

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

106 OF 1989(C)
CAUSE TITLE

NAME OF THE PARTIES Ali Harder, Applicant

Versus

Union of India Respondent

Part A.

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CERTIFICATE

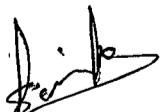
Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Dated 10/08/2011

Counter Signed.....

(Signature)

Section Officer/In charge


Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 106 of 1989(L) AV

APPLICANT (s) Ali Haider

RESPONDENT(s) Union of India (in Secretary of
Information Broadcast, Shashi Bhushan
New Delhi 82 others)

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	No, the application is in old form
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	only 2 copies have been filed
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	N.A.
(c) Has sufficient cause for not making the application in time, been filed ?	N.A.
4. Has the document of authorisation/Vakalat-nama been filed ?	Yes
5. Is the application accompanied by B.D./Postal-Order for Rs. 50/-	Rs. 00 834512 for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Yes
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

O.A. No. 106/89(L)

REGISTRATION No. of 198

APPELLANT
APPLICANT

Ali Haider

(A3)

VERSUS

DEFENDANT
RESPONDENT

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
16/5/89	<p><u>Hon' Mr. K.J. Raman, A.M.</u></p> <p>Shri A. Srivastava, learned counsel for the applicant is present. Issue notice to the respondents, to show cause why the application be not admitted and interim relief asked for be not granted. List this case on <u>24-5-89</u> for <u>admission</u>.</p> <p><i>AM</i></p> <p>A.M.</p> <p>(sns)</p>	<p>AM Notice issued 16/5/89</p> <p>AM Notices were issued to the respondents on 16/5/89 through post. Or directed the court's order on 24/5/89.</p> <p>AM No order was issued to the respondents on 16/5/89.</p> <p>AM No order was issued to the respondents on 16/5/89.</p>
<u>24/5/89</u>	<p><u>AM</u></p> <p>No Sitting. Adjourned to 30/5/89 for admission.</p> <p><i>24/5</i></p>	<p>AM No order was issued to the respondents on 16/5/89.</p> <p>AM No order was issued to the respondents on 16/5/89.</p> <p>AM No order was issued to the respondents on 16/5/89.</p>
<u>30/5/89</u>	<p>No Sitting. Adjourned to 6/6/89 for admission.</p> <p><i>AM</i></p> <p>AM</p>	<p>AM No order was issued to the respondents on 16/5/89.</p> <p>AM No order was issued to the respondents on 16/5/89.</p> <p>AM No order was issued to the respondents on 16/5/89.</p>
6-7-89.	<p>No Sitting. Adjourned to 21-8-89.</p> <p><i>AM</i></p>	<p>AM Two Misc Applications Numbered "C.M. Am No 158/89 (V) & C.M. Am No 159/89 (I) filed by learned counsel for the applicant for interim & permanent relief respectively.</p> <p>AM The application was submitted for order.</p> <p>AM</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

C.M.H. No. 158/89 (L)

C.M.P. No. 159/89 (L)

REGISTRATION NO. 106th of 1989.

(P.M.)

APPELLANT
APPLICANT

Ali Habib

DEFENDANT
RESPONDENT

VERSUS

Union of India & ors.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
6-6-89	<p>Hon' Mr. D.S. Misra, A.M.</p> <p>(1) Misc Application No. 158/89 (L). By this application the applicant has sought amendment of the petition filed earlier. The amendment is allowed and may be incorporated in the claim petition within a week. Fresh notices be issued to the opps. to file reply within a month. List it for hearing on admission on 10-7-89.</p> <p>(2) Misc Application No. 159/89 (L). By this application the applicant has prayed that the operation of the reversion order dated 16-3-89 (copy Annex A-8) may remain stayed till the disposal of the original application. I have heard the learned counsel for the applicant and I am of the opinion that in case the applicant succeeds in his prayer contained in the the original application he will be financially compensated adequately and there is no justification for grant of interim relief at this stage. The prayer for interim relief is rejected.</p>	<p>O/R Notice served by 3/7/89</p> <p>Amendment made today</p>

(514)

20/6

O.A. 106/89 (L)

AS

10.7.89

Hon. D.K. Agrawal, I.M.

Counsel for the applicant is present. On the request received on behalf of the respondent's counsel, the case is adjourned to 22.8.89 for orders/admission.

JP

T.M. OR

This case is fixed today by the order of Hon'ble V.C.
The learned counsel for applicant has informed
that he has submitted his
objection to the application
submitted for admission.

Hon'ble D.K. Agrawal, I.M.

10-8-89 The applicant is present in person and states that his counsel is not available. Adjourn this case on 5-9-89 for orders/admission.

JP

T.M.

OR

Case is submitted for admission

L
21/11

OR

As directed by the court's order dt. 4.7.89,
no supplementary counter
has been filed.

~~Submitted for admission.~~

Submitted for order of admission
on C.M. No. 106/89 (L)

W
14/11

CA 106/09(U)

Ab

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

On the request of both the parties,
the case is adjourned to 2.1.90.

AM

V.C.

OR

Submitted to
hearing

1/1/90

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

2/1/90

On the request of Counsel for the applicant,
the case is listed for hearing on 5-1-90.

AM.

V.C.

(sns)

Submitted to
hearing

1/1/90

10/1/90

Case not reached. Adj. to 5.3.90

10/1/90

5.3.90

Hon' Mr. J.P. Sharma, J.M.

No sitting of Division bench
The case is adjourned to 28.5.90 for
hearing

J.M.

28.5.90

Hon' Mr. P.C. Jain, A.M.

Hon' Mr. J.P. Sharma, J.M.

Mr. M. Dubey Proxy Counsel
for Mr. B. Solomon, counsel for
the applicant states that Mr. B. Solomon
prays for adjournment on personal
ground. Learned counsel for the
respondent has no objection. List
on 3-7-90 for hearing.

V

J.M.

No sitting Adj. to 6/8/90

C.M.

A.M.

3-7-90

OA 106/89 ②

21/8/90

No setting Adi to 11/9/90

②

A2

6/2/91

(All)

Hon. Mr. Justice K. Nath, re.
Hon. Mr. K. Obeyya, Ans.

Put up tomorrow for
hearing at 3.30 P.M. as
prayed by the learned
counsel for the applicant.

DR
VC.

AM.

7.2.91
Hon. Mr. Justice K. Nath, re
Hon. Mr. K. Obeyya, Ans

Put up tomorrow on 8.2.91
for hearing

DR
VC

7.2.91
Hon. Mr. Justice K. Nath, re
Hon. Mr. K. Obeyya, Ans

Case not reached case is
adjourned to 18.3.91.

DR
BOC

8.3.91

No Sittings Adj. to 22.5.91

DR

8.5.91

No Sittings Adj. to 9.8.91

8.9.91

No Sittings Adj. to 4.9.91

DR

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

Registration O.A. No. 106 of 1989

Ali Haider Applicant.

Versus

Union of India and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

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

The applicant was initially appointed as Lower Division Clerk at the Directorate of Field Publicity at Lucknow on 1.12.1967 and was subsequently confirmed on the said post. In the year 1984, two posts of Field Publicity Assistants fell vacant and it was decided by the Department to fill up those vacancies by way of appointment from amongst the eligible departmental candidates. A D.P.C. was set up for making this adhoc appointment and the applicant undergoing the process of D.P.C. came out successful and consequently, he was appointed, as his name was in the panel which was made by the said D.P.C. Now, as there were two posts and it was decided that one post 50% vacancies were reserved for the candidate belonging to the SC/ST is available and in case of the non-availability of the candidates, the posts have been treated as unreserved.

2. The applicant was joined the post of Field Publicity Assistant on 7.1.1985. After 4 and half year, the applicant was asked to appear before the D.P.C. vide a letter dated 24.4.1989. The applicant represented against the same and pointed out that he has already appeared before the D.P.C. as such, the applicant's representation did not find favour to the respondents.

Contd ..

who carried on the selection process with the result the impugned order of reversion was passed against the applicant and he was reverted to his original post. Failing to get any relief from the department, the applicant approached to the Tribunal.

from regularisation. The application is disposed of with the above observations. Parties to bear their own costs.

Member (A)
Member (A)

L
Vice-Chairman

Dated 30.1.1992

(n.u.)

File on 15-5-89
15/5
A2

In the Central Administrative Tribunal, Circuit Bench,
Lucknow

I N D E X

O.A.No. 106 of 1989(L)

District Sultanpur/Lucknow

Between

Ali Haider

.....Applicant

And

Union of India and others

Opposite parties

1. Application U/s 19 of the
Administrative Tribunals Act

1 to 13

2 Annexure No 1

15

Lucknow, dated :

May 15, 1989

Aunrag Srivastava
(AUNRAG SRIVASTAVA)
Advocate
Counsel for the applicant

Ali Haider

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW

O.A. NO. 106 OF 1989(4)

(Application Under Section 19 of the Administrative
Tribunals Act 1985)

District Sultanpur/Lucknow

Between

Ali Haider

...Applicant

AND

Union of India and others

...Respondents

1. Particulars of the Applicant:

(i) Name of the applicant

: Ali Haider

(ii) Name of Father

: Late Mohd Hashim

(iii) Age of the applicant

: 42 years

(iv) Designation and
particulars of Office

: Field Publicity Assistant,
Directorate of Filed
Publicity, Govt of India,
Lal Diggi, Civil Lines,
Sultanpur.

(v) Office Address

: -do-

(vi) Address for service of
notices

: 110/143 East Naya Gaon,
Meerganj, Lucknow.

2. Particulars of Respondents:

(i) Union of India through the Secretary


(Ali Haider)
P.A.

PHW

Ministry Information and Broadcasting,

Shastri Bhawan, New Delhi.

II. Directorate of Field Publicity, Govt of India, East Block IV, Level III, R.K. Puram New Delhi through its Director.

III. Joint Director, Directorate of Field Publicity 19-A Vidhan Sabha Marg, Lucknow.

3. Particulars of order against which the application is made. The application is against the following order:

20/2/USH/36/Emu/0084-dated 24.4.89.

The present application is directed against the illegal and arbitrary action of the Respondents in asking the applicant to re-appear in the tests and interviews for the post which he is presently holding and the applicant further prays for regularisation of his service.

4. Jurisdiction of the Tribunal:

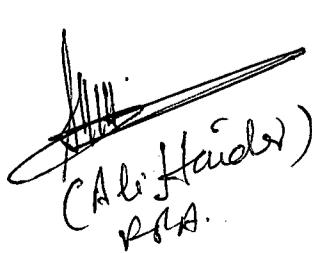
The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation:

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

6. Facts of the Case:

The facts of the case are as follows:-


(Ali Haider)
RFA

(A.S)

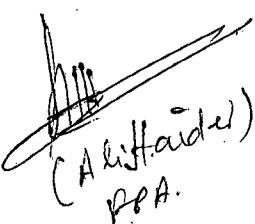
i. That the applicant was initially appointed as Lower Division Clerk at the Directorate of Field Publicity at Lucknow on 1.12.1967 and was subsequently confirmed on the said post.

ii. That the applicant has passed B.A. examination from Lucknow University and holds 35M.M. Projector Operator License and was also eligible and qualified to be appointed in the technical cadre of the department.

iii. That in the year 1984 two posts of Field Publicity Assistants fell vacant and it was decided by the Department to fill up those vacancies by way of appointment from amongst the eligible departmental candidates. A decision of the department to fill up the vacancies from amongst the departmental candidates dated 12.11.1984 is being filed herewith as Annexure No.A1 to this application.

iv. That a perusal of Annexure A1 would reveal that it was decided by the department to select a panel from amongst ~~names~~ eligible and willing ~~the~~ departmental candidates in the Region to fill up few temporary vacancies on adhoc basis and it was also decided that 50 percent of the vacancies will be reserved for candidates belonging to the Scheduled Castes/ Tribes and it was also provided if no suitable candidates is available all the vacancies will be treated as unreserved.

v. That the qualifications as prescribed under the said order ^{are} as follows:-


(A. S. H. P.P.A.)

