

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

INDEX SHEET

CAUSE TITLE O.A. 310 OF 89

NAME OF THE PARTIES Sahab Deen Applicant

Versus

..... Union of India Respondent

Part A.

Sl.No.	Description of documents	Page
1	check list	1 to 2
2	order sheet	3 to 4
3	Judgment 18-7-91	5 to 6
4	Petition Power and Annexure	7 to 26
5	Affidavit	27 to 32
6	C.A.	33 to 46
7	R.A.	47 to 56
8	supplementary R.A.	57 to 59
9	C.M. application 351/89	60 to 63
10	C.M. ,, 313/89	64 to 73
11		
12		
13		
14		
15		
16		
17		
18		

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 20-6-11

Counter Signed.....

*Regd. Secy
23/6/11*

Section Officer/In charge

[Signature]
Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

(A)

Registration No. 310 of 1989 (4)

APPLICANT(S) Shehabuddin

RESPONDENT(S) Union of India & Ors

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	Yes
2. a) Is the application in the prescribed form ?	Yes
b) Is the application in paper book form ?	Yes
c) Have six complete sets of the application been filed ?	Yes
3. a) Is the appeal in time ?	—
b) If not, by how many days it is beyond time?	—
c) Has sufficient case for not making the application in time, been filed?	—
4. Has the document of authorisation/ Vakalatnama been filed ?	Yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	Yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	Yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	
c) Are the documents referred to in (a) above neatly typed in double sapce ?	Yes
8. Has the index of documents been filed and paging done properly ?	Yes
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?	Yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	No

(A2)

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	Yes
12. Are extra copies of the application with Annexures filed ?	Yes
a) Identical with the Original ?	
b) Defective ?	
c) Wanting in Annexures	
Nos. _____ pagesNos _____ ?	
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	No
14. Are the given address the registered address ?	Yes
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	Yes
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	N.A.
17. Are the facts of the case mentioned in item no. 6 of the application ?	Yes
a) Concise ?	
b) Under distinct heads ?	
c) Numbered consecutively ?	
d) Typed in double space on one side of the paper ?	
18. Have the particulars for interim order prayed for indicated with reasons ?	Yes
19. Whether all the remedies have been exhausted.	Yes

dinesh/

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

7/11/89

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

Mr. J. Prasad Counsel for the applicant heard. In view of the peculiar allegations and circumstances of the case noted for orders on 10-11-89, meanwhile, the applicant has agreed to buy him will serve the notices outside the court on respondents 1 to 4 or some of them as far as possible. Copy of the applications available on record has been given to the counsel for the applicant.

[Signature]
 A.M.

[Signature]
 D.K.A.
 J.M.

(SHS)

OR
 As directed by Court's order of 7.11.89, the applicant has received notices on 7.11.89 at 5 P.M. but the applicant has not filed acknowledgement. Submitted for order.

9/14

31.3.91

No sitting day to 11.3.91

(AM)

11.3.91

No sitting day to 18.3.91

18.3.91

No sitting day to 12.4.91

Q

12.4.91

No sitting day to 27.5.91

27.5.91

No sitting day to 17.7.91

17.7.91

For Mr Kausal Kumar, VC.
Hon. Mr. D.K. Agrawal, JMR

Mr Phool Chand, Prady
Counsel for Mr. J. Prasad.
Mr. V.K. Chaudhary for respondents

C.M. Application No 351/89 is an
application moved by one Ram

Biswal for implementation as third
party respondent. An application

for the same was rejected
earlier by order dated 10-11-89

The present C.M.A is also rejected
rejoinder has been filed today.

Pleadings are complete. List
for hearing on 18.7.91 as requested
by the learned counsel for Applicant.

See
AM

ORS

L/c for the
order No 5 has
filed. N.P. 351-0/89
for implementation
4 Vacation of stay
RA was not filed
S.F.O

15/7/91

Prasad Kumar
D.P. Prasad
V.K. Chaudhary
29/7/91

VC

AS

In the Central Administrative Tribunal, Allahabad,
Circuit Bench, Lucknow.

Date of Order: July 18, 1991.

O.A. No. 310/89.

Saheb Din ...Applicant.
Mr. J. Prasad ...Counsel for Applicant.

V.

Union of India & ors. ...Respondents.
Mr. V.K. Chaudhary ...Counsel for Respondents.

CORAM:

The Hon'ble Mr. Kaushal Kumar, Vice Chairman
The Hon'ble Mr. D.K. Agrawal, Judl. Member

MR. KAUSHAL KUMAR, VICE CHAIRMAN:

In this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant, who is employed as Lower Division Clerk (L.D.C.) in Song & Drama Division, Ministry of Information and Broadcasting, Govt. of India, has challenged the order dated 24.10.89 filed as Annex. 3 to the application, ~~by~~ which the order dated 30.6.89 transferring him from Darbhanga to Lucknow at his own request was superseded. The applicant has continued to ~~be~~ remain posted at Lucknow under ^{interim} the direction of this Tribunal given on 10.11.89. The reason given in the counter affidavit ~~by~~ filed by the respondents for cancellation of the order dated 30.6.89 is that one Ram Gopal was also posted as a L.D.C. at Lucknow and who on transfer from Darbhanga vide order dated

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30.6.89 filed as Annex. 1, had made a representation for remaining at Lucknow and his representation having been ^{favouredly} ~~finally~~ considered, the authority at Delhi had passed the impugned order dated 24.10.89.

2. We have heard both the learned counsel regarding the legality of the transfer order, the competence of the concerned authority to issue the orders dated 30.6.89 and 24.10.89, but we do not consider it necessary to examine these various contentions in view of the submissions made by the learned counsel Shri Chaudhary appearing for the respondents.

3. Shri Ram Gopal has since been promoted to the post of Upper Division Clerk (U.D.C.), accordingly, there is a vacancy at Lucknow against which the applicant can be accommodated. The learned counsel Shri Chaudhary states ~~at~~ at the Bar that the respondents are not going to implement the impugned order dated 24.10.89 and that the applicant will be allowed to ^{remain} ~~be~~ posted at Lucknow unless ~~there is~~ a fresh order is issued by the competent authority.

4. In view of the submissions made by the learned counsel for the respondents, the present application has become infructuous, which is, accordingly, dismissed. The parties are directed to bear their own costs.

D.K. Agrawal
(D.K. Agrawal) 18.7.91
J.M.

Kaushal Kumar
(Kaushal Kumar)
V.C. 18.7.91

Central Administrative Tribunal
Lucknow
Date of
Date of
6-11-89
AP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AT LUCKNOW,
BENCH LUCKNOW.

Claim Petition no. 310 of 1989.

Saheb Deen Petitioner/Applicant.
Versus
Union of India & others..... Respondent.

I N D E X

Sl.No.	Particulars	Page Nos.
1.	Claim Petition	1 to 12
2.	Annexure No. 1	13
3.	Annexure No. 2	14
4.	Annexure No. 3 & 4	15 & 16
5.	Power	18

Lucknow : Dated
6.11, 1989.

Janardhan Prasad
Advocate

Counsel for the Petitioner/
Applicant.

For
Noted for 7.11.89
As mentioned in 12
court
Filed today
L
6/11/89

AD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT LUCKNOW-BENCH,
LUCKNOW.

CLAIM PETITION NO. 310 OF 1989. (L)

APPLICATION under Section 19 of the Administrative Tribu-
als Act, 1985.

Between

Saheb Din aged about 45 years, son of Sri Muneshwar Prasad resident of 529/258, Rahimnagar, Mahanagar, Lucknow.

Petitioner/applicant.

Versus

1. Union of India Ministry of Information and Broadcasting Government of India Shastri Bhawan, New Delhi.
2. Director of Song and Drama Division, 15/16, Subhash Marg, Dariyaganj, Delhi.
3. Deputy Director (Administration) Song and Drama Division, 15/16, Subhash Marg, Dariyaganj, Delhi.
4. Regional Deputy Director Song and Drama Division, 116-A, Faizabad Road, Lucknow.

..... Respondents.

Details of application.

1. Particular of petitioner/applicant.
 - (i) Name of applicant: Saheb Din.
 - (ii) Name of father: Sri Muneshwar Prasad,
 - (iii) Age of applicant: 45 years,

[Handwritten signature]

109

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- (iv) Designation and particulars of office (Name and Section) in which employed or was last employed before ceasing in service:

The applicant is employed as Lower Division Clerk in Song & Drama Division Ministry of Information and Broadcasting Government of India, 116-A, Faizabad Road, Lucknow.

- (v) Office address: 116-A, Faizabad Road, Lucknow.

- (vi) Address for service of the notice:-

529/258, Rahim Nagar, Mahanagar, Lucknow.

2. Particulars of the respondents:-

- (i) Name of the respondents:-

- (a) Union of India Ministry of Information and Broadcasting Government of India Shastri Bhawan, New Delhi.
- (b) Director of Song and Drama Division, 15/16, Subhash Marg, Dariyaganj, Delhi.
- (c) Deputy Director (Administration) Song and Drama Division, 15/16, Subhash Marg, Dariyaganj, Delhi.
- (d) Regional Deputy Director Song and Drama Division, 116-A, Faizabad Road, Lucknow.

- (ii) Name of the father: N.A.

- (iii) Age of the respondent: N.A.

- (iv) Designation & particulars of office (Name and Station) in which employed:

Song and Drama Division, 116-A, Faizabad Road, Lucknow.

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3. Particulars of the orders against which:

(i) application is made:

(ii) The application against the order No.A-22015
2/89-Admn-I dated 24.10.89⁽¹⁰⁾ passed by
Deputy Director (Administration).

(iv) Subject in brief: The petitioner/applicant
was employed on the post
of lower division clerk Song and Drama Divi-
sion, Ministry of Information and Broad-
casting, 116-A, Faizabad Road, Lucknow.
The applicant was transferred from 116-A
Faizabad Road, Lucknow, in the month of
October, 1982 to Song and Drama Division
Darbhanga and Ram Gopal was adjusted on the
place of applicant at Lucknow when he was
newly appointed and due to manipulation of
the respondents he was not directed to join
at Darbhanga. The petitioner joined at
Darbhanga and he was in continuous service
at Darbhanga. The petitioner's transfer was
due after three years and he was transferred
by order No.1/189IS & D/Lko dated 30.6.89
and he was relieved by order dated 7.7.89
from Darbhanga and joined at Lucknow on
10.7.89 and started to discharge his duty
on the post of lower division clerk and
after joining the petitioner, the transfer
order of the petitioner dated 30.6.1989 pas-
sed by the Regional Deputy Director was
cancelled by order dated 24.10.1989.

4. Jurisdiction of the Tribunal:

The applicant declares that the subject-

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matter of the order against which he wants to redressal is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

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

6. The facts of the case:

A) That the petitioner was appointed in the Song and Drama Division Ministry of Information and Broadcasting at Lucknow and the petitioner discharged his duty efficiently, deligently and honestly. He always discharged his duty whole time and avoided his personal work but the petitioner could not fulfil the desires of his officers and failed to satisfy his wishes having done his personal and domestic work and one post of Lower Division Clerk was vacant in the Department of petitioner at Darbhanga in the year 1982 and for the vacant post appointment of one Ram Gopal has been made but he was not directed to joint at Darbhanga, for adjusting Ram Gopal at Lucknow, the petitioner was transferred at Darbhanga, on the place of petitioner Ram Gopal was adjusted at Lucknow.

B) That the petitioner was transferred by the Regional Deputy Director of Song and Drama Division by order dated 30.6.1989 from Darbhanga to Lucknow and in compliance of transfer order the petitioner was relieved by order dated 7.7.1989

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from Darbhanga and the petitioner submitted the joining report at Lucknow on 10.7.1989 in compliance of the transfer order and same day the petitioner joined at Lucknow and start to discharge his duty. Against the petitioner no complaint was made by any person or any officer of the office of the applicant and work of the petitioner was also superior than that of other employee and he was never warned and obtained excellent entries in his Character Roll. The work of the petitioner was also above of the average for the period 10.7.1989 to uptil now.

l s

C) That Ram Gopal with the manipulation of the leaders he approached the opposite party no.2 and Director called the reports from the Regional Deputy Director. Regional Deputy Director has submitted his report in 15-16 pages. In the report The Regional Deputy Director levelled many charges about his negligence. But the Director has not passed any order and the Deputy Director (Administration) was influenced by Ram Gopal with the help of leader and the Deputy Director (Administration) has cancelled the order of transfer of the petitioner dated 30.6.1989. In the order dated 24.10.1989 passed by the Deputy Director (Administration) it is mentioned that the applicant was transferred in public interest but the retransfer of the petitioner was made against the public interest.

D) That the petitioner joined at Lucknow on 10.7.1989 and any how he got his children admitted in school and his children were getting education in school at Lucknow in English School at Mahanagar, Lucknow and the

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said transfer order dated 30.6.1989 was cancelled by the Deputy Director (Administration) without any right and again the petitioner was retransferred by order dated 24.10.1989. the first transfer of the petitioner was made by order dated 30.6.1989 and the petitioner joined on 10.7.1989 and within 3 months another transfer order was passed and his transfer order dated 30.6.1989 was cancelled after joining the petitioner. The order dated 24.10.1989 was passed by the Deputy Director (Administration) in arbitrary manner with malafide intention and without applying his mind for harassing the petitioner. The said transfer order is illegal and against the provisions of law and was passed in violation of natural justice and Article 14, 16 of the Constitution of India.

E) That the Deputy Director (Administration) has not considered that the petitioner was transferred in October, 1982 and joined at Darbhanga and his transfer was due after 3 years but he remained at Darbhanga for about 7 years and he was transferred to Lucknow by the Regional Deputy Director but the said transfer order was superceded by the Deputy Director (Administration) with malafide intention and he has passed order dated 24.10.1989 in arbitrary manner and against the interest of the applicant and the Deputy Director (Administration) has not considered that the petitioner joined on 10.7.1989 and his children have been taking their education at Lucknow and within 3 months he has passed another transfer order.

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114

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F) That the Deputy Director (Administration) has no right ~~power~~ or jurisdiction to supersede the order passed by the Regional Deputy Director. It is pertinent to mention here that the transfer order dated 30.6.1989 was passed by the Regional Deputy Director who was competent for the same. But the said order was superseded by the Deputy Director (Administration) who is not competent for the same. There is also no provision to supersede or cancel the transfer order after joining the petitioner. The said two orders dated 30.6.1989 and 24.10.1989 were passed within 3 months and the petitioner was in service at Lucknow about 3 months. In these circumstances the order dated 24.10.1989 is illegal and is liable to be set aside and the same order is no order in the eye of law.

G) That there is no provision to pass order for retransfer, cancel or supersede the transfer order within 3 months ~~and~~ after joining the applicant. The order dated 24.10.1989 was passed only for the harassment of the petitioner/applicant. There are several Government Orders that the employee shall not be transferred in the mid session but retransfer order was passed in the mid session against the Govt. order. In the Government order, it is also mentioned that if it is necessary to transfer the Government employee, it is mandatory to take permission from the Minister concerned and without prior permission of the Minister the employee shall not be transferred in the mid session. But the transfer of the petitioner has been made by the ~~Regional~~ Deputy Director in the mid session which is against the provisions of Government order. It is

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also pertinent to mention here that the Election of the Member of the Parliament and Member of Legislative Assembly (M.L.As) was declared on 19.10.1989 and there is also Government Order that during the Election the employee shall not be transferred but the transfer order was passed on 24.10.1989 in violation of the Provisions of the Government order.

H) That the Deputy Director (Administration) superseded the order dated 30.6.1989 by his order dated 24.10.1989 in arbitrary manner with malafide intention for harassing the applicant. The applicant was in accommodation of rented house at Darbhanga and the said house at Darbhanga was vacated by the applicant after his transfer at Lucknow (and the said house at Darbhanga was vacated by the applicant after his transfer at Lucknow) and the said accommodation was let out to another person. During the mid session, it is not possible to take house for rent at Darbhanga and it is also not possible to shift his family and children at Darbhanga by the petitioner and the study of the children and the petitioner will suffer when he went at Darbhanga and it is also not possible to stay the family at Lucknow and the petition shall remain in service at Darbhanga. Without supplying the copy of order dated 24.10.1989 the respondents are insisting the petitioner on 2.11.1989 to hand over the charge and join at Darbhanga. The petitioner requested the

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respondent no.4 do supply the copy of order dated 24.10.1989 but the copy of the said order was not supplied saying that there is no need for supplying the copy. The petitioner requested him that he will challenge the order dated 24.10.1989 in proper court and for the same, the same may be supplied but ultimately the copy of order dated 24.10.1989 was not given to the petitioner and anyhow the petitioner noted the order dated 24.10.1989.

I) That the petitioner has also given representation against the order dated 24.10.1989 on 2.11.1989 when he knew about the transfer order but the respondent no.4 insisted the petitioner to go at Darