letter in favour of the applicant. A photo copy of the letter dated 25th June, 1988 issued by the respondent no. 2 against the Secretary of the aforesaid union is being enclosed herewith as Enclosure No. 7 to this application.

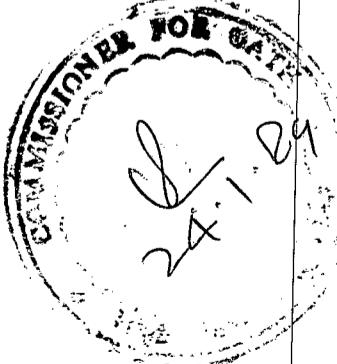
12. That no order could be passed in favour of the applicant and as such he gave a legal

(AP)

notice through his counsel Daya Nand Yadav Advocate on 16.7.1988. A photo copy of the legal notice without enclosures dated 16.7.88 is being annexed herewith as Enclosure No. 8 to this application.

13. That after receiving the above said legal notice the opposite party no. 2 gave an incorrect reply on 1.8.1988 of the said notice thereby cancelling the request of the applicant and directing him that he should join at Military Farm Lucknow and seek an interview at Lucknow for being transferred to some other district Military Farm House. A photo copy of the letter dated 1st August , 1988 sent by the opposite party no. 2 is being enclosed herewith as Enclosure No. 9 to this application.

14. That as the contents of the letter dated 1.8.1988 was totally false and based on incorrect statement the applicant gave another legal notice dated 11.10.1988 to the opposite party no. 2 thereby requesting him to cancel the movement order passed by him. Otherwise he will take shelter of the court against the impugned ¹ arbitrary , illegal, malafide and without jurisdiction order of movement. However, the impugned order of movement has not been cancelled upto now and the applicant has



PLB

been denied his salary since March, 1988 till date, resulting in starvation of the applicant and his family. If the applicant is compelled to join at Lucknow, he is bound to be murdered of which fact the respondents are fully aware.

15. That the respondents are not giving salary of the applicant since the month of March 1988 in a most illegal and ~~x~~ arbitrary manner.

7. Reliefs sought

In view of the facts stated in the preceding paragraph 6 of the application the applicant prays for the following reliefs :-

(i) To issue an order or direction as this Tribunal may deem fit thereby quashing and setting aside the impugned order dated 6.4.1988, passed by the opposite party no. 2 contained in Annexure No. 1.

(ii) To issue an appropriate order or direction thereby commanding the respondents not to transfer the applicant from the Military Farm

Dehradun to the Military Farm Lucknow and treat him to be continuing as an employee at Military Farm Dehradun and to pay him his entire arrears of salary with effect from March, 1988 onwards and to continue to pay him his regular salary each and every month as and when the same falls due.

(iii) To restrain the respondents from compelling the applicant to hand over the charge at Dehradun and to join at Lucknow in pursuance to the impugned order.

(iv) To issue any other order or direction which this Hon'ble court may deem fit and proper in favour of the applicant.

(v) To award the cost of the application.

Amritanshu

8. GROUND S

1. BECAUSE the applicant was transferred from Military Farm Lucknow to Dehradun on his own request and own expenses by way of a permanent transfer which could not be cancelled unilaterally specially when the transfer was made

(P)

keeping in view the fact that there was an imminent danger of the applicant's life.

2. BECAUSE it is mentioned in the transfer order dated 19.2.1988 that the applicant is being transferred permanently from the Military Farm Lucknow to Military Farm Dehradun. However, the respondent no. 2 has treated permanent transfer order as temporary transfer order by transferring the applicant within a period of one month and 15 days.
3. BECAUSE once the applicant has been appointed on the post of Farm Hand, his duties could not be changed unilaterally and he could not be compelled to perform the job of Safaiwala.
4. BECAUSE the impugned order of transfer has been passed by the respondent no. 2 without holding any enquiry and without giving opportunity to the petitioner, even though apparently the impugned order of movement has been passed by way of punishment as the applicant had refused to perform the duties of Safaiwala.
5. BECAUSE the respondent no. 2 has written a warning letter to the Secretary of

of Military Farm Civil Employees Union

Dehradun because he has written a

letter in favour of the applicant as

such it shows malafide intention of

the respondent no. 2.

6. BECAUSE the respondent no. 2 had assigned the daily wage employee the writing work while on the other hand most arbitrarily and malafidely had assigned the applicant the duty of safai-wala and as soon as the applicant protested against the same, he got the impugned order of transfer passed so that the applicant is compelled to join at Lucknow and is murdered.

7. BECAUSE the respondent no. 2 is not giving salary of the applicant since March, 1988 without any rhyme or reason as such the action of the opposite party no. 2 for not giving the salary of the applicant is arbitrary unwarranted and unreasonable.

8. Interim order prayd for :

Pending final decision of the application the applicant seeking the following interim orders :

In view of the facts and circumstances stated in the application it is most respectfully prayed that the operation of the impugned order dated 4th April, 1988 may kindly be stayed and the opposite parties be further directed not to transfer the applicant from the Military Farm Dehradun to Military Farm, Lucknow and allow him to work on his post of Farm Hand at Military Farm Dehradun and to pay him his regular salary and other allowances each and every month of the post in question and to pay the entire arrears which are due with effect from March, 1988.

9. Details of remedy exhausted :

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

20/4/88
1. Made representation on 13.4.1988 against the impugned order of transfer by which he has been transferred from Military Farm Dehradun to Military Farm Lucknow but till date the opposite party no. 1 did not pay any heed to the said representation and the same has not been disposed off.

8
10. Matter not pending with any other court etc.

The applicant further declares that the matter regarding his application has been made is not pending before any court of law or any other authority or any bench of the Tribunal.

11. Brief of Postal Order in respect of the application fee.

1. No. of ~~I.P.O. (s)~~ one Bank draft DD 065/33

2. Name of Issuing Post Office State Bank High Court Branch Lucknow

3. Date of Issue of ~~Bank Draft~~ ~~Postal order (s)~~ 28/9/88

4. Post office at is Allahabad central post office

Original

12. Details of index :

The index for application in duplicate containing the details of document to be relied upon is enclosed.

13. List of enclosures :

1. Photo copy of the impugned order of movement /transfer dated 6.7.1988.

2. Photo copy of mercy appeal for

transfer on own expence Dt.

3. Photo copy of order dated 4.1
4. Photo copy of mercy appeal for transfer on own expenses dated 17.12.1987
5. Photo copy of casualty report cum movement order dated 19.2.1988.
6. Photo copy of representation dated 30.3.1988
7. Photo copy of order dated 25.6.1988
8. Photo copy of legal notice dated 16.7.1988.
9. Photo copy of the reply of legal notice dated 1.8.1988.

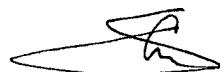
14. Verification :

M. J. S.
I, Ayodhya Prasad aged about 34 years, son of Sant Lal Resident of Village and Post Arjunganj, Lucknow posted as Farmhand at Military Farm, Dehradun do hereby solemnly affirm that the contents of paras 1 to 14 are true to my personal knowledge and belief and that I have not suppressed any material fact.

Lucknow

Dt. 24 1.1989

APPLICANT.

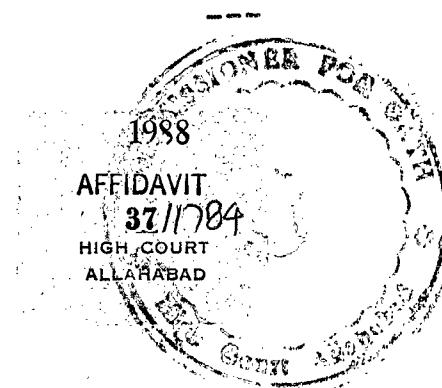


Counsel for the Applicant.

Before the Central Administrative Tribunal Allahabad

Lucknow Bench, Lucknow.

Application under section 19 of
the Administrative Tribunal Act 1985.



In the Central Administrative Tribunal

Bench Lucknow

Additional Bench, Lucknow.

Ayodhya Prasad

Applicant.

Versus

Dy. Director Military Farms

Hd. Qrs. Central Command

Lucknow and others

Respondents.

A F F I D A V I T

I, the deponent Ayodhya Prasad aged about 34 years son of Sant Lal, Resident of Village and Post Arjunganj, Lucknow posted as Farmhand at Military Farm Dehradun do hereby solemnly affirm and state on oath as under.

1. That the deponent is applicant in the above noted petition and as such he is well conversant with the facts and circumstances of the case.
2. That the contents of paras 1 to



of the accompanying petition are true to my own knowledge, those of paras " to " are based on legal advice and paras " to " are based on record.

3. That the deponent verifies that Annexures 1 to 9 of the petition are true/photo copies of original duly Compared.

Lucknow

Dt. 24. 1. 1989

L.T. F. of
Debonal


Deponent.

Verification

I, the deponent above named do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge.

No part of it is false and nothing material has been concealed, so help me God.

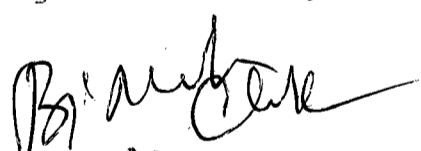
Lucknow

Dt. 24. 1. 1989

L.T. F. of
Debonal

Deponent.

I identify the deponent
who has signed before me.


Advocate.

Solemnly affirmed before
me on 24.1.89 at 11.20 A.M by Sri Ayodhya.
Pd. the deponent who is identified by Sri
Brij Nandan Clerk of Sri S.C. Misra Advocate
High Court, LUCKNOW BENCH, LUCKNOW.
I have satisfied myself
by examining the deponent that he understands
the contents of this affidavit which he
read over and explained by me.

V. Ram
OATH COMMISSIONER
High Court, Allahabad.
Lucknow Branch
No. 3711704
Date 24.1.89

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO. of 1989
Ayodhya Prasad Petitioner
Versus
Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow.
ANNEXURE NO. Opposite Party

20
A27

MOVEMENT ORDER FOR DISTRICT CERTIFICATE

Imcnew

1. The following is advised by the Military Farm
reported at this farm on 24.2.88 (F/N) in connection
with

(a) Farm Hand Ayodhya Prasad

(b) Authority: DDMF HQ Central Command No.
660416/1/GP'D'/DDN/E/MF-2 dated 04 Apr 88.

(c)

2. His journey will commence on 06 Apr 88 (A/N)

3. During his/their stay at this farm he/they were/were
not provided with free messings/transport/accommucaation
facilities.

4. In case of any difficulty enroute he/they should Report
to nearest Police Station/RIO/Station Master as an authorised
production of this movement order.

On 24.4.88
Officer in charge
Military Farm
Head Quarter

26/MLI
Military Farm
Head Quarter

06 APR 88

M Ayodhya Prad : As movement order.

Copy to :-

The DDMF
HQ Central Command
Lucknow

The OIC
MF Imcnew -2

1. In this connection one letter No. E-28/MF-2
dated 22.3.88 may please be treated as cor
rd.

2. With ref to your No. E-9 Dt 19.2.88
DDMF HQ CC No. 660416/1/GP'D'/DDN/7
dated 04 Apr 88.

24.1.89

Brijesh

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

LUCKNOW BENCH, LUCKNOW.

21

Ayodhya Prasad

WRIT PETITION NO.

of 1989

.... Petitioner

Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow.

Versus

....

ANNEXURE NO.

.... Opposite Party

To,

The Deputy Director,
Military Farms, H.Os.
Central Command,
LUCKNOW.

Through The Officer-in-Charge Military Farm, Lucknow.
Subject:- Mercy Appeal for Transfer on Own Expense.

Sir,

The humble request is as follows:-

The panic, Causing hearts Shrunk, thoughts INCHOERENT to
meet death at the hands of CULPRITS, drunk with NOTORIETY, at any time,
IN THE VICINITY of M.F. LUCKNOW. Since the Pump Attendant BASUDEO
was shotdown on the Night of 17/18-10-87, has Violently Compelled
me, Seeming No other Alternative, but to request your Honour to get
me TRANSFERRED FROM M.F. LUCKNOW to Any of the PLACES M.F. DEHRADUN,
DEPOT FATEHGANJ OR SAGAR.

This RARE FAVOUR WOULD SAVE THE DEPENDENTS OF MINE ————— (1)
WIFE, (2) MADHOBALA, (3) RANJITA, AND (4) ANUBHAVA (DAUGHTERS ALL
below 8 Years of Age).

The obsession of getting me SHOT DOWN IN THE VICINITY OF M.F.
LKO. Stands deep rooted and is unlikely to be abated as long as I
exist at MF LUCKNOW. The POWERFUL REMEDIAL MEASURE LIES IN GETTING
ME SHIFTED TO ANY OF PLACES MENTIONED ABOVE.

I hope Favourable Consideration at the earliest.

Yours faithfully,

AYODHYA PRASAD,
F.H.M.F. LUCKNOW.

Copy in advance

Forwarded to

D.O.M.F. LUCKNOW

Recd on 27/11/87

Recd on 10/12/87

Date:- 24.11.87

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO.

of 1989

Ayodhya Prasad

....

.... Petitioner

Versus

Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow.

....

.... Opposite Party

ANNEXURE NO.

Mil Tale : 607

Regd/AD
Military Farm
Lucknow

No. PF/Ayodhya Pa./F/H

34 Dec 87

Shri Ayodhya Prasad
Farm-Hand
Village : Arjunganj
P. O. : Arjunganj
Distt : Lucknow

MERCY APPEAL FOR TRANSFER ON OWN EXPENSES

1. One copy of your letter No. N11 dated 24th Nov 87 is returned herewith. Your services are required at this farm hence your case is not recommended for transfer.
2. All protective measures have been taken, however, you are advised to bring up to my notice any difficulty in performance of your duties through your Incharge Section for necessary action if any.

W.S.
(KV Singh)
Major
Officer Incharge
Mily Farm Lucknow

Copy to :-

The DDMR
HQ Central Command
Lucknow

- For information please.

Bomber



BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO. of 1989
Ayodhya Prasad Petitioner
Versus
Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow. Opposite Party
ANNEXURE NO. 1

23
R30

PAGE-I

To,

COL.S.N. DATT
DEPUTY DIRECTOR OF MILITARY FARMS,
HEAD QUARTERS CENTRAL COMMAND,
LUCKNOW.

THROUGH MAJOR K.V. SINGH
OFFICER-IN-CHARGE M.F. LUCKNOW.

SUBJECT: MERCY APPEAL FOR TRANSFER ON OWN EXPENSE.

REFERENCE: MILITARY FARM LUCKNOW OFFICE COMMUNICATION NO.PF/AYODHYA PD/F.H. Dt.4-12-87
ADDRESSED TO THE PETITIONER AND COPY TO
THE DDMF H.Q. CENTRAL COMMAND LUCKNOW.

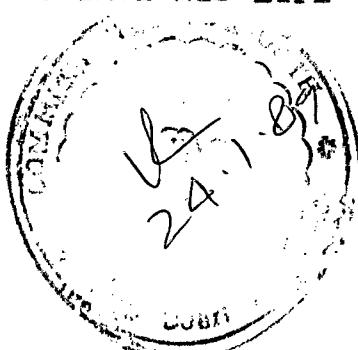
Sir,

I HAVE BEEN INFORMED BY THE COMMUNICATION REFERRED TO
ABOVE VIDE PARA 2 THAT "ALL PROTECTIVE MEASURES HAVE BEEN TAKEN"
i.e. MEANS AND WAYS TO ROOT OUT THE POSSIBILITY OF RECURRENCE OF
MURDERING ANY OF THE OFFICIALS (OF MILITARY FARM) HAVE BEEN DEVISED
AND CEMENTED.

NOT ONLY AM I BUT OTHERS ALSO ARE GREATLY INDEBTED TO THE
EXALTED SOUL, RESPECTED OFFICER-IN-CHARGE M.F. LUCKNOW FOR THE
SAME.

Sir, NO ONE IN THE UNIVERSE CAN UNDO THE PAST THAT DOES
STAND IMPREGNABLE AND HAS WITNESSED:

1. LATE SHRI ABDULLAH, FARM HAND, M.F. LUCKNOW WAS MURDERED ON DUTY.
2. LATE SHRI CHHOTY, F.H. WAS SHOT DOWN TO DEATH AT M.F. LUCKNOW.
3. LATE SHRI BASDEO WAS SHOT DOWN TO DEATH ON HIS DUTY.
4. LATE SHRI LEKHAI, THE APPLE OF THE EYE OF THE ABLEST
ADMINISTRATOR, THE SHREDEST POLITICIAN, AND THE CONQUEROR OF
THE CONQUERORS, ENDOWED WITH SHARPEST WISE AND FERTILE
IMAGINATION MAJOR J.S. KADYAN, THE PREDECESSOR OF MAJOR
K.V. SINGH, FAILED UTTERLY TO SAVE HIS LIFE (SHRI LEKHAI'S LIFE).



Prakash

2. 24 Regd/A of
R.S.I.

THE ONLY HELP RENDERED TO THE DECEASED WAS CONFINED
TO CARRYING HIS DEAD BODY FROM BARA-BANKI BY FARM VEHICLE
TO PIPRA GHAT, THE BURIAL PLACE, LUCKNOW, FOR CONSIGNING
IT TO THE FLAMES OF PYRE ONLY TO BE WATCHED BY THE MOST
REVERENT OFFICER, MAJOR J.S.KADYAN, THE CLOUD-COVERED
SHINING SUN, THE LAMP OF UNIVERSE, DIMINISHED TO THE LUSTRE
OF FIRE-FLY.

KIND Sir, I AM FULLY AWARE OF WHERE MY SHOE PINCHES.
THE OFFICIALS DO PINE FOR TO BE POSTED NEAR THEIR HOME-STATION,
WHEREAS I HAVE RESOLVED TO BE POSTED AT FAR+AWAY STATION FROM
MY NATIVE PLACE, ARJUNGANJ, THE VILLAGE, BEING SITUATED AT STONE'S
THROW FROM M.F. LUCKNOW.

Sir, IT, UNDER NO CIRCUMSTANCES, BE MADE OUT AS AN HALL-
UCINATION IF I SAY THAT MY MENTAL EYES PERCEIVE 303 BULLET
HOVERING OVER ME. IT IS NINETY NINE POINT NINE PERCENT CORRECT
THAT THE KINDNESS, BENEVOLENCE, AND GENEROSITY OF THE NOBLE FARM
OFFICER MAJOR K.V.SINGH, DETAINING ME (NOT RECOMMENDING ME TO BE
TRANSFERRED TO ONE OF THE STATIONS: M.F. D.DUN, M.F.DEPOT
FATEHGAN/SAGAR) WOULD VANISH ME FROM THIS WORLD.

Sir, IT IS ONCE MORE REITERATED THAT THE CONNOTATION OF
THE APPEAL MAY KINDLY BE GAUGED PROPERLY.

I, THEREFORE FERVENTLY PRAY THAT THE GRAVEST SITUATION
HITHERTO MIRRORED BROOKS NO DELAY.

Dt. 17-12-87

YOURS FAITHFULLY

Prasad
(AYODHYA PRASAD.)

F.H.

M.F. LUCKNOW.

COPY IN ADVANCE FORWARDE TO
COL.S.N.DATT
DEPUTY DIRECTOR
M.F. H.Qrs. CENTRAL COMMAND LUCKNOW.

Prasad

24-1-89

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO. of 1989
Ayodhya Prasad PetitionerVersus
Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow. Opposite PartyANNEXURE NO. SCASUALTY REPORT CUM MOVEMENT ORDER

1. Name and Rank	:	Farm Hand AYODHYA PRASAD
2. Proceeding from	:	Military Farm Lucknow
3. Proceeding to	:	Military Farm Dehradun
4. Nature of casualty	:	On permanent transfer
5. Authority	:	DDMF HQ CC Lucknow No-66 0416/1/ Gp 'D' /IKO /E/MF-2 dated 16-2-88
6. Date of SOS	:	20 Feb 88
7. Paid upto and for	:	29 Feb 88
8. Rate of Pay and Allc	:	Basic Pay : Rs. 912-00 DA : Rs. 119-00 CCA : Rs. 25-00 HRA : Rs. 150-00 TOTAL : Rs. 1206-00
9. Date of Next increment	:	1st Sep 88
10. G.P. Fund	:	Rs. 60/- per month GPF No-477291
11. CGEIS	:	10.00 per month
12. TA/DA Advance	:	Nil

Submitted to the DDMF HQ Central Command Lucknow for
information please.

E-9
Military Farm
Lucknow

19 Feb 88

KV Singh
Major
Officer Incharge
Military Farm Lucknow

Copy to :-

1. Shri Ayodhya Prasad, F/H - As a movement order
2. The Officer Incharge
Military Farm Dehradun
3. The IAC (A) Lucknow
4. The IAC Dehradun
5. Office Copy.

24/2/89
24/2/89

Manohar

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

(26)

WRIT PETITION NO. of 1989
Ayodhya Prasad Petitioner
Versus
Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow.
ANNEXURE NO. 6 Opposite Party

(23)

To

Major Mahesh K. Shanga,
Officer-in-charge,
Military Farm,
Dehradun.

Subject : Utter infringement of Article 14 of the
Constitution of India that reads as follows:
"The State shall not deny to any person equality
before the law or the equal protection of laws
within the Territory of India.

Honoured Sir,

May the Petitioner, Ayodhya Prasad, Class IVth
permanent employee, Military Farm, Dehradun, beseech his
honour's kind attention to what follows:-

That every cadre of central government employee
stands categorized, into (a) "Temporary" (b) "Quasi-
Permanent" and (c) Permanent. The rules, being applicable
to civilian employees, having been enshrined in the
Departmental Code Books, have recognized the status of them.
They by virtue of having legal rights can sue and be sued by
the respective departments being served by them all.

That the persons, having no legal status barring
that of those classified above, void of specified status,
say, those having their foundations as the castles in the
air do, are called "Daily Wages Labourers", cannot and must
not be reckoned at par with those signified above -
Temporary, quasi-permanent and permanent ones. The gravity
of situation does warrant mentioning Daily Wages Labourers
because of the ambience of Military Farm, Dehradun Reeks
of "Bias", "Peejudice", "Show of favour", "Antagonism"
"Spite", "Hostility", "Prepossession that sways the mind".

"Bias" also arises from dishonesty as would be
clear from the definition of "Dishonesty" in Section 24,
Indian Penal Code, which reads:

M. M. Prasad

24-1-89

24 Dishonesty - Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person is said to do that thing "Dishonesty."

Thus, a decision wrongly given with the idea of causing favour to a party would be a dishonest or biased decision.

That S/Shri (1) Bhim Singh, Stores Section, (2) Pramod Kumar, Cattle Yard Section, (3) Jagdish Prasad, Cattle Yard Section (4) Shailendra Shukla, Cattle Yard Section, (5) Shesh Raj Singh, M.T. Section, all being daily wages labourers, have been assigned the task of maintaining official records. S/Shri Raj Bahadur, F.H. and Anand Kumar, being junior most to the petitioner have also been doing book-work whereas the petitioner has been forced to do the job of "Safaiwala."

That it is the malice that has motivated respected Officer-in-charge to entrust the petitioner the duties of cleaning Sick-Line Section. It is an intentional doing of a wrongful act without just cause or excuse with an intent to inflict an injury or under circumstances that the law will imply an evil intent. Malice is that state of mind which is reckless of law and of the legal rights of the petitioner. Similarly "Malafide" means bad faith.

"Bad faith" is an antonym of "Good faith" and the latter expression has been defined in the Indian Penal Code, Section 52, thus:— Nothing is said to be done or believed in "Good faith" which is done or believed without due care and attention. It follows that anything done without due care and attention would amount to that thing having been done in "Bad Faith" or "Malafide".

Om Prakash

(28)

(25)

Where power is conferred to achieve a purpose
the power must be exercised reasonably and in good faith
to effectuate the purpose and in this context "in good faith"
means "For legitimate reasons". Where power is exercised for
extraneous or irrelevant consideration or reason, it is
unquestionably a colourable exercise of power or fraud on
power and the exercise of power is vitiated.

Thus it may safely be advanced that Honourable
Officer-in-charge, Military Farm, Dehradun has not applied
his mind at all to the matter. Assigning the petitioner the
duties of Safaiwala. It may also be sincerely and authori-
tatively laid impress upon that Article 14 of the Constitu-
tion of India stands violated that reads as follows:-

"The State shall not deny to any person equality
before the law or the equal protection of the laws within
the Territory of India.

The use of "shall" in this Article needs special
consideration. What the Article 14 of the Constitution of
India postulates is the application of the same laws
alike and without discrimination to all persons similarly
situated. It denotes equality of treatment in equal
circumstances. It implies that among equals the law should
be equal and equally administered, that the like should be
treated alike without distinction of "Race", "Religion",
"Wealth", social status or political influence. Article 14
of the Constitution also ensures equality among equals. Its
aim is to protect persons similarly placed against
discriminatory treatment. The classification should not be
arbitrary, artificial or evasive. It should be based upon
an intelligible differentia.

24/10/91

contd...4

B.M.

"ABUSE OR MISUSE OF POWER"

Apart ^{from} for bias and malafides, abuse or misuse of discretionary power bestowed by the legislature through enactment or by rules made thereunder, also vitiates an Administrative Order. This is so because in conferring the power the Rule-making authority assumes and correctly so, that the power will be used in a rightful manner. That ^{it} will not be abused at the sweet will of the Deciding Authority."

Thus when a statutory authority takes unauthorised action it is malafide. It is abuse of his statutory authority.

It is, therefore, under exigencies enumerated above, prayed that the petitioner, being the seniormost to S/Shri Raj Bahadur and Anand Kumar both farmhands, nullifying 5 Daily Wages labourers, specified above, having no less to stand in the eye of law, be assigned the duties of maintaining records at M.T. Section and the application of Article 14 of the Constitution may kindly be ensured to this effect. The Administrative Authority, Officer-in-charge, M.F., Dehradun has been approached for imparting justice in the light of Article 14 of the Constitution. In absence of justice sought for, the next higher authorities, By Director M.Fs, Hars C.C. Lucknow as well as Deputy Director General M.Fs A.H.Qrs. Q.M.G's branch, R.K.Puram, New Delhi would be approached of for similar purpose.

The petitioner's only remedy i.e. way to get redress, is to go to "The Central Administrative Tribunals, Allahabad" in case his hopes to get justice are to be belied after having all the requisite channels been availed of successively for putting the deliberately hatched wrong

Signature

(30)

REGD

-5-

right. The cause of action has arisen on the date this representation is received in the office of the Administrative Authority (The Officer-in-charge, M.F., Dehradun).

Dated : 30. 3. 1988

The PETITIONER
AYODHYA PRASAD, F.H.,
M.F., Dehradun

Copy in advance for information and necessary
action is forwarded to :-

1. Dy. Director, M.Fs H.Qrs.,
Central Command, Lucknow.
2. Dy. Director General,
Military Farms, Army Head Quarters,
Q.M.G's Branch, R.K. Puram, New Delhi.



Recd. to Regd. No. 1237
D.D. 30/3/88
At 3.03/3/88

Onward

Regd. No 4236
At Dy. General Military Farms
R.K. Puram New Delhi

24.3.89

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

Ayodhya Prasad

WRIT PETITION NO.

of 1989

.... Versus

.... Petitioner

Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow.

.... ANNEXURE NO.

7.... Opposite Party

CONFIDENTIAL

TELEPHONE MIL : 218

MILITARY FARM
DEHRA DUN

E-58/MF-1

25 Jun 86

Shri KC Baluni, LDC
Military Farm
DEHRA DUN

POSTING/TRANSFER

1. It has been reported by Military Farm Record, Delhi Cantt that you have been posted for a period of 2 years at this farm on highly compassionate grounds. This was a conditional posting that your stay of 2 years will depend on your satisfactory performances. (Copy of AHQ letter No. A/10225/Q/MF-1 dated 08 Oct 86 is attached).
2. It is seen from your activities that you are Gen Secy of Mily Farm Civilian employees Union, Dehra Dun which is un-recognised so far and you are indulging in unwarranted/uncalled trade union activities. You are advised in your own interest to desist from taking part in such non-administrative activities. If there is any more trade union activities you will be posted out. This is last and final warning on the subject.
3. Please ack.


(Mahesh K. Ganguly)
Major
OIC of Dehra Dun

CONFIDENTIAL

COPY OF AHQ LETTER NO. A/10225/Q/MF-1 DATED 01 OCT 86
ADDRESSED TO MF HQ CC AND COPY TO THIS OFFICE AND
MF RECORDS DELHI CANTT

POSTING/TRANSFER : CLERKS

1. Ref MF Records letter No. 311/66/44 Dated 19 Sep 86.
2. The posting of LDC KC Baluni (8061009) from Muzaffarpur to MF Dehra Dun has been done on compassionate grounds based on his repeated appeals. The compassionate posting will be for two years. His tenure at MF Dehra Dun will depend on his satisfactory performance.
3. LDC KC Baluni will be informed in writing by OIC MF Dehra Dun accordingly.

Confidential

B.M.G.

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO. of 1989
Ayodhya Prasad Petitioner
Versus
Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow.
ANNEXURE NO. Opposite Party

FROM :-

Dayanand Yadva, (PRADHAN)
Advocate,
Village & Post-Arjunganj,
LUCKNOW.

TO,

ccyf
The Secretary, Regd. No 1637 of 18/7/88
Government of India, *relinquished on Aug. 4/7/88 at 23/7/88*
NEW DELHI.

2.

The Defence Secretary, Regd. No 1642 of 18/7/88
Defence Department,
Government of India,
NEW DELHI.

3.

Lt.Gen.Vijay Kumar, Regd. No 1638 of 18/7/88
Military Secretary,
M.S. Branch, Army Head Quarters,
NEW DELHI.

4.

Lt.Gen.G.Man Singh, Regd. No 1639 of 18/7/88
Q.M.G. Army Head Quarters,
NEW DELHI.

5.

Brig.K.A. Patil, Regd. No 1641 of 18/7/88
Deputy Director General,
Military Farms, Q.M. G's Branch,
Army Head Quarters,
R.K. Puram,
NEW DELHI.

6.

Col. S.N. Dutt, Regd. No 1640 of 18/7/88
Deputy Director,
Military Farms, Head Quarters,
Central Command,
LUCKNOW.

7.

Maj. Mahesh K. Sanga, Regd. No 1402.
Officer-In-Charge, Military Farm,
DEHRADUN. *at 16/7/88*

SUBJECT :-

Notice under section 80 of the code of civil procedure
to Institue case against major Mahesh K.Sanga, Officer-
Incharge, Military Farm, Dehradun.

Bomdung



23

200

Sirs,

Whereas it is highly expedient that the defendants, Referred to above, be, Commensurate with the dignified ranks, they hold each, apprised of candidly, genuinely, justly, and unprejudicially, wilful violations of rules of "Central civil services (Classification control and appeal) (Rules) 1965, framed by Government of India for the Guidance of the officers, being applicable for non-Militarised personnel in defence Department, that have made my client, Shri Ayodhya Prasad, class Ivth employee, Military farm, Dehradun, suffer Mental Torture, Humiliation Loss of integrity, and pecuniary loss, Causing to verge his Dependents - Feeble parents, wife and three children, on starvation, which have constrained my client named above, to go to Law Court, Central Administative Tribunal, Lucknow bench, Lucknow, after Expiration of two months next after this notice has been Delivered to the Authorities Enumerated above, Against Major Mahesh K.Sanga, Officer Incharge, Military Farm, Dehradun.

FACTS OF CASE IN A NOT SHELL :-

My clinet, Shri Ayodhya Prasad, Permanent Literate class Ivth Employee Preferrd Mercy appeal to Col.S.N. Dutt, Deputy Director, Military Farms, Head Quarters, Central Command Lucknow, because of the sure apprehension of getting his life extinct by his Tyrant enemies who shot down late Shri Basudeo, Pump attendant, Military Farm Lucknow on "DUTY ON 17.18th October 1987 preceded by Late S/S (1) Abdullah, (2) Chotey Lal, (3) Lekhai, all class IVth Employees of Military Farm Lucknow having been Murdered, to get him (Shri Ayodhya Prasad) Transferred to one of stations Viz (1)Military Farm, Dehradun, Military Farm Depots (2) Fateh gar or (3) sagar "On his own expense" vide Annesure No 1 dated 24.11.87 Reminded by ones dated 17.12.87 & 23.1.88 vide Annexures Nos. 2 & 3 That the consuming apprehensions summed up above - Prior to his permanent transfer order vide Deputy Director, Military Farms, Head Quarters, Central Command Lucknow No. E...9..M.F.D.K.P..Date..19..2..88.to M.F. Dehradun, being an Annexure No. 7 in sequel to his Mercy appeal was acceded to, My client, as a result of constant Mental and physical agonies was subjected to severeillness and had to remain under the treatment of Dr. K.M.L. Srivastava, MBBS, MAGS (USA) for 4 months and 28 days the Annexures Nos. 5.6.7.8 stand as testimonies there to.

2/1/89

2000

That my client named above joined M.F. Dehradun on 24.2.88 and was assigned the job of maintaining the record of M.T. Section (Book work), Major Mahesh K. Sanga, Officer Incharge M.F. Dehradun void of any mistakes or remissness of duties got my client transferred from M.T. Section M.F. Dehradun and put a daily labour Shri Shesh Raj in his place to do the same job. To this effect my client submitted a Representation to Major Mahesh K. Sanga, Officer Incharge M.F. Dehradun inviting his attention to the article 14 of the constitution of India vide Annexure Nos. /b , the higher authorities of the Military Farm Department were simultaneously apprised of the facts, too.

That the very representation infuriated Major Mahesh K. Sanga, M.F. Dehradun who withheld the salary of my client for March 1988, Nay, the wages of the following months (Inclusive those of March, 1988) April, May, and June 1988, to still remain unpaid to my client.

That on the other hand, the secretary of the Union Branch, M.F. Dehradun (The unit Union Branch, being affiliated to "Bhartiya Mazdoor Sangh, recognised by the Government of India and Bhartiya Pratiraksha Mazdoor Sangh, An All India Federation of Defence Workers, Having Head Office at Pathan Kot, Registered No. 14), from the point of view of considering "Welfare, Securing the Dignity of the Individuals, and promoting General Welfare, Submitted a Representation vide Annexure Nos. // to Col. S.N. Dutt, Deputy Director, Military Farms, Head Quarters, Central Command, Lucknow, with copies having been forwarded to (1) Major Mahesh K. Sanga, Officer Incharge, M.F. Dehradun (2) the Director General, Military Farms, H.Qrs., QM.G.S. Br., New Delhi (4) Q.M.G. Army Head Quarters, New Delhi, and (6) Shri Shiv Raj Patil, Hon. Minister for Defence, Government of India, New Delhi, which (the Very Representation) has made Major Mahesh K. Sanga, too furious to perceive the characteristics of Bona-fide Union. The Officer Incharge, Major Mahesh K. Sanga, has threatened the very secretary of this Branch Union, WHO IS IMMUNE FROM TRANSFER TO OTHER SATIONS during the first year of his election. The Annexure Nos. /2 Be referred to this effect, Does such mental calibre, say abysmal talent and farsighted-ness, on the part of the ADMINISTRATOR OR THE PILOT OF THE SHIP not cause destruction to the Administration or to the ship being piloted only to be struck against Himalyan Ice-berg being drifted rightly in front of her (ship) ?

1.89
✓

Bimal

That Major Mahesh K. Sanga, Officer Incharge, M.F. Dehradun, without any rhyme or reason, deliberately, Prejudicially unfairly, and maliciously has subjected my client, Shri Ayodhya Prasad to undergo severe hardships marring the well-being of his dependants, feeble and old parents, wife and three children.

Consequently, the circumstances depicted above have warranted to move the law court, CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH at Lucknow, just after two months commencing with the date following the one on which this notice is delivered, dated 16/7/88.

DAYANAND YADVA,
(PRADHAN) ADVOCATE
VILLAGE AND POST
ARJUNGANJ, LUCKNOW.

24.1.89

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH, LUCKNOW.

WRIT PETITION NO. of 1989
Ayodhya Prasad ... Petitioner
Versus ...
Deputy Director Military Farms
Head Quarter, Central Command,
Lucknow.
ANNEXURE NO. (9) ... Opposite Party

LETTER TELEGRAM

REGD/AD

Brm
LIBIT ARMY

SRI DAYA NAND YADAV (PARDHAN)
ADVOCATE
VILL AND POST OFFICE ARJUNGANJ
LUCKNOW-2

*RECEIVED ON
11-8-88
BY THE ADDRESSEE*

REF YOUR NOTICE DATED 16 JUL 88 UNDER SECTION 80 OF CCP
AGAINST MAJOR MAHESH K SANGA OIC MILFARM DEHRADUN AAA
FIRSTLY AAA FARM HAND AYODHYA PRASAD IS PERMANENT EMPLOYEE
OF MILFARM LUCKNOW

SECONDLY AAA HIS STAY AT THIS FARM FROM 22 FEB 88 TO 05 APR

88 CONVERTED AS TEMPORARY DUTY BY HQ CENTRAL COMMAND

THIRDLY AAA PAY AND ALLOWANCES OF FH AYODHYA PRASAD WILL BE
PAID BY MILFARM LUCKNOW VIDE HQ CENTRAL COMMAND NO. 660416/1/
GP'D/DDN/E/MF-2 OF MAY 05 (COPY ENCLOSED)

FOURTHLY AAA FARM HAND AYODHYA PRASAD RELIEVED FROM THIS FARM
ON 06 APR 88 AND NOT SEEN THERE AFTER

FIFTHLY AAA INDIVIDUAL CAN BE PAID ADVANCE OF PAY & ALLOWANCES
IF DESIRED BY YOUR GOODSELF AND YOUR CLIENT AYODHYA PRASAD

BY BANK DRAFT

SIXTHLY AAA THE ALLEGATIONS AGAINST MAJOR MK SANGA OIC MILFARM
DEHRADUN ARE FALSE AND BASELESS

SEVENTHLY AAA NO INJUSTICE DONE WITH THE INDIVIDUAL

EIGHTHLY AAA COL SN DATT DDMF HQ CC LUCKNOW DESIRES FH
AYODHYA PRASAD TO REPORT TO HIS HQ AT LUCKNOW FOR CONSIDIRING
HIS POSTING TO MFD SAUGOR AND MFD FETHGARH

NINETHLY AAA REQUEST REPEAT REQUEST DIRECT YOUR CLIENT
FH AYODHYA PRASAD TO REPORT FOR INTERVIEW WITH DDMF AND
COLLECT HIS PAY & ALLOWANCES FROM MILFARM LUCKNOW AS PER

DDMF HQ LETTER NO. 660416/1/GP'D/DDN/E/MF-2 DATED 05/5/88
TENTHLY AAA DDMF HQ CC NO. 660416/1/GP'D/DDN/E/MF-2 DATED
14 JUN 88 AND EVEN NO DATED 22 JUN ALSO ENCLOSED
MILFARM

Not to be telegraphed

Station : Dehradun

Dated : 01 Aug 88

Mr. H. S. D.
CC

Military Farm Dehradun

BEFORE THE ADMINISTRATIVE TRIBUNAL

(P.S)

CIRCUIT BENCH, Lucknow

O.A. No. 29 of 1989 (L).

C.P.
4/11

Ayodhya Prasad

-- Applicant

versus -

Union of India and others

.. Opp. parties.

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.

I, S. C. THINGAN

aged about 47 years, son of Shri D. D. Thngan

posted as Officer Incharge, Military Farm, Dehradun

do hereby solemnly affirm and state as under:-

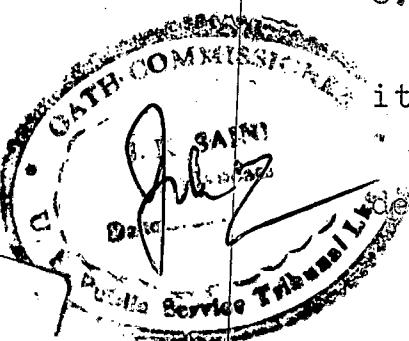
1. That the deponent is well conversant with the facts of the case and he is filing this counter affidavit on behalf of the Opp. parties.

2. That the deponent has read and understood the contents of application as well as the facts given hereinafter in reply thereof.

3. That before giving parawise comments

it is necessary to give brief history of the case as

detailed below:-



(37)

Before the Central Administrative Tribunal
Allahabad
Lucknow Bench, Lucknow

बाबूदालत श्रीमान

महोदय

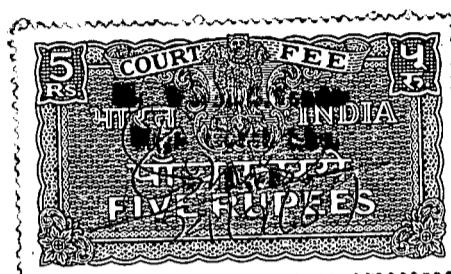
वादी (मुद्दे)

मुद्दे (मुद्देह)

का

वकालतनामा

A.M.



A goodly brassed

वादी (मुद्दे)

मुद्दाम
by director military farms

प्रतिवादी (मुद्देह)

H.Q. Central Command

Lucknow and

एडवोकेट

सतीश चौधरी विश्व सुप्रवान पाठ्य वकील

महोदय

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इन मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावे या हमारी ओर से डिगरी जारी करावे और स्पष्ट बसूल करें या सुलहनामा या इकबाल दोबा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावे या कोई स्पष्ट जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया स्पष्ट अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद सो लेदें या पंच नियुक्त करें। वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा सर्विकार है और होगी। मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूँगा। अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आये।

हस्ताक्षर

स्वाक्षी (गवाह)..... स्वाक्षी (गवाह).....

दिनांक 24/1/89

महीना.....

Exhibited

S. S. Pandey
Advocate

BEFORE THE ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, Lucknow

O.A. No. 29 of 1989 (L).

C.P.
V
4/11
Ayodhya Prasad

-- Applicant

-versus-

Union of India and others .. Opp. parties.

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.

I, S.C. THIN GAN

aged about 47 years, son of Shn' D. D. Thingan

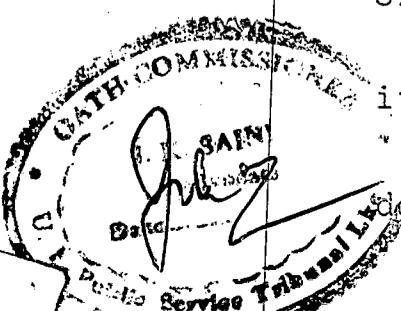
posted as Officer Incharge, Military Farm, Dehradun

do hereby solemnly affirm and state as under:-

1. That the deponent is well conversant with the facts of the case and he is filing this counter affidavit on behalf of the Opp. parties.

2. That the deponent has read and understood the contents of application as well as the facts given hereinafter in reply thereof.

3. That before giving parawise comments it is necessary to give brief history of the case as detailed below:-





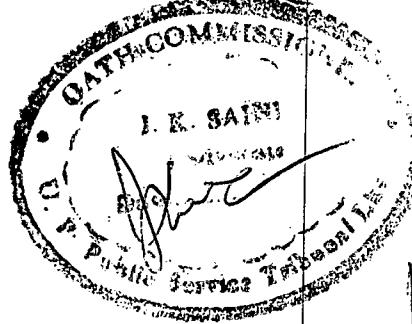
(a) That the applicant was permanently transferred from Military Farm Lucknow to Military Farm Dehradun vide DD MF Hars.

Central Command No.660416/1/Gp (D)/LKO/E/LF-2
of 16 Feb. 88. He reported for duty at Dehradun
on 24 Feb 88.

(b) That as per orders contained in DDMF Central Command signal O-35893 dated 22 Mar 88, directed

the Military Farm Dehradun to detail Farm Hand applicant on temporary duty to Central Command. Necessary movement order was issued to him on 22 March 88 but he noted it under protest and did not proceed to HQrs. Central Command Lucknow.

Later on DDMF vide their letter dated 4 April 88 asked the Military Farm Deharadun to direct the applicant to report back at Military Farm Lucknow and intervening period of his stay will be treated as on temp. duty. Accordingly necessary movement order was issued to him vide letter dated 06 April 88 but he remarked on the office copy of the Movement order that "Main Nahin Jaunga aur appeal Karunga". The individual appealed on 13.4.88 copy of which was forwarded to the DDMF H'rs. Central Command vide letter dated 18 Apr 88 and parawise comments on it were submitted to DD MF Lucknow vide letter dated 21 Mar. 88. The DD MF HQrs. Central Command again asked the Military Farm Deharadun to direct the applicant to report back



Ans

- 3 -

at MF Lucknow and to treat his intervening period

at MF Farm as on temporary duty. The applicant

not moved to his permanent duty station ie.

Military Farm Lucknow and is kept for posting to
the following stations only:-

(a) Mily Farm Depot Saugor

(b) Mily Farm Depot Fatehgarh

4. That the contents of para 1 to 4 of the
application are formal and need no comments.

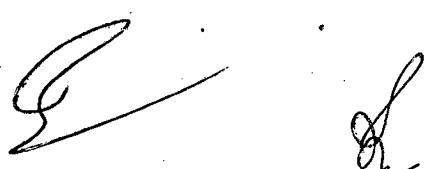
5. That the contents of para 5(1) of the
application are baseless and need no comments.

6. That in reply to the contents of para

5(2) & (3) of the application it is submitted that
the service documents ie. service Book and personal
files of the applicant are with Military Farm Lucknow.

7. That ~~xxxxxxxxxx~~ the contents of para 5(4)
(5) & (6) of the application ~~xxxxxxxxxxxxxxxxxxxx~~
need no comments from the answering deponent.

8. That in reply to the contents of para
5(7) of the application it is submitted that the orders
for transfer/posting of the applicant to Military Farm



PLS

-4-

Dehra Dun were issued by the DDMF HQrs. Central Command vide his letter dated 16 Feb. 88 and Movement order dated 19 Feb. 88 was issued by Military Farm Lucknow.

9. That in reply to the contents of para 5(8) of the application it is submitted that the applicant ~~xxxxxx~~ was not given the job of safaiwala but was instructed to work in MT Section vide office order No.90 dated 24.2.88 which he has noted and was required to work as MT Cleaner in accordance with duties of Farm Hand as laid down by the Department.

10. That in reply to the contents of para 5(9) of the application it is submitted that proper office order was issued to assign the duty to the applicant as an MT ~~xxxxxx~~ Cleaner in MT Section.

11. That in reply to the contents of para 5(10) of the application it is submitted that necessary movement order was issued on 06 April 88 to the applicant to report back to Military Farm Lucknow but he wrote on the Movement order that "Main Nahim Jaunga aur appeal karunga".

12. That the contents of para 5(11) of the application are incorrect hence denied and in reply it is submitted that enclosures no.7 has not found attached with the appeal, as stated.



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13. That in reply to the contents of para 5(12) of the application it is submitted that necessary comments on the notice dated 16.7.88 were furnished to DDMF HQrs. Central Command vide letter No. PF/Ayodhya Prasad dated 29 Jul. 1988.

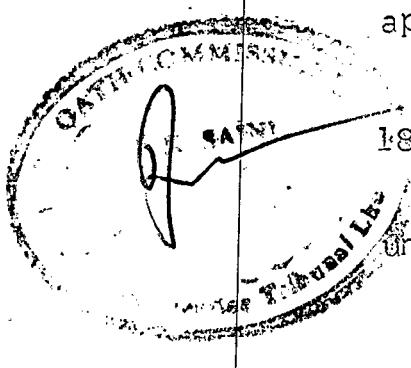
14. That the contents of para 5(13) & (14) of the application need not comments.

15. That in reply to the contents of para 5(15) of the application it is submitted that the salary will be paid by Mily. Farm Lucknow and the intervening period of his stay at Mily Farm Dehradun was treated as on temp. duty vide DDMF letter No. 660416/1/Gp-D'/DDM/E'MF/2 dated 04 Apr 88.

16. That the relief sought by the applicant ~~wikkkxanx~~ under para 7 (i) to (iv) will be considered only after the applicant to report back to Military Farm Lucknow as suggested in letter telegram dated 1.8.88.

17. That the contents of para 7(v) of the application are not admitted.

18. That the grounds taken by the applicant under para 8(1) to (4) ~~xxx~~ of the application are



PG

not tenable in the eyes of law.

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

COUNTERSIGNED

Deponent.

Lucknow, 20/8/2017 अधिकारी संघ कार्यालय

मुख्य अधिकारी कार्यालय

Dated: 14/8/2017 Deputy Director Major

HO Central Command

Verification.

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 22 are true to my personal knowledge, those of paragraphs 3 to 17 are believed by me to be true on the basis of records and information gathered and those of paragraphs 18 to 19 are

COUNTERSIGNED

are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material facts has been concealed.

Deputy Director Major
HO Central Command

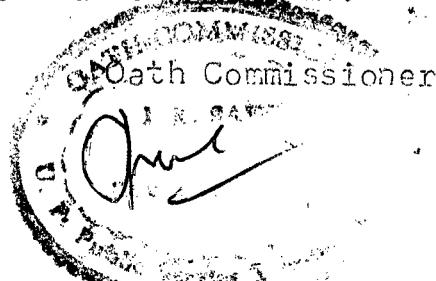
Deponent.

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

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

Solemnly affirmed before me on
at an/pm by the deponent who is identified by
Shri VK Chaudhary Advocate, Lucknow.

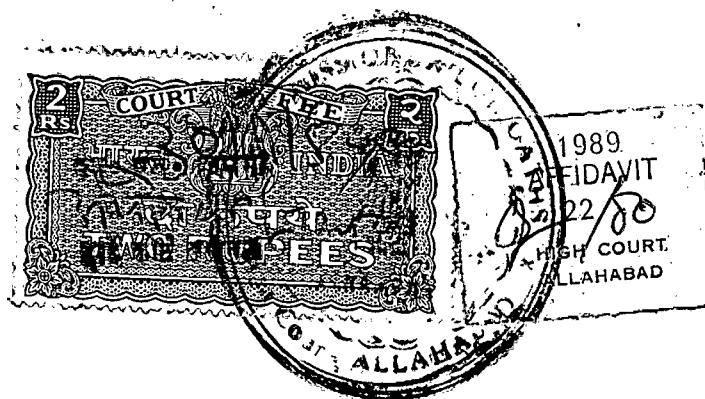
I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained to him by me.



Before the Administrative Tribunal Circute Bench,

L u c k n o w

O.A.No. 29 of 1989(L)



Ayodhya Prasad

... Petitioner

Versus

Dy. Director, Military Farms,
Headquarter Central Command,
Lucknow and others.

... Opp. parties.

REJOINDER AFFIDAVIT TO THE COUNTER AFFIDAVIT

FILED BY THE OPPOSITE PARTIES

I, the deponent Ayodhya Prasad aged about 34 years son of Sri Sant Lal Resident of Village and Post Arjun Ganj, Lucknow posted as Farmhand at Military Farm Dehradoon do hereby solemnly affirm and state on oath as under :-

1. That the deponent is applicant in the above noted application as such he is well conversant with the facts and circumstances of the case.

(ASV)

He has read the counter affidavit filed by the opposite parties and understood the same as such is giving parawise reply hereinunder :-

2. That the contents of para 1 and 2 of the counter affidavit need no reply.

3. That the contents of para 3-A of the Counter Affidavit are admitted that the applicant was permanently transferred from Military Farm, Lucknow to Military Farm Dehradoon and he has joined his duty at Military Farm Dehradoon on 24.2.1988.

4. That in reply the contents of para 3-B of the counter affidavit it is submitted that as stated in the para 4, 5, 6 and 7 of the application the applicant was permanently transferred from Military Farm Lucknow to Military Farm Dehradoon on his own request/expenses after considering his appeal as certain notorious persons had given open threat of assault and murder of applicant in the farm on Lucknow. In pursuance to the said order dated 16.2.1988 the petitioner had joined his duties at Military Farm Dehradoon on 24.2.1988. However, after joining at Military Farm Dehradoon the respondent no. 2 on 21.3.1988 assigned the duties of Safaiwala to the applicant without



Ramdev

(65)

considering the work and conduct of the applicant. Feeling aggrieved by the aforesaid action of the respondent No. 2 the applicant has requested to him to give and assign the applicant duties of The nature written work, which work he was doing ever since of his initial appointment but the respondent no. 2 has refused to assign the work of writing for the applicant. Against which the applicant moved an application/representation to the respondent no. 2 for assigning the duties of written work to the applicant. However, after receiving the representation of the applicant the respondent no. 2 became annoyed and bias from the applicant, and passed the impugned order of transfer/ movement in a most illegal and arbitrary manner and with malafide intention. It would be relevant to state here that when the applicant was posted at Lucknow he had requested for transferring him from Military Form Lucknow to any other place because of fear of murder and assault as such he was permanently transferred on his own expenses from Military Form Lucknow to Military Form Dehradoon. But the impugned order dated 6th April 1988 has been passed by the respondent treating his transfer as temporary while he was permanently transferred. If a person has been transferred on his own expenses then it can not be treated as temporary transfer.

5. That in reply to the contents of para 4

ASU

of the Counter Affidavit the contents of para 1 to 4 of the application are reiterated to be correct.

6. That the contents of para 5 of the Counter Affidavit are wrong and incorrect and as such the same are denied. and in reply the contents of para 5-1 of the application are reiterated to be correct.

7. That in reply to the contents of para 6 of the Counter Affidavit para 5 (2) & (3) of the application are reiterated to be correct.

8. That in reply to the contents of para 7 of the counter affidavit does not call for any reply. However, the contents of para 5 (4)(5) and (6) of the application are reiterated to be correct.

9. That the contents of para 8 the counter affidavit are wrong and incorrect and in reply the contents of para 5 (7) of the application are reiterated to be correct.

10. That the contents of para 9 of the counter affidavit are wrong and incorrect and as such the same are denied and in reply the contents of para 5 (8) of the application are reiterated to be correct. It is further submitted

Q/S 89
30/8/89

B. J. D.

ASS

that the applicant was given the job of Safaiwala in a illegal and arbitrary manner and with malafide intention.

11. That the contents of para 10 of the counter affidavit are wrong and incorrect and the same are denied and in reply the contents of para 5 (9) of the application are reiterated to be correct. It is further submitted that the application was instructed to the job of Safaiwala.

12. That the contents of para 11 of the counter affidavit are wrong and incorrect and the same are denied and in reply the contents of para 5 (10) of the application are reiterated to be correct. It is further submitted that impugned order dated 6th April, 1988 have been passed with malafide intention and in an illegal and arbitrary manner.

13. That the contents of para 12 of the counter affidavit are wrong and incorrect and as such the same are denied and in reply the contents of para 5 (11) of the application are reiterated to be correct.

14. That in reply to the contents of para 13 of the counter affidavit the contents of para 5 (12) of the application are reiterated to be correct.



[Handwritten signature]

15. That the contents of para 14 of the counter affidavit need no reply. However, the contents of para 5 (13) and (14) of the application are reiterated to be correct.

16. That in reply to the contents of para 15 of the counter affidavit the contents of para 5 (15) of the application are reiterated to be correct. It is further submitted that the applicant has not been paid his salary since March, 1988 till date resulting in starvation to the applicant and his family in a most illegal and arbitrary manner. If the applicant is compelled to join at Lucknow he would certainly be murdered of which fact the respondents are fully aware.

17. That in reply to the contents of para 16 of the counter affidavit it is submitted that relief sought by the applicant under para 7(I) to 7 (IV) are just and proper and as such the same should be allowed in the interest of justice.

18. That in reply the contents of para 17 of the counter affidavit it is submitted that the application should be allowed and award the cost.

19. That in reply the contents of para 18 of the counter affidavit the contents of ground

ASR

mentioned in the para 8 (1) to 8(7) are reiterated to be correct and the application should be allowed on the ground mentioned in this paragraphs.

20. That the contents of para 19 of the counter affidavit are wrong and incorrect and as such the same are denied. The facts, reasons and grounds mentioned in the application, the application filed by the applicant is liable to be allowed with cost upon the opposite parties.


Deponent

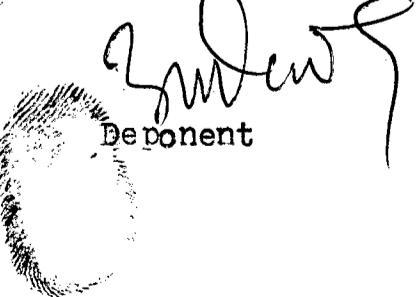
Lucknow

Dated : 30-8-89

VERIFICATION

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

No part of it is false and nothing material has been concealed so help me God.


Deponent

Lucknow

Dated : 30-8-89

RP

I identify the deponent who has
signed before me.

Rajiv

clerk

Solemnly affirmed before me on 30-8-89 at 9.30 AM/PM
by the deponent Sri Ayodhya Prasad, who is identified
by Sri Brij Nandan Srivastava, Clerk to Sri S.C.Misra,
Advocate, HighCourt, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent
that he understands the contents of this affidavit
which has been read over and explained by me.

Rajiv

Rajiv Lochan Srivastava
OATH COMMISSIONER

22/8/89 Date 30-8-89

Rajiv