1. Matriculation of a recognised University or its equivalent examination.
2. Cinema Operators License in 35 MM and familiarity with the operation of 16 MM projector, public address equivalent, Tape and wire recorder, petrol driven generator and other electronic visual used in the mobile cinema vans.
3. Back-ground of social work in village ability for giving field talks in regional language.
4. Three years experience in the operation of equipment referred to in (2) above either in a State or Central Publicity Unit or in well established workshop of factory.

The applicant submits that he fulfills all the above requirements and is fully qualified to be appointed on the post of Field Publicity Assistant in regular post.

vi. That in pursuance of the decision taken by the department which was circulated by Field Publicity Officer, the applicant applied for the post of Field Publicity Assistant and was called for test and interview on 7.12.1984 vide interview letter dated 26.11.1984. A true copy of the said interview letter dated 26.11.1984 is being filed herewith as Annexure No. A-2.

vii. That the applicant appeared in the said test and interview and was selected and appointed on the post of Field Publicity Assistant vide letter dated 18.12.1984. A true copy


Ali Haider
P.O.N.

of the letter dated 18.12.1984 is being filed as Annexure A-3 to this application.

viii. That the applicant was relieved from the post of Lower Division Clerk on 3.1.1985 and joined on the post of Field Publicity Assistant on 7.1.1985 at Sultanpur.

ix. That since then the applicant is working on the post of Field Publicity Assistant at Sultanpur and his work and conduct has always remained satisfactory and his work has always been appreciated by his superiors.

x. That the applicant has never been communicated any adverse entry and he believes that his service record is excellent throughout.

xi. That after having worked for about four and a half years on the post of Field Publicity Assistant, the applicant has now been asked to reappear before the ~~Administrative~~ Departmental Promotion Committee vide letter dated 24.4.1989. A true copy of the letter dated 24.4.1989 is being filed herewith as Annexure No. A4 to this application.

xii. That subsequently the applicant came to know that vide letter dated 26.11.1988 it was directed by the department to fill up the four ~~vacancies~~ posts of Field Publicity Assistant in the ~~Central~~ Eastern Region and out of these four posts two posts were to be filled up by promotion from amongst the departmental candidates. A true copy of the letter dated

26.11.1988 is being filed herewith as Annexure No.A5 to this application.

xiii. That immediately after receiving the letter requiring the applicant to reappear before the Departmental Promotion Committee, he preferred a representation before the Respondent No.3 stating therein that since the applicant had already faced the Departmental Promotion Committee and was empaneled in the selection list was also appointed on the post of Field Publicity Assistant and was working on the said post for the last four and half years therefore he can not be required now to reappear in the examination and instead the applicant may be made permanently on the post on which he was working. A true copy of the representation dated 6.5.1989 is being filed herewith as Annexure No.16 to this application.

xiv. That the applicant submits that under Rule 3(1) of the Central Civil Services (Temporary Services) Rules, 1965 it is provided that a Government servant shall be deemed to be in quasi-permanent if he has been in continuous in temporary service for more than three years and the Appointing Authority, being satisfied, having regard to the quality of his work, conduct and character, as to his suitability for employment in a quasi-permanent capacity under the Government of India, has made a declaration to that effect. The above rule reads as under:-

"3. When a Government servant shall be deemed to be quasi-permanent.- A government servant shall be deemed to be in quasi-permanent service:-

~~W. H. H.~~
(W. H. H.)

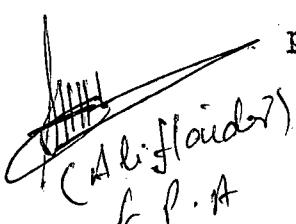
(i) if he has been in continuous temporary service for more than three years; and

(ii) if the appointing authority, being satisfied, having regard to the quality of his work, conduct and character, as to his suitability for employment in a quasi-permanent capacity under the Government of India, has made a declaration to that effect."

xv. That a perusal of the above rule would show that if a temporary government servant has put in continuous service more than three years and the appointing authority after being satisfied has made a declaration then the said Government servant shall be deemed to be quasi-permanent.

xvi. That the applicant submits that he has put in service more than three years in continuous service on the post of Field Publicity Assistant, as a matter of fact he has worked on the said post for four and half years and he is still working on the said post. His quality of work, conduct and character has always remained satisfactory and above average. There is no adverse entry against him, he has never been charge sheeted and therefore the Appointing Authority has failed to exercise his powers under Rule 3 issue a declaration to the effect that the applicant would be deemed to be quasi-permanent.

xvii. That the applicant submits that the post which he is holding is a substantive post and is working on the said post in substantive capacity.


(Clifford f. P. A.)

f2e

xviii. That the applicant is advised to state that a substantive vacancy is not only one which is defined in the service rules but it is well settled law that a person to hold a post in a substantive capacity when he holds it for a indefinite period specially of long duration in contradiction of a person who holds it for a definite or temporary period or holds ~~xx~~ ~~xx~~ it on probation subject to confirmation. It is further submitted that if the appointment is to a post and the capacity in which the appointment is made indefinite duration, and a person so appointed qualifies the test prescribed it will be said that the post was hold by the incumbent in a substantial capacity.

xix. That the post on which the applicant is presently working is still existing and the department is illegally requiring the applicant to reappear before the Departmental Promotion Committee whereas he is already appeared and has successfully passed the test and interviews.

xx. That ~~xx~~ since the appointment of the applicant was against the substantive vacancy, therefore his appointment was in a regular capacity and after having worked for about four and half years he can not be compelled to reappear before the Departmental Promotion Committee as he has also acquired seniority in the cadre of Field Publicity Assistant and if he is compelled to reappear in the examination and given a fresh appointment he will also lose his seniority of about four and half years in the cadre.

A. H. (Aliff Haider)
f.l.A.

xxi. That ~~xx~~ ~~xx~~ Tests and Interviews are scheduled to be

(P20)

commence on 9.5.1989 and will continue till 11.5.1989. That since the applicant has represented to the authorities concerned he has not appeared in the Test and Interview again as requiring him to reappear before the Departmental Promotion Committee is illegal and arbitrary.

xxii. That it would become clear from the above facts that in case fresh selections are made on the post of Field Publicity Assistant, the effect would be, that the applicant would be reverted to the post of Lower Division Assistant and he will not only ~~be~~ revert, but also lose his seniority on the post of Field Publicity Assistant.

xxiii. That compelling the applicant to reappear in the Test and Interview is not only illegal and arbitrary but is also violative of the imperatives of Articles 14 and 16 of the Constitution of India.

xxiv. That in view of Rule 3 of the Central Civil Services (Temporary Services) Rules 1965 the applicant would be deemed to be quasi-permanent employee and simply because the Appointing Authority has failed in his duties to make a declaration to that effect, he would not be deprived of the facts to be treated as a regular appointment.

(xxv) a-④

xxv. That the applicant is filing the instant application before this Hon'ble Tribunal on the following amongst other:

G R O U N D S

Because the applicant can not be compelled to


(A. H. H. A.)

(a)

K22

:10:

reappear before the Departmental Promotion Committee when he has already appeared before the Departmental Promotion Committee and has been selected empanelled for the post of Field Publicity Assistant.

(h) Because having worked for about four and half years on the post of Field Publicity Assistant in a substantive capacity, the applicant is entitled for permanency and seniority in the department.

(c) Because under Rule 3 of the Central Civil Services (Temporary Services) Rules, 1965 the applicant would be deemed to be a quasi-permanent government servant and the benefit of promotion can not be taken away simply on the grounds that the Appointing Authority has failed to exercise his powers under the said Rule in making the declaration to that effect when the work, conduct and character of the applicant has all along been satisfactory and above average.

(d) Because holding of ~~any~~ tests and interviews for the post on which the applicant is working is illegal, arbitrary and without jurisdiction and the applicant is entitled for permanency and absorption into permanent post.

(e) Because after having worked for about four and half years the applicant is entitled for permanency and seniority on the post of Field Publicity Assistant in the department.

1023

7.

Details of the remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service Rules. The copy of the representation preferred raising ~~xx~~ his grievances has been filed as Annexure No. A6 to this application.

8.

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 the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

9.

Relief Sought:

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

(i) That the Respondents may be directed not to compell the applicant to reappear before the Departmental Promotion Committee for selection to the post of Field Publicity Assistant.

(ii) That the Opposite parties may kindly be further commanded to treat the applicant in regular service for the post of Field Publicity Assistant with effect from 7.1.1985.

~~(Ali Haidar)~~
f. h. A

Aziz

(iii) That the Respondents may further be directed to fix the seniority of the applicant for the post of Field Publicity Assistant with effect from 7.1.1985.

(iv) That any other appropriate direction as may be deemed just and proper may also be issued to the Respondents.

(v) That costs of the application may be allowed.

(vi) — (a) —

10. Interim order, if any, prayed for

Pending final decision on the application, the applicant seeks issue of the following interim relief:

(a) That the applicant may be allowed to continue on the post of Field Publicity Assistant at Sultampur.

(b) That the result of the interview and test held for the post of Field Publicity Assistant may not be declared or in the alternative one post of Field / Publicity Assistant may be kept reserved.

11. Particulars of Postal Orders in respect of

Application Fee:

1. Number of Indian Postal Order
2. Name of the issuing Post Office
3. Date of issue of Postal order
4. Post Office at which payable

One
Aminabad, Lucknow
11-5-1989
Lucknow

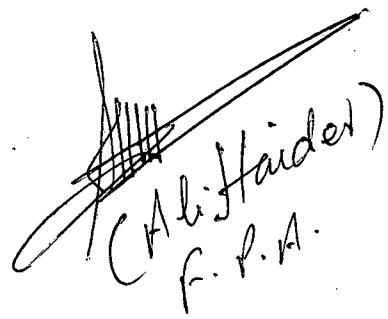
12. List of Enclosures:

1. Annexure No. A1: A decision of the department to fill up the vacancies amongst the departmental candidate dated 12.11.1984.

Ali Haider
f.p.A.

PPS

2. Annexure No.A2: True copy of the said interview letter dated 26.11.1984
3. Annexure No.A3: True copy of letter dated 18.12.1984
4. Annexure No.A4: True copy of letter dated 24.4.1989
5. Annexure No.A5: True copy of letter dated 26.11.1988
6. Annexure No.A6: True copy of representation dated 6.5.1989.


(Ali Haider)
f. f. A.

120

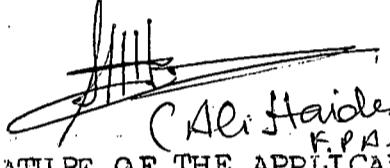
:14:

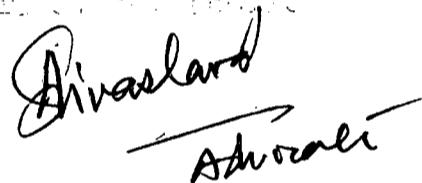
Verification

I, Ali Haider, son of Late Mohd Hashim, aged about 42 years working as Filed Publicity Assistant in the Directorate of Field Publicity, Government of India, Lal Daggi, Civil Lines, Sultanpur do hereby verify that the contents of paras 1, 2, 3, 4, 5, 6(1) to 6(XII), 6(XVI), ~~6(XXII)~~, 7, 8, 9, 10, 11, 12, 6(XV), 6(XVII), 6(XVIII), 6(XIX) believed to be true on legal advice and that I have not suppressed any material facts.

Lucknow dated

May 15. 1989


(Ali Haider)
F.P.A.
SIGNATURE OF THE APPLICANT


Aslam
Advocate

लिखित डाक सेवा

15
A27

सं02/एडम/36/एफी020/84-

भारत सरकार
क्षेत्रीय प्रचार निदेशालय
कायालिय संघर्ष निदेशक (उ0प्र0ष0प०)
19-र, विद्यान सभा यांग

जु. २१८८/६४
कृ० ५०६०६०
सुन्ता०१५८

लेखनका : दि ० 24/4/1989

विषय: - क्षेत्रीय प्रचार सहायक के रिक्त पद हेतु प्रयोगात्मक/लिखित पौरीक्षा
और साक्षात्कार हेतु बुलाया जाना ।

इस कायालिय अधिकारी के सम संघर्षक पत्र दिनांक 8/4/89/
12/4/89 द्वारा क्षेत्रीय प्रचार सहायक के रिक्त पद के लिए प्रयोगात्मक/
लिखित तथा साक्षात्कार हेतु दिनांक २१५०६० को ठीक ९-३० बजे प्रातः
उपरोक्त कायालिय में बुलाया गया था । कुछ प्रश्नाशिल कारणों से चपन
तो तिथि में परिवर्तन करना आवश्यक हो गया है । अतः आप अब
दिनांक २१५०६० के स्थान पर दिनांक ११५०६० को ठीक ९-३० बजे
प्रातः में परीक्षा हेतु उपर्युक्त कायालिय जो आकाशवाणी भवन के शामने है,
अपनी उपस्थिति दें ।

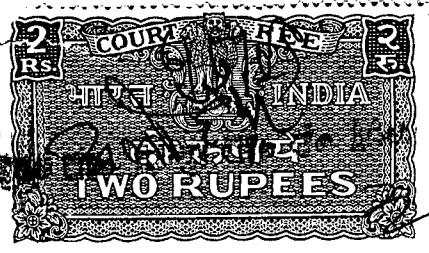
समाजिक वृत्त
दृष्टि सहायक प्रावेशिक अधिकारी
लखनऊ

प्रतिलिपि :

(1) सेवायोजन कायालिय को सूचनार्थ ।
(2) क्षेत्रीय प्रचार अधिकारी सुन्ता०१५८ को रूचनार्थ रवं आवश्यक
कारबिहो हेतु ।

~~Aliffaid~~
P.M.

*R. C. Singh
A.D.*



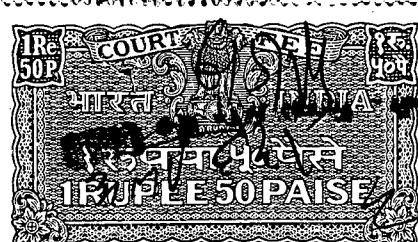
व अदालत श्रीमान्

महोदय

[वादी] अपीलान्ट

श्री

का वकालतनामा



C. A. No.

(वादी अपीलान्ट)

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१८ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री ANURAG SINGH, M.A.,

वकील

महोदय

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ
इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरबी व
जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी
ओर से डिगरी जारी करावे और रूपया बसूल करें या सुलहनामा व इकबाल
दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से
दाखिल करें और तसदीक करे मुकद्दमा उठावें या कोई रूपया जमा करें या
हमारी विषयकी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे
हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें--वकील महोदय
द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी
स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता
रहूँगा अगर मुकद्दमा अदम पैरबी में एक तरफा मेरे खिलाफ फँसला हो जाता है
उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख
दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर (Anil Haider)

Field Publicity Assistant

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १८ ई०

स्वीकृत

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW

I N D E X

In re:

O.A. No. 106 of 1989 (1)

District Sultanpur/Lucknow

Between

Ali Haider

..Applicant

AND

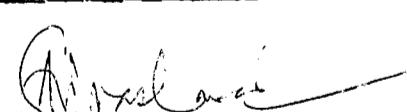
Union of India and Others

..Opposite parties

66

<u>Sl. No.</u>	<u>Particulars of documents</u>	<u>Page No.</u>
1.	Application u/s 19 of the Central Administrative Tribunal Act 1985	
2.	<u>ANNEXURE NO.A1</u> True copy of decision of the department to fill up the vacancies dated 12.11.1984	1 - 2
3.	<u>ANNEXURE NO.A2</u> True copy of the said interview letter dated 26.11.1984	3 - 4
4.	<u>ANNEXURE NO.A3</u> True copy of letter dt 18.12.1984	5 - 6
5.	<u>ANNEXURE NO.A4</u> True copy of letter dated 24.4.1989	7 - 8
6.	<u>ANNEXURE NO.A5</u> True copy of letter dated 26.11.1988	9 - 12
7.	<u>ANNEXURE NO.A6</u> True copy of representation dated 6.5.1989	12 - 15
8.	Vakalatnama	

Lucknow dated
May 15, 1989


(ANURAG SRIVASTAVA)
ADVOCATE
COUNSEL FOR THE APPLICANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW

O.A. NO. 106 OF 1989 (2)

District Sultanpur/Lucknow

Between

Ali Haider

..Applicant

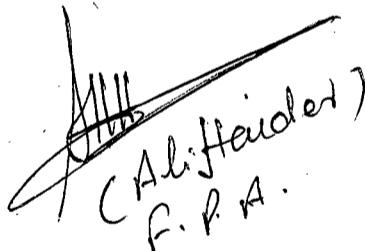
AND

Union of India and others

..Opposite parties

ANNEXURE NO.....A1

(Photostat copy of decision of the department to
fill up the vacancies of departmental candidate
dated 12.11.1984 is being annexed herewith)


(Ali Haider)
F. P. A.

2

IMMEDIATE

1131

N.2/ADM/36/FPA/84-85
GOVERNMENT OF INDIA
DIRECTORATE OF FIELD PUBLICITY
OFFICE OF THE JOINT DIRECTOR, U.P. (C.E.)

19-A, VIDHAN SABHA MARG,
LUCKNOW : NOVEMBER 12, 1984

All Field Publicity Officers,
in U.P. (CE) Region.

SUBJECT : FILLING UP THE POSTS OF FIELD PUBLICITY ASSISTANT

It has been decided to hold a DPC to select a panel of names from amongst the eligible and willing departmental candidates in the Region to fill up a few temporary vacancies in the posts of Field Publicity Assistant in the Region. The appointment will be made purely on adhoc basis for a period not exceeding one year. Fifty percent of the vacancies will be reserved for candidates belonging to the scheduled castes/ tribes. However, if no suitable candidate is available all vacancies will be treated as unreserved.

2. FPOs are requested to circulate the letter and forward applications from eligible and willing employees, at an early date, so as to reach this office not later than 25th November, 1984. The DPC meeting will be held sometime in the first week of December.

3. The application should full-fill the following qualifications :-

- (1) Matriculation of a recognised University or its equivalent examination.
- (2) Cinema Operators license in 35 MM and familiarity with the operation of 16MM Projector, Public address equipment, Tape and wire records, petrol driven generator and other electronic visual used in the mobile Cinema vans.
- (3) Back-ground of social work in village ability for giving field talks in regional language.
- (4) Three years experience in the operation of equipment referred to in (2) above either in a State or Central Publicity Unit or in well established workshop or factory.

~~Ali Haider~~
PFA

Sd/- (GAUTAM DUTTA)
JOINT DIRECTOR.

T.C.
Abdul Haider
Advocate

3

(A32)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW

O.A. NO. OF 1989

District Sultanpur/Lucknow

Between

Ali Haider

...Applicant

AND

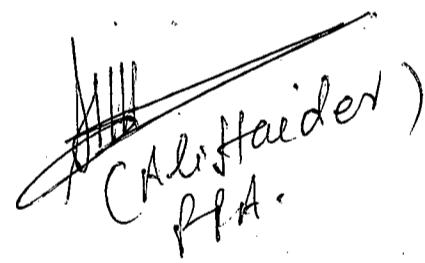
Union of India & Others

...Opp. Parties

ANNEXURE NO.....A2

(Photostat copy of interview letter dated 26.11.1984

of Field Publicity Officer is annexed herewith)


(Ali Haider)
P.P.A.

4
43

No.2/Adm/36/FPA/83-84
Government of India
Directorate of Field Publicity
Office of the Joint Director, UP(CE),

Registered

19-A Vidhan Sabha Marg,
Lucknow: November 26, 1984

S/ Shri

1. Ali Haider, LDC, Kanpur
2. Dilip Kumar, LDC, Lucknow
3. Girish Prasad, LDC, Jhansi
4. Suresh Chandra, LDC, Lucknow.

Subject: Recruitment for the post of Field Publicity Assistant.

For the selection of candidates for the post of Field Publicity Assistant in the Region, you are required to present yourself in the Office of the Joint Director, DFP, Lucknow, on 7.12.1984 at 10.00 AM for test and interview.

2. The test will include operation of 35 MM, 16 MM projectors, rewinding and joining of films, setting up of public address system, handling of tape recorder, both recording and playing; operation of generator and ability to locate minor defects/trouble in audio visual equipment.
3. The interview will be to judge the candidate's personality, aptitude, general knowledge and proficiency including ability to address public gatherings etc.
4. Candidates should bring in original High School/ or equivalent certificate, cinematograph licence and other necessary documents with a spare copy of each for verification purposes. Those belonging to SC/ST should bring the necessary certificate issued by competent authority.
5. The selected candidate will not be allowed to withdraw his name.
6. Travelling Allowance (without daily allowance) to and fro from the Headquarters of the candidate to Lucknow will be paid to ~~expenditure~~ departmental candidates.

Rajendra Pd.
(Rajendra Pd.)
Administrative Officer
for Joint Director

Copy to FPOs Kanpur and Jhansi for information and necessary action.

Ali Haider
(Ali Haider)
PDA
(Rajendra Pd.)
Administrative Officer
for Joint Director

Girish Prasad
(Girish Prasad)

5
A34

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW

O.A. NO. OF 1989

District Sultanpur/Lucknow

Between

Ali Haider

..Applicant

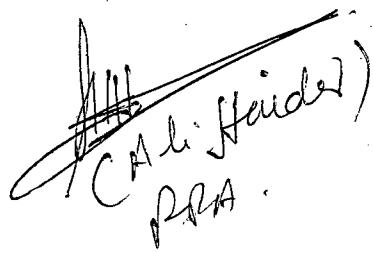
AND

UNION of India & Others

..Opp. Parties

ANNEXURE NO. 3A

(Photostat copy of letter dated 18.12.1984 is
annexed herewith)


Ali Haider
PRA

No.2/Adm/36/FPA/84-85 - 3405
Government of India
Directorate of Field Publicity
Office of the Joint Director, UP(CE),

(133)

19-A Vidhan Sabha Marg,
Lucknow: December 18, 1984

OFFICE ORDER

The undersigned hereby appoints Shri Ali Haider, LDC, Kanpur on ad-hoc basis in a purely temporary capacity, to the post of Field Publicity Assistant in the Field Publicity Office, Sultanpur on a pay of Rs.425/-pm in the pay scale of Rs.425/-15-530-EB-15-560-20-600 with other allowances admissible under the rules from the date he assumes charge of the post of Field Publicity Asstt. at Sultanpur Unit until further orders. The appointment may be terminated at any time without notice and without assigning any reasons.

2. The headquarters of Shri Ali Haider will be at Sultanpur for the present. The duties attached to the post involve constant touring by road or rail in rural areas.

Gautam Dutta)
Joint Director

✓ Shri Ali Haider,
Lower Division Clerk,
Field Publicity Office,
Kanpur.

Copy to:

1. Field Publicity Officer, Kanpur. Shri Ali Haider, LDC, may please be relieved after the Lok Sabha Elections are over.
2. Field Publicity Officer, Sultanpur.
3. The Director of Field Publicity, New Delhi.
4. The Pay & Accounts Officer, AIR, Lucknow.
5. Service Book/Personal file.

~~WILL~~
(California)
PSA

水水水水

P.C.
Divasalai Sri

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

7
X75

LUCKNOW

O.A.NO. OF 1989

District Sultanpur/Lucknow

Between

Ali Haider

...Applicant

Versus

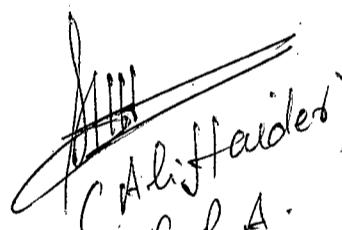
Union of India & Others

....Opp. Parties

ANNEXURE NO.....4A

(Photostat copy of letter dated 24.4.1989

is annexed herewith)


C. Ali Haider
f.p.A.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW

O.A. NO. OF 1989

District Sultanpur/Lucknow

Between

Ali Haider

..Applicant

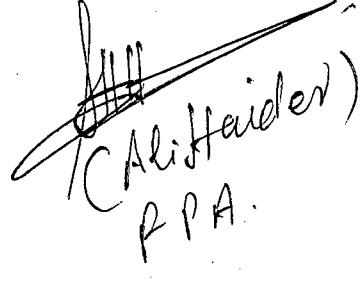
AND

Union of India & Others

..Opp. Parties

ANNEXURE NO.....5A

(Photostat copy of letter dated 26.11.1989 is
annexed herewith)


(Ali Haider)
PPA

स्पीकरा आपायक

०२/ खाम/३६/समीक्षा/८४-८५ /१०८।

भारत सरकार
छेड़ीय प्रधार निदेशालय,
कार्यालय द्वायुक्त निदेशक १००४०४०४०४०।
१९८, पिथान सभा मार्ग

ਲੰਘਨ ਦਿਨਾਂ 24/11/1988

समस्त भैरवीय प्रथार अधिकारी,
उ० प्र० म० पूर्व भैरव।

विषय :- यार रिक्त भेदीय प्रधार सहायक के पदों से दो पद 50%

के शायार पर विभागीय कर्मपारियें के यम द्वारा प्रोन्नति
से भरा जाना ।

यहाँ यह अपग्रेड कराना है कि उत्तर प्रदेश मध्य पूर्व रेल ने

कुल पार पद भैरवीय प्रधार स्थाय के विषय है इनमें से दो पद योग्य सुन सक्षम कर्मचारियों को ध्यन की प्रतिक्रिया से प्रोत्स्वाति दे कर भरा जाना है। विभागीय इन दो पदों में से स्थ पद अनुसूचित जाति के लिए आरक्षित है और दूसरा पद जनराल के लिए है। प्रथम परीक्षा उत्तर प्रदेश १५००० रुपये। में कार्यरत विभागीय कर्मचारियों को दी जानी है। उपलब्ध न होने पर अन्य लैंग की इस हेतु लिया जायेगा।

पदों देते निम्न शैक्षण्य योग्यता अभ्यास एवं प्रृष्ठे आपस्यक है।

विक्ती भी विश्वविद्यालय से डार्ट स्कूल तथा इनके समर्कों की योग्यता। 35 स्पष्टस्थ० लिनेमा मशीन के साथ । 16 स्पष्टस्थ० लिनेमा ब्रैक्स- मशीन को लगाने का काम बेलिङ साइडेन्स देते हो ।

परिवर्क संस्थाबपमेन्ट, ट्रैप स्टड वायर, रिकाफ्टिंग पेट्रोल से फैलने व
जनरेटर सेट और अन्य इलेक्ट्रॉनिक बिष्टुआल स्टड प्रोबाइल सिनेमा
बैन है अंतिमता हो, जान रखा ।

—243

3- द्वितीय भाग में पता करने का अनुसन्धान के साथ यावदें तथा
अन्य छेषों में किए जाने पाएं सामाजिक कार्यों का अनुसन्धान

4- दिनांक 30-11-88 को इस विभाग ॥ द्वितीय प्रधारमें देवा
के तीन वर्ष पूर्ण वर्ष लिए हो ।

5- अन्युपिक्त जाति/अन्युपिक्त जन जाति के लिए अधिकारम जरूर
आयु दिनांक 30-11-88 को 45 वर्ष और न्यूनतम 20 वर्ष
हो ।

6- बदामान्य ॥ जनरब ॥ के लिए क्षमा से क्षम 20 वर्ष से अधिक-
के तम दिनांक 30-11-88 को 40 वर्ष हो ।

आवेदन पत्र जिसके साथ योग्यता के प्रमाण हालतन हो, निम्न
प्रोफार्में में अनिवार्यतः दिनांक 6/12-88 को इस कार्यालय ॥ पहुँचे
इस तीर्थ के बाद पहुँचने पर उन्हें सीमालित करने में कठिनाई होगी।

(Ali Haider)
—2 पर

(A.M.)

1- नाम
 2- पदनाम
 3- रीक्षिक योग्यता
 4- क्या विदेशी प्राप्ति लेने का अधिकार तात्पुर्य है ?
 5- क्षमता क्या अनु० जाति/अनु० अक्षराति से प्राप्ति है ?
 6- पद विधि
 7- विभाग में प्रधान नियुक्ति के तिथि ।
 8- यांची तथा बन्ध केन में किस गये वायाचिक कार्य से अनु०
 9- किस अवधि विवरण

(अजहर हसैन)
 सहायक प्रादेशिक अधिकारो
 (कार्याधिकारी)

प्रतिलिपि :-

(1) निदेशक, क्षेत्रीय प्रचार निदेशालय, नई दिल्ली को सूचनार्थ । दो पद जो सोच्दे भर्तो भरा जाना है उसके लिए क्षेत्रीय सेवायेजन कार्यालय, लखनऊ को अलग से लिखा गया है । टेस्ट/इन्टरव्यू को तिथि आवेदन पत्रों के प्राप्त होने पर तय को जायेगो । तभी निदेशालय को सोनियर टेक्नोकल आफेसर/टेक्नोकल आफेसर जो कि चयन समिति के सदस्य हैं निर्धारित तिथि पर लखनऊ आने के लिए आग्रह किया जायेगा । ऐसो संभावना है कि टेस्ट 20- माह दिसम्बर 88 के 20 तारों रखो जायेगो अतः उपरोक्त अधिकारों के उपलब्धता को जानकारों देने का कष्ट करें ।

(2) नोटिस बोर्ड, संयुक्त निदेशक कार्यालय, लखनऊ ।

(अजहर हसैन)
 सहायक प्रादेशिक अधिकारो
 (कार्याधिकारी)

A.C.
 R. Vasudevan

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

LUCKNOW

O.A. NO. OF 1989

District Sultanpur/Lucknow

Between

Ali Haider

...Applicant

AND

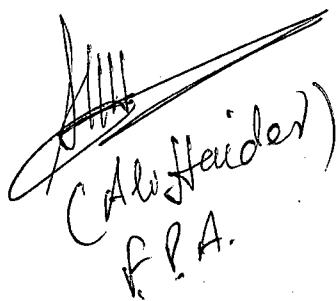
Union of India & Others

...Opp. Parties

ANNE XURE NO.....6A

(Photostat copy of representation dated

6.5.1989 is annexed herewith)


(Ali Haider)
f.l.A.

To:

The Joint Director,
Directorate of Field Publicity
Government of India,
19-A Vidhan Sabha Marg,
Lucknow (UP) C.E.

Through : Proper Channel.

Respected Sir,

The humble applicant, Ali Haider, Field Publicity Assistant, Sultanpur, respectfully states as under:-

1. That the applicant was appointed as a Lower Division Clerk in the Department w.e.f. 1.12.1967 and during the period of his employment his work and conduct have been satisfactory without any complaint or adverse report whatsoever.
2. That the recruitment for the post of Field Publicity Assistant was taken up in the year 1984 and the applicant alongwith three others namely S/Shri Dilip Kumar, Girish Prasad and Suresh Chandra was required to present himself in the office of the Joint Director, D.F.P., Lucknow, on 7.12.1984 for test and interview, by order dated 26.11.1984.
3. That the applicant attended the office of the Joint Director, D.F.P. Lucknow, as aforesaid on the Scheduled date and time for test and interview and he having been adjudged as a suitable candidate for the post of the Field Publicity Assistant was selected and appointed to the said post of the Field Publicity Assistant w.e.f. 3.1.1985.
4. That the applicant has been working Field Publicity Assistant continuously w.e.f. 3.1.1985. satisfactorily without any complaint or adverse comment and having put in more than 3 years unblemished service in the said grade has acquired the status of quasi-permanent in terms of Rule 3 (1) of Central Civil Services (Temporary Service) Rules 1965.
5. That the selection of applicant for the post of Field Publicity Assistant was made after observing all formalities of test and interview held on 7.12.1984. and after considering his fitness, qualifications and suitability for the post as laid down in the call letter NO. 2/Adm./36/FPA/83-84 dated 26.11.1984. and the appointment of the applicant made in consequence thereof is regular and not to be interrupted.
6. That the applicant is the senior most incumbent in the grade of Field Publicity Assistant, amongst all who were selected and appointed on the basis of test and interview held on 7.12.1984. in terms of the aforesaid call letter dated 26.11.1984. and he is entitled to be made permanent against the vacant post in the said grade.

Ali Haider

Ali Haider

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7. That the offer of the appointment made on adhoc basis in a purely temporary capacity vide letter NO.2/Adm/36/FPA/84-85-3495 dated 18.12.84. is wrong and prejudicial and against the provision of call letter dated 26.11.1984. which did not specify any such provision that the test and interview would be held for adhoc and temporary appointment. The test and interview held on 9.12.84, was for regular appointment.

8. That the applicant has since come to know from Sahayak Pradeshik Adhikari, Lucknow letters dated 8.4.89 and 24.4.89 that another test and interview is going to be held for the vacant post of the Field Publicity Assistant on 9.5.89, at 9.30'Clock and the applicant again been called to participate in this test and interview.

9. That the applicant having been already subjected to test and interview on 9.12.84, in terms of letter dated 26.11.84, and having rendered more than 4 years of satisfactory and unblemished service and being the senior most official in the said grade of Field Publicity Assistant can not again be asked to undergo test and interview for the same post.

10. That it would be expedient in the interest of justice and fairness that the requirement of the test and interview for the second time in the case of the applicant be cancelled and the applicant be declared permanent against one of the vacant post in the grade of Field Publicity Assistant from the date the post is vacant. The applicant cannot be subjected to test and interview again and accordingly he shall refrain from test and interview.

It is, therefore, most respectfully prayed that the requirement of the test and interview again for the second time in the case of the applicant be cancelled and the applicant be made permanent against the post of the Field Publicity Assistant from the date the post has been vacant.

The applicant shall ever remain grateful for favour of your immediate sympathetic consideration of the case and issue of immediate orders.

Dated 6th May, 1989

Yours faithfully,

(Ali Haider)
Field Publicity Assistant,
Sultanpur.

Copy in ~~advance~~ advance to the joint Director, U.P. (C.E.) 19-A, Vidhan Sabha Marg, Lucknow for information and favour of immediate intervention.

(2) Director of Field Publicity, Government, of India, East Block IV level III R.K. Puram, New Delhi-66

Dated: 6th May, 1989

(Ali Haider)
Field Publicity Assistant,
Sultanpur.

Recd.
Sd/-
01/01/89
A.O.L.K.B.

A.C. Rizvi

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH
LUCKNOW

CAT NO. 106 of 1989.

Shri Ali Haider V/S. Union of India

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS

COUNTER AFFIDAVIT.

Affidavit of Shri Azhar Hussain, aged about 43 years son of late Shri Hadi Hussain at present posted as Asstt. Regional Officer, Dte. of Field Publicity, Govt. of India, Lucknow, working as Head of office.

(Azhar Hussain)
Asstt. Regional Officer
Deponent. Assistant Regional Officer
Dte. of Field Publicity
Govt. of India, Lucknow.

I, the deponent, named above do hereby solemnly affirm and state on oath asunder:-

1. That the deponent ~~has read the original application~~ is posted as Assistant Regional Officer, Dte. of Field Publicity, Govt. of India, Lucknow and is authorised to file this counter-affidavit to the original application dated 16.5.89 against Shri Ali Haider, being well acquainted with the facts deposed below.
2. That the deponent has read the original application and is now in a position to reply the same as under.
3. That the original application: seeking redressal (i) regularisation of his services without appearing before the D.P.C. (ii) seniority in the grade, and (iii) continuance on the post of Field Publicity Assistant, (iv) withholding of interview/test and declaration of result of the selection, etc, is not based on facts and should be rejected in light of the facts and Govt. instructions furnished below:-
4. (i) Accepted: Shri Ali Haider was initially appointed to the post of Lower Division Clerk w.e.f 1.12.1967.
(ii) Accepted: that he passed B.A. from Lucknow University and possessed 35 M.M. Projector operator licence, etc.
(iii) It is admitted that two posts of Field Publicity Assistants fell vacant due to two FPA's working in the

Assistant Regional Officer
Dte. of Field Publicity
Govt. of India, Lucknow.

RVS

department, selected for ad-hoc appointment on deputation basis as Field Publicity Officer, CIS(III) Grade in Gazetted capacity at Jhansi and Gorakhpur. Selection of vacant posts was to be made amongst the willing and qualified eligible departmental candidates, holding the post of LDC, Drivers, Cleaners, Peons and Chowkidars, etc. The vacancies were for a period not exceeding one year based on purely ad-hoc appointment and the incumbents holding these posts were to be reverted back to their own posts, when the deputation period of F.P.Os was over. As per circular No. 2/ADM/36/FPA/ 84-85, dated 12.11.84, 50% of the vacancy was to be filled up from S.C./ S.T candidates, on failing to get the suitable candidates, the posts were to be filled by a general candidate.

(iv) & (v). Conditions of appointment as stated therein
1-4 admitted.

No doubt, he fulfills the required qualification for the post. But as per order of appointment No. 2/ADM/36/FPA/84-85/3495, dated 18.1.1984, he was offered the post of Field Publicity Assistant at Sultanpur on ad-hoc basis in a purely temporary capacity. As such his appointment to the post of F.P.A. on a regular basis does not arise.

(vi) It is correct that he was called for interview and test on 7.12.84, vide letter No. 2/ADM/36/FPA/83-84 dated 26.11.84 for appointment on purely ad-hoc basis in a temporary capacity.

(vii) It is admitted that he was appointed vide this office order No. 2/ADM/36/FPA/84-85/3995, dated 18.12.1984 on ad-hoc basis in a purely temporary capacity and his appointment was liable to be terminated at any time without notice and without assigning any reasons.

(viii) Accepted that he joined his post of Field Publicity Assistant at Sultanpur on 7.1.1985.

(ix) No comment.

(x) No comment.

ADM

(xi) Since he was appointed vide this office order dated 18.12.84 on purely ad-hoc basis in a temporary capacity, he was required to appear for interview and test as a departmental candidate, alongwith with other departmental candidates for a regular appointment. As such all departmental candidates, eligible for the posts, were asked for interview and test vide this office letter No.2/ADM/36/FPA/84 dated 24.4.89, while the vacancies for filling up the posts were circulated vide this office letter No.2/ADM/36/FPA/84-85, 9081, dated 26.11.88. Shri Ali Haider also applied for the said post vide his application dated 2. 12.1988.

(xii) It is not correct that four posts were to be filled up by the departmental candidates by promotion/selection. The circular dated 26.11.1988 clearly indicates that 50% of the 4 posts were to be filled up by departmental candidates (one for general and another for S.C/ST). The other two posts were to be filled up by direct recruitment through Employment Exchanges on the Regional basis (one for General and another for SC). Thus only one post in general category was to be filled up.

(xiii) Shri Ali Haider, who was holding the post of FPA on ad-hoc basis in a temporary capacity, submitted an application on 6.5.89 for not appearing in the test/interview to be held on 9.5.89, although he previously applied for the said post on 2.12.88. Reply to his application has already been issued vide this office order No.15/LDC/FA/21/67-276m dated 16.5.89.

(xiv) On the instructions of the Director of Field Publicity, Govt. of India, New Delhi his appointment originally made on ad-hoc basis for one year, was extended upto 8.5.89 on six monthly basis as will be evident from the Directorates's letter No.A. 12021/3/83-Admn, dated 21.4.87 and subsequent letter of even no. dated 25.3.88. (copies enclosed). The Govt. had no intention to make the appointment permanent as the incumbents were to return to the original posts of LDC when deputationists were to be return to their post of Field Publicity Assistants.

(A/P)

The Quasi Permanent Status is only granted once during the entire service period and Shri Ali Haider was already declared permanent on the post of L.D.C. Therefore, the question of declaring him Q.P. on the post of FPA does not arise. Besides, rules regarding Q.P. have now been amended and Shri Ali Haider's right for Q.P. is without basis.

(xv) No right of Q.P. was conferred on him by the Govt. and his claim for Q.P. is without basis since his appointment was on ad-hoc basis and had to be extended keeping in view the emergencies of Govt. work and the ban imposed by the Govt. on regular appointment

(xvi) As stated above, question of exercising the powers of Govt. under rule 3 of the C. C.S(T.S) rules, 1965 does not arise as the appointment was on ad-hoc basis in a purely temporary capacity.

(xvii) That the contention of the applicant is wrong ~~that~~ He was not holding the post of F.P.A. on substantive basis as is evident from the letter of appointment and subsequent orders on the subject.

(xviii) It is incorrect to say that Shri Ali Haider was appointed in substantive vacancy as stated in his application. The appointment orders issued to him is quite clear in this regard and no probationary period was fixed or confirmed subsequently as is done in regular appointments. The appointment was not for indefinite duration as stated by the applicant. It was for a definite duration and was limited to the period of deputation of FPA's to the post of Field Publicity Officers, which was for six months or further extended upto 4 years or less.

(xix) That only one post in general category for departmental candidate was to be filled up on regular basis against the promotional quota from departmental candidates, i.e. LDC, Drivers, Peon, Cleaners, Chowkidar, etc. eligible for the post. Against one Departmental general post, two L.D.Cs, including Shri Ali Haider, were already working on ad-hoc basis as F.P.As.

Other deptt. candidates were also to be considered

...5/-

AUS

for this post as it was a regular appointment, while the other candidate appeared for test/interview, but Shri Ali Haider refused to appear for the same. Shri Ali Haider had appeared for interview/test in the year 1984 for ad-hoc appointment and not for regular appointment as claimed by him.

(xx). As stated above, his appointment was on ad-hoc basis and not in a regular capacity as the office has not issued any regular orders for his appointment. Had he appeared for test/interview for regular appointment, his pay and allowances, etc. would have been protected for his regular appointment, and later on he absented himself from test/interview, perhaps, on the fear of not qualifying the same. His contention that he would have lost his seniority, is an after thought. Copy of his application applying for the post is attached.

(xxi) If Shri Ali Haider had appeared for test/interview on 9/5- & 10/5/89, he would have availed the opportunity of regular appointment on the post of FPA, previously appointed on ad-hoc basis. But by not appearing in the scheduled test, he has deliberately lost such an opportunity provided by the Department.

(xxii) Since Shri Ali Haider has no claim on regular appointment to the post of FPA, the question of his losing the seniority does not arise.

(xxiii) Shri Ali Haider was given an opportunity to appear for test/interview alongwith other departmental candidates for regular appointment as F.P.A. But he did not avail the said opportunity. Therefore, there has been no violation of articles 14 & 16 of the constitution of India as stated by him in his application.

(xxiv) There was no question of declaring Shri Ali Haider Q.P. as his appointment to the post of FPA was not on regular basis, but on purely ad-hoc basis. Q.P. Status cannot be carried forward from one post to another, since he was originally appointed on the post of LDC and ~~never~~ made permanent on that post. After his reversion, his original appointment as L.D.C. will be restored to him and he would not be thrown out of employment. Reversion to the original post will not amount to punishment or demotion under the C.C.S(CAA + rules, 1965(11-Para iv).

AMQ

points against grounds:

(a) The applicant was not selected by the D.P.C. for regular appointment as claimed by him. But his appointment was purely on ad-hoc basis in a temporary capacity for the period of deputation of regular FPAS to the post of Field Publicity Officer's post.

(b) The applicant has not worked in substantive capacity as claimed by him and is not entitled for permanency and seniority.

(c) That the applicant has not right to be declared Q.P. on the post of F.P.A. since he had already put in more than 3 years service as LDC, and confirmed.

(d) That the appointing authority is fully justified in holding test/ interview for regular appointment.

(e) That the applicant has no right for permanency/ seniority as his appointment was not a regular one but was for a specified period.

POINT AGAINST RELIEF SOUGHT.

(i) That the applicant was not compelled to appear before the D.P.C. on the other hand, he was given an opportunity to appear before the D.P.C. for his regular appointment to the post of F.P.A. which he did not avail.

(ii) It is not possible to treat Shri Ali Haider on regular appointment, since he failed to pass the requisite test/ interview held for regular appointment.

(iii) Since Shri Ali Haider has not been appointed as F.P.A on regular basis, he cannot be granted seniority as requested by him.

(iv) The post of F.P.A. against which Shri Ali Haider was working, is reserved for S.C. candidate. Therefore he cannot be allowed to continue on the said post.

....7/-

श्रीमीय प्रचार सहायक अधिकारी अधिकारी पत्र ।

1. नाम : अली ईदरा (A.S)

2. पदनाम : श्रीमीय प्रचार सहायक

3. शोधक योग्यता : बी ० ए०, १९७३ लखनऊ विश्वविधालय ।

4. क्या सनेमा मरीज चलाने का वैलिड लाइसेन्स है । १९९० तक के लिये वैलिड है ।

5. क्या अनु०/ जाति / अनु० जनजाति से संबंधित है । नहीं ।

6. जन्म तिथि : कृष्ण १०-१-१९४७ (जन्मपरी १०, १९४७)

7. विभाग में प्रथम सल०डी०सी० १९६७ (२) एक०पी०ए० १९८५ जन्मपरी २३ अगस्त तक नियुक्ति की तिथि ।

8. गांवों तथा अन्य श्रीम में किस गांव में चार पर्शों वे बी०ए० संदात की एजिल से सामाजिक कार्य का अनुभाव । गांवों में प्रति दिन कार्य धूमधारी है ।

9. दूसरे विवरण : पिछले चार दर्जों में बी०ए० संदात का पूरा संहयोग किया है और १९८५ दिसंबर से मई, १९८६ तक इकाई का कार्य शुरू हुआ और १९८५ दिसंबर की नियुक्ति तक ही वर रहने ही इकाई का कार्य चलाया ।

दिनांक २-१२-१९८८

भवदीय
२-१२-८८

(अली ईदरा)

श्रीमीय प्रचार सहायक,

मुजाहिद

संस्कृत विद्यालय (म-२) उत्तरप्रदेश के उत्तर प्रदेश (मूल्य २५ रुपये) ३६ (क्र. नॉ. २१४५-८५-९०४) दिनांक २६/११/८८

के अनुसार ने अपनी विद्यालय के लिए वित्तीय सहायता दी है।

कोड़ा हिंदी
२१४५/८८

दोषीय सदस्य उत्तरप्रदेश

दल दल दल

पर्याप्त - रु० ५०००००/२१४५/८८

५० - २१४५

(7).

POINT AGAINST INTERIUM PRAYER.

(ASO)

(a) That the applicant cannot be allowed to continue on the post of F.P.A. at Sultanpur as the said post is to be filled up by S.C. candidate.

(b) That the result of the interview held for post of F.P.A. was decided on 12.5.89, whereas the notice from the Hon'ble court was received on 18.5.89. Therefore, it is not practicable to reserve one post of F.P.A. for Shri Ali Haider, as the post of F.P.A. Sultanpur is meant for S.C. candidate. As such it cannot be filled up from a general candidate as per rules.

I, the deponent, named above, do hereby solemnly verify as under:-

That the contents of paragraph one to ---- of the affidavit are true to the personal knowledge of the deponent: these of paragraph no. 2 are based on records and these of paragraph no. 3 are based on legal advice of the counsel, which all I believe to be true, that no part of it is false and nothing material has been concealed.

SO HELP ME GOD.

I, the deponent
who has signed before me
S. P. C. D. R.

(Azhar Hussain)
Asstt. Regional Officer

(Head Of. Ofice).
Assistant Regional Officer
Dte. of Field Publicity
Govt. of India, Lucknow.

S. P. C. D. R.

Azhar Hussain

V. K. Chawla

Jugal (cause saw.)

Date: 29/5/89

श्रीमी प्रचार सहायक अधिकारी अधिकारी पत्र ।

(P.S)

1. नाम : अली हैदर श्रीमी प्रचार सहायक

2. पदनाम :

3. शौष्ठक योग्यता : बी० ए०, 1973 लखनऊ विश्वविद्यालय ।

4. क्या सनेमा मशीन चलाने का वैलिड लाइसेन्स है । 1990 तक के लिए वैलिड है ।

5. क्या अनु०/ जाते / अनु० जनजाति से संवाधत नहीं ।

6. जन्म तिथि : क००५ 10-1-1947 (जन्मरी 10, 1947)

7. विभाग में प्रथम सल०ड००८० 1967 (2) सफ०पीप०८० 1985 जनवरी २५ अंगांतक नियुक्ति की तिथि

8. गांधी तथा अन्य श्रीमी में किस गये भिक्षे चार पर्शे रु. बी०५० सदा० की ऐलिस से सामाजिक कार्य का अनुभाव । गांधी में प्रति दिन कार्य कियी रही ।

9. अन्य विवरण : भिक्षे चार दर्गा रु. बी०५० सदा० का पूरा सहयोग किया है और 1985 दिसंबर से मई, 1986 तक इकाई का कार्य रखता है और 1986 अंगांतक न होने वार छाने ही इकाई का कार्य चलाया ।

दिनांक 2-12-1988

मवदीय
अली हैदर 2-12-88

(अली हैदर)
श्रीमी प्रचार सहायक,
मुजाफ़ास्त

संपुर्ण निपटाम (न-४) उत्तरप्रदेश का उत्तर प्रदेश (उत्तरप्रदेश
मुख्यमन्त्री) 36 (ए०.प०.११४५-८५-९०४) दिनांक 26/१/८१
के अनुसार निपटाम (न-४) उत्तरप्रदेश का उत्तर प्रदेश (उत्तरप्रदेश)
को एक ने अनुमति दी है कि वह न अल्प से अधिकतम है।
कोडी हैदर
न-४/१८१

प्राप्ति - अली हैदर १२/८८ दृष्टि ८००
८० - २/१२

दृष्टि देव विवरण
दृष्टि देव

No. A-12021/3/83-Admn
Government of India
Directorate of Field Publicity
(Ministry of I&B)
* * *

AS2

East Block-IV, Level-III,
R.K. Puram, New Delhi-66.

Dated 21st April, 1987.

W.M.
W.M. 29/4
To
No. of filling up of posts or
for it being done on ad-hoc basis
old basis
27
All Regional Heads,
Dte. of Field Publicity

*Subject :- Filling up the vacancies of Field Publicity
Assistants on ad-hoc basis.*

* * *

Reference this Directorate's letter of even number
dated the 7th November, 1986 on the above subject.

2. The present ad-hoc arrangements in respect of Field Publicity Assistants may please be continued wherever necessary for a further period of six months on purely ad-hoc basis or till the posts are filled up on regular basis or till the contingencies which necessitated making these ad-hoc arrangements cases to exist, whichever is earlier. The resultant vacancies will not be filled up.

22/4/87
(S. P. GHOSH)

ADMINISTRATIVE OFFICER

Shankar

22/4/87
(S. P. GHOSH)

No. A-12021/3/83-Admn.
Government of India
Directorate of Field Publicity
(Ministry of I&B)

* * * * *

To

New Delhi-66, dated 25 March, 1988

All Joint Directors/
All Regional Officer.
Dte. of Field Publicity.

Subject :- Filling up the vacancies of EPAs on ad-hoc basis.

Reference this Directorate's letter of even number dated the 21st April, 1987 on the above subject.

2. The present ad-hoc arrangement in respect of Field Publicity Assistants may please be contained wherever necessary upto 31-7-88 on purely ad-hoc basis or till the posts are filled up on regular basis or till the contingencies which necessitated making there ad-hoc arrangement cases to exist, whichever is earlier. The resultant vacancies will not be filled up.

S. F. GHOOSH
(S. F. GHOSH)
ADMINISTRATIVE OFFICER

VAKALATNAMA

C.A.T.

In the Hon'ble High Court of Judicature at Allahabad

At

Lucknow Bench

R.S.G.

.....Ali HaiderPlff./Applt./Petitioner/Complainant

Verses

.....Ali Haider & othersDefent./Respt./Accused

KNOW ALL to whom these presents shall come that I/We Director & Jt. Director
the above-named.....Officer, Lawyer, M.A. B.A. D.P.P. Delhi Bar
do hereby appoint

Shri V. K. CHAUDHARI, Advocate,

.....High Court, Lucknow Bench

(hereinafter called the advocate/s) to be my/our Advocate in the above-noted case and
authorised him :—

To act, appear and plead in the above-noted case in this Court or in any other Court
in which the same may be tried or heard and also in the appellate Court including High Court
subject to payment of fees separately for each Court by me/us.

To sign, file, verify and present pleadings, appeals, cross-objections or petitions for
executions, review, revision, withdrawal, compromise or other petitions or affidavits or other
documents as may be deemed necessary or proper for the prosecution of the said case in all
its stages.

To file and take back documents, to admit &/or deny the documents of opposite
partys.

To withdraw or compromise the said case or submit to arbitration any differences
or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and
to do all other acts and things which may be necessary to be done for the progress and in the
course of the prosecution of the said cause.

To appoint and instruct any other Legal Practitioner authorising him to exercise the
power and authority/herby conferred upon the Advocate whenever he may think fit to do so
& to sign the power of attorney on our behalf.

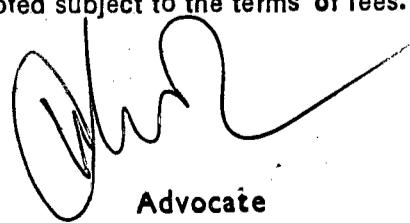
And I/we the undersigned do hereby agree to ratify and confirm all acts done by the
Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all
hearings & will inform the Advocate for appearances when the case is called.

And I/we undersigned do hereby agree not to hold the advocate or his substitute
responsible for the result of the said case. The adjournment costs whenever ordered by the
Court shall be of the Advocate which he shall receive and retain for himself.

And I/we the undersigned do hereby agree that in the event of the whole or part of
the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to
withdraw from the prosecution of the said case until the same is paid up. The fee settled
is only for the above case and above Court I/we hereby agree that once the fees is paid. I/we
will not be entitled for the refund of the same in any case whatsoever.

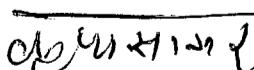
IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the
contents of which have been understood by me/us on thisday of19

Accepted subject to the terms of fees.



Advocate

Client



Client

कृपा सागर
Kirpa Sagar
निदेशक/Director
अधिकारी प्रवार फारमलिय
Dte. of Feb 11, 1988
सू. प्र० म० ११८८
नई दिल्ली/New De

Oppn 106 of 1989 (U)

853

VAKALATNAMA

CST

In the Hon'ble High Court of Judicature at Allahabad

At

Lucknow Bench

Ali Haider Plff./Applt./Petitioner/Complainant

Verses

Union of India Defent./Respt./Accused

KNOW ALL to whom these presents shall come that I/We..... O.P. No. 3.....
the above-named..... respondent no. 3..... do hereby appoint

Shri V. K. CHAUDHARI, Advocate,
..... High Court, Lucknow Bench

(hereinafter called the advocate/s) to be my/our Advocate in the above-noted case and
authorised him :—

To act, appear and plead in the above-noted case in this Court or in any other Court
in which the same may be tried or heard and also in the appellate Court including High Court
subject to payment of fees separately for each Court by me/us.

To sign, file, verify and present pleadings, appeals, cross-objections or petitions for
executions, review, revision, withdrawal, compromise or other petitions or affidavits or other
documents as may be deemed necessary or proper for the prosecution of the said case in all
its stages.

To file and take back documents, to admit &/or deny the documents of opposite
partys.

To withdraw or compromise the said case or submit to arbitration any differences
or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and
to do all other acts and things which may be necessary to be done for the progress and in the
course of the prosecution of the said cause.

To appoint and instruct any other Legal Practitioner authorising him to exercise the
power and authority hereby conferred upon the Advocate whenever he may think fit to do so
& to sign the power of attorney on our behalf.

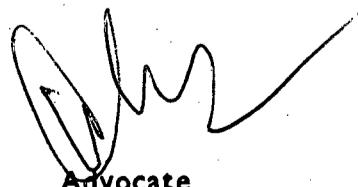
And I/we the undersigned do hereby agree to ratify and confirm all acts done by the
Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all
hearings & will inform the Advocate for appearances when the case is called.

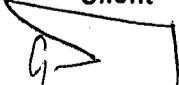
And I/we undersigned do hereby agree not to hold the advocate or his substitute
responsible for the result of the said case. The adjournment costs whenever ordered by the
Court shall be of the Advocate which he shall receive and retain for himself.

And I/we the undersigned do hereby agree that in the event of the whole or part of
the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to
withdraw from the prosecution of the said case until the same is paid up. The fee settled
is only for the above case and above Court I/we hereby agree that once the fees is paid, I/we
will not be entitled for the refund of the same in any case whatsoever.

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the
contents of which have been understood by me/us on this..... day of..... 19.....

Accepted subject to the terms of fees.


Advocate

Client

Assistant Regional Officer
Dte. of Field Publicity
Govt. of India, Lucknow.

Client

Assistant Regional Officer
Dte. of Field Publicity
Govt. of India, Lucknow.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

C.A.T. No. 106 of 1989(L)

Ali Haider

.... applicant.

Versus

Union of India .

.... Opposite party.

REJOINDER AFFIDAVIT TO THE SECOND COUNTER AFFIDAVIT.

I, Ali Haider, aged about 42 years, son of Late Mohammad Hashim, r/o 110/143 Naya Gaon, Lucknow do hereby state my oath as under:

1. That the deponent is the applicant in the above-noted case and he is fully conversant with the facts of the case deposed to in this rejoinder affidavit. The deponent has read and fully understood the contents of second counter affidavit and he is replying to the same.

2. That the contents of paragraph 1 of the affidavit need no reply.

3. That in reply to the contents of paragraph 2(a) of the affidavit it is pointed out that the deponent was appointed as Field Publicity Assistant after a regular selection and the question of appearing in the selection does not arise for the second time. It is incorrect that the second selection was being done to regularise the earlier appointment. For the regularisation test only those persons could be allowed to participate who were already holding the post of Field Publicity Assistant. The opposite parties have selected candidates who were not holding the post of Field Publicity Assistant. As per e.g. Parmanand, ^{Guruji} Kumar Bajpai, Ram Autar, Raghuraj, Suresh Kumar were also allowed to participate in the test and interview these persons were not holding the post of F.P.A. and the question of regularisation of their appointment does not arise. Sri Parmanand was selected as F.P.A. The opposite parties have taking a shifting stand in their letter dated 16.5.1989. It has been stated that the second selection was being done for the purpose of regularisation of adhoc

ASR

appointment on the post of F.P.A and they have stated that the second selection was for regular appointment.

4. That the contents of paragraph 2 (c) of the affidavit are denied. As already stated the opposite parties have taken a shifting stand. By letter dated 16.5.1989 it was made clear that the selection was being done to regularise adhoc appointments on the post of F.P.A and now they have taken a stand that the selection was for the purpose of making appointment on regular basis. A detailed reply has been given by the deponent in reply to para (2) of the affidavit.

5. That the contents of para 2 (d) are denied.

6. That the contents of paragraph 2 (e) need no reply.

7. That the contents of paragraph 2 (f) are denied. It is pointed out that the order for reversion was passed by an authority lower in rank to the appointing authority during the pendency of this case in this Tribunal.

8. That in reply to the paragraph 2 (g) it is denied that the Assistant Regional Officer was delegated the powers as Head of Office by Competent Authority under the provisions of DFP Rule 14 by the Head of the Department vide order dated 24.5.88. It is also denied that the Assistant Regional Officer who was Competent to act as appointing authority. Shri Azhar Hussain is wrongly exercising the powers of appointing authority. The opposite parties have stated on half truth. The order dated 24.5.1988 delegated powers on Azhar Hussain, Assistant Regional Officer till the date of joining of A.N. Singh as Joint Director who was transferred in place of Gautam Dutta the then Joint Director. It is pointed out that the transfer of Sri A.N. Singh as Joint Director at Lucknow was cancelled in June, 1988 and Sri G.D. Bailya was transferred as Joint Director in place of A.N. Singh who also did not join and his transfer was cancelled after a month. Thereafter Sri H.S. Sethi was transferred as Joint Director in the month of July, 1988. Thus, the order dated 24.5.1988



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O. A. NO. 106 OF 1989.

Ali Haider

... Applicant

-VS-

Union of India and others

... Opp. parties

APPLICATION OF CONDONATION OF DELAY IN FILING
COUNTER AFFIDAVIT/REJOINDER AFFIDAVIT. (REPLY)

That the opposite parties beg to submit as under:

1. That in the above noted case the counter affidavit/rejoinder affidavit could not be filed in time inadvertently. The same is being filed herewith.
2. Wherefore it is most respectfully prayed that the delay in filing the counter affidavit/rejoinder affidavit may kindly be condoned and counter affidavit be taken on record and such other order as are deemed just and proper be also passed.

(V. K. CHAUDHARI)
Advocate, Counsel for
Opp. parties.

Lucknow,

Dated:

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

A60

O.A. NO. 196 of 89(L)

Ali Haider

... Applicant

-versus-

Union of India and others .. Respondents.

SUPPLEMENTARY COUNTER AFFIDAVIT ON BEHALF OF
OPPOSITE PARTIES.

Copy on file
11/1/09

I, Ashar Hussain, aged about 43 years, son of late Shri Hadi Hussain at present posted as Assistant Regional Officer, in the office of Directorate of Field Publicity, Government of India, Lucknow do hereby solemnly affirmed and state as under:-

1. That the deponent is posted as Head of office of the Regional Office of Director of Field Publicity, Government of India, Lucknow and as such he is well conversant with the facts of the case.

2. That the applicants have sought certain amendments by adding few paragraphs in paras 6(xxiv)-A to (I) by way of two amendments applications and the reply of the same is being given as follows:-

(a) That in reply to the contents of para 6(xxiv-A) of the amended application it is submitted that since the applicant did not turn up for interview and test as scheduled on 8.5.89 alongwith other candidates he lost the chance of regular posting. As stated his conditions of appointment to the post of Field Publicity Asstt. was on purely adhoc basis it was in his interest to appear before the D.P.C. for regular appointment. He was given full opportunity to compete with other departmental candidates, but he avoided the test and interview for reasons best known to him. Therefore, no violation of article-14 and 311 have been inflicted.

It is worth mentioning that the applications were invited from the departmental candidates for making regular appointment vide letter dated 26.11.88 and the applicant also applied for the post vide his application dated 2.12.88. As such he had clear knowledge that he is being called for interview and test for appointment on a regular basis.

That

-3-

(c) In reply to the contents of para 6(xxiv-C) of it is submitted that, Previously he was appointed in the year 1984

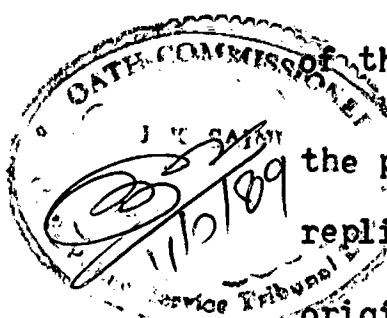
after brief test as the vacancy was caused by short-term deputation to the posts of FPO(CIS) grade III.

As such his appointment was purely temporary and adhoc basis for the period of deputation of the FPO.

It is not correct that he was selected and appointed on a regular post. The vacancies for 4 FPOs (two for departmental candidates - one for Scheduled Casts and other for general and two for direct candidates

(one for SC and other for general) were to be filled up on regular basis after test and interview. The applicant who was holding adhoc appointment was given an opportunity to compete with other departmental candidates on 8.5.89. He too applied for the post on 2.12.88 for getting this regular appointment against the clear vacancy. Therefore, he cannot say that he was not aware of the facts.

(d) That in reply to the contents of para 6(xxiv-D)


the points raised in this para have already been replied in the counter affidavit in reply to the original application and amendment application submitted by the applicant is repetition, as such no further comments are required.

(e) That the contents of para 6(xxiv)-(e) of the amendment application are not disputed.

(f) That in reply to the contents of para 6(xxiv)-(f)

APB3

of the amendment application it is submitted that the action has been initiated by head of the office as per rules and his order for reversion have been issued after careful consideration by the competent authority.

His application has been set aside within the stipulated period before going to the Court. He has gone to the Tribunal directly before submitting appeal against reversion order to the appellate authority in his case it is Director of Field Publicity, New Delhi. As such he has not exhausted the channel.

(g) That in reply to the contents of para 6(xxiv)(g) of the amendment application it is submitted that the applicant was appointed to the post of Field publicity Asstt. on adhoc basis in purely temporary capacity by the then Joint Director, DFP, Lucknow. Consequent upon his transfer the Asstt. Regional Officer (Sri Azhar Husain) was delegated the powers as Head of office by the competent authority under the provision of DFP

Rules -14 by the Head of the Department vide order

J. K. SAP No. A-19019/5/83-Admin dated 24.5.1988. A copy of this

letter has already been attached with the counter

affidavit. ~~already on record~~ As such he enjoyed the

powers of Head of office and he is fully competent to act as appointing authority as well as imposing penalties under the provision of Rule 11 of CCS(CCA) Rules 1965.

The extract is being enclosed herewith. It is necessary to mention that Shri Azhar Husain, Asstt.

Regional Officer, Dte. of Field Publicity Lucknow is

Assistant Regional Officer, still exercising the powers of the Head of the office
Dte. of Field Publicity
Govt. of India, Lucknow

AB4

for U.P. (CE) Lucknow Region as Shri Gautam Butta Joint Director did not join at Lucknow nor any other Officer of the Rank of Joint Director joined at Lucknow and as such Shri Azhar Husain, being head of the office and also being competent to revert the applicant and correctly passed the order of reversion.

As such the action taken for the reversion of the applicant on 16.5.89 are justified and has not violated the provision of rules on the subject.

A.R.O. has initiated action in the capacity of Head of the office not as A.R.O. The Head of the office is legally authorised to appoint and issue orders for reversion.

(h) That in reply to para 6(xxiv)(h) of the amendment application it is submitted that the applicant was appointed on ad-hoc basis in a temporary capacity to the post of Field Publicity Asstt. against the post fell

vacant due to regular FPA's appointed on deputation to CIS grade III, Officer. In the said appointment

order it was clearly indicated that his services may be terminated at any time without notice and assigning any reasons. Since he was initially appointed as LDC and later on appointed as FPA(adhoc) his reversion does not amount to penalty under the provision of rule-3 of the CCS(Temporary Service) Rules, 1965. It is not correct that he was directly appointed to the

post of F.P.A. but he was given the post of Field Assistant Regional Officer, Dte. of Field Publicity Govt. of India, Lucknow

AbS

Publicity Asstt. as LDC and other staff who possess the requisite qualifications may be appointed to the post. His appointment was conditional and not fresh as mentioned by the applicant. The conditions of appointments may be referred to.

(i) That in reply to the contents of para 6(xxiv)(i) of the amendment application it is submitted that the applicant was appointed on adhoc basis in a temporarily capacity and he was allowed to continue for more than one year on the post. Since the deputanist against whom he was appointed continued on higher post as per Directorate of Field Publicity's instructions the period was extended. As such he can not claim over the post unless he is appointed on a regular basis.

3. That in reply to the newly amended grounds (f) and (j) it is submitted that the grounds are not tenable in the eyes of law in view of the facts stated above.

4. That the applicant is not entitled to the amended relief numbers 6 & 7.

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

Lucknow,
Dated: 18-7-1989.

Assistant Regional Office
Dte. of Field Publicity
Govt. of India, Lucknow.

Deponent
Assistant Regional Officer
Dte. of Field Publicity
Govt. of India, Lucknow.

Ab6

I, the deponent above named do hereby verify that the contents of para 1 to 2 of this affidavit are true to my personal knowledge and those of paras 3 to 4 are believed to be true on the basis of record and those of paras 5 to 7 are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed.

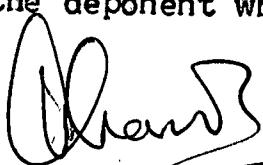
 Deponent.

Assistant Regional Officer
Dte of 11th Publicity
Govt. of India, Lucknow.

Lucknow,

Dated: 11/7/89

I identify the deponent who has signed before me.



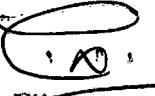
(V.K. Chaudhary)
Addl Standing Counsel for Central
Government.

(Counsel for the Respondents)

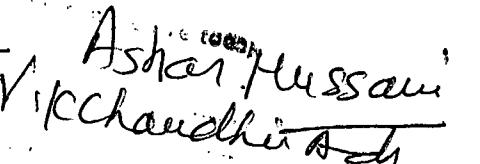
Lucknow:

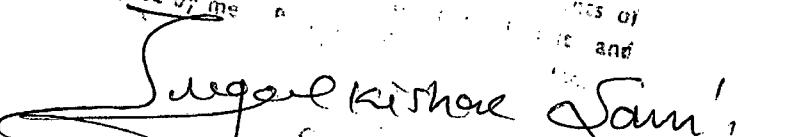
Dated: 11 July 1989.




Solemnly affirmed
at 7/7/89
who is identified
Clerk to

deponent
this affidavit
signed by me


Ashok Hussain
V.K. Chaudhary Ady


Sugandh Kishore Saini
Court Commissioner
Court Commissioner, Lucknow.

11/7/89

No. A-19019/5/83-Admn.
Government of India
Directorate of Field Publicity
(Ministry of I&B)

New Delhi-66, dated 21 May, 1988.

1/1/88
To

The Pay & Accounts Officer,
Ministry of I&B,
IMLA Group,
New Delhi

Sir,

Sanction of the Director of Field Publicity is hereby accorded under Rule 14 of DFP Rules, 1978, to declare Sh. Azhar Hussain, Assistant Regional Officer, DFP, Lucknow as Head of Office for U.P.(CE), Lucknow Region, from the date Sh. Gautam Dutta, Joint Director, Lucknow hands over charge till Sh. A.N. Singh, who has been posted as Joint Director, DFP, Lucknow vice Sh. Gautam Dutta, joins.

2. No extra remuneration shall be payable to Sh. Hussain on this account.

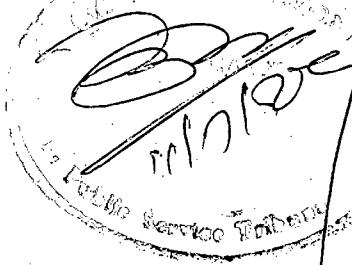
Yours faithfully,

(G.P. BHATTI)
DEPUTY DIRECTOR (ADMN)

Copy to:-

1. The Pay & Accounts Officer, Ministry of I&B, Lucknow.
2. The Joint Director, DFP, Lucknow.
3. Ministry of I&B (CIS Section).
4. Sh. Azhar Hussain, ARO, Lucknow.
5. DHO (PR) at the HQs.
6. Guard file.

(G.P. BHATTI)
DEPUTY DIRECTOR (ADMN)



Excluded from the
Army Ordnance
except for Civilians in Defence Service

Serial Number Description of Service

Appointing Authority

Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in Rule 11)

Appellate Authority

1 Authority

2 Penalties

3

4 (i) General Central service Group 'C'

Posts in Ministry/ Department of Govt.

Deputy Secretary or Director in the Ministry/Department of Government.

Deputy Secretary or Director in the Ministry/Department of Government.

Secretary in the Ministry/Department of Government.

Posts in Ministry/ Department other than Government in respect of which specific provision has been made by a General or special order of the President.

Deputy Secretary or Director in the Ministry/Department of Government.

Deputy Secretary or Director in the Ministry/Department of Government.

(ii) Posts in an-Secretariat Office other than Posts in respect of which specific provision has been made by a general or special order of the President.

Head of Office

Head of Office

All

If such head of office is subordinate to a Head of Department under the Ministry or Department of Government, of such Head of Department. If the Head of the office is him self the Head of Department, or is not subordinate to any Head of Department, the Secretary in the Ministry Department of Government.

ATTESTED

1179

Assistant Inspector of Office

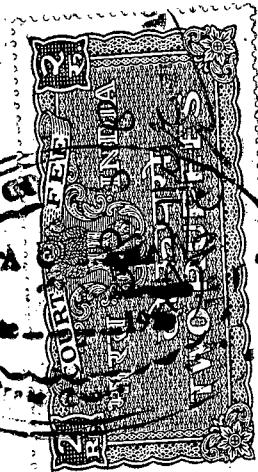
Director of Publicity

Govt. of India, Lucknow.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW.

C.A.T. No. 106 of 1989 (L)



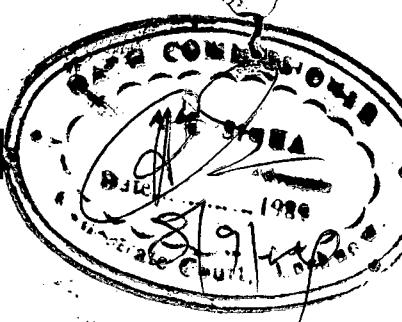
Ali Haider versus Union of India

REJOINDER AFFIDAVIT OF THE APPLICANT TO THE FIRST COUNTER AFFIDAVIT

I, Ali Haider, aged about 42 years son of late Mohd. Hashim, resident of 110/143 Naya Gaon, Lucknow do hereby state on oath as under:

1. That the deponent is the applicant in the above noted case and he is fully conversant with the facts of the case deposed to in this rejoinder affidavit. The deponent has read and fully understood the contents of the first affidavit and he is ~~not~~ replying to the same.
2. That contents of para 1 and 2 of the affidavit need no reply.
3. That contents of para 3 of the affidavit are denied.
4. That contents of para 4 (i) & (ii) need no reply.
5. That in reply to contents of para 4(iii) it is denied that the vacancies were for a period not exceeding one year based on purely adhoc appointment and incumbants holding these posts were to be reverted back to their own posts when the deputation period of F.P.Os was over, as per Circular No. 2/ADM/36/F.P.A./84-85, dated 12.11.84, 50% of the vacancies was to be filled up from scheduled caste and scheduled tribes candidates, on failing to get the suitable candidates, the posts were to be filled by a general candidate.
6. That in reply to contents of para 4(iv) and (v) it is denied that the order of appointment dated 18.1.84 was on adhoc basis on a purely temporary capacity and as such the appointment to the post of Field Publicity Assistant on a regular basis does not arise.
7. That in reply to contents of para 4(vi) it is denied that the interview was for appointment on a purely adhoc basis in a temporary capacity.

8.9.89



ACG

A70

8. That in reply to contents of para 4(vii) it is pointed out that the appointment of the deponent was on a clear vacancy.

9. That contents of paras 4(viii) to (x) need no reply.

10. That contents of para 4(xi) are denied. The deponent was already selected for the post and there was no question of selection for the second time.

11. That contents of para 4(xii) are denied.

12. That contents of para 4(xiii) need no reply.

13. That contents of para 4(xiv) are denied as stated.

14. That contents of para 4(xv) are denied.

15. That contents of para 4(xvi) are denied.

16. That contents of para 4(xvii) are denied.

17. That contents of para 4(xviii) are denied.

18. That contents of para 4(xix) are denied.

19. That contents of para 4(xx) are denied.

20. That contents of para 4(XXI) are denied.

21. That contents of paras 4 (xxii) to (xxiv) are denied.

22. That clauses A, B, C & D against grounds are denied.

23. That paras I, II, III & IV are denied relating to relief.

24. That paras A & B relating to interim relief are denied.

25. That annexures to the counter affidavit are not admitted.

Lucknow, Dated:
September 1, 1989.

Deponent.

VERIFICATION

I the deponent named above do hereby verify that the contents of paras 1 to 25 of the affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow, Dated:
September 1, 1989.

Deponent.

I identify the deponent who has signed before me.

S. P. Tiwari
Advocate.

A. S.
S. P. Tiwari
Advocate.

cease to be effective after June, 1988. *and opposite parties*

The opposite parties are pressing in to service a stale order by hiding truth. The order of reversion is totally illegal, void and without jurisdiction and (i). *of this*

contents of paragraphs 2 (h) are denied. The party

in question does not accept the paragraphs h

9. That the contents of paragraph 2 (h) are denied. A detailed reply has already been given in preceding paragraphs.

10. That the content of paragraph 3, 4 and 5 of the affidavit are denied.

11. ^{Answered} That ~~my~~ answer to this affidavit are not admitted.

Lucknow, dated,

Deponent.

7.9.1989.

B

Verification

I, Ali Hader, aged about 42 years, son of late Mohammad Hashim working as Field Publicity Assistant in the Directorate of Field Publicity, Sultanpur do hereby verify that the contents of 1 to 11 of this application are ~~my~~ true on the basis of personal knowledge and belief and that I have not suppressed any material fact.

Lucknow, dated:

Deponent.

7.9.1989.

B

(B. Solomon)
Advocate

I have appeared
Sohil before me
S. P. T. M.
S. P. T. M.
S. P. T. M.

B. A. SIVHA
Deputy Commissioner
Sultanpur

S. P. T. M.
S. P. T. M.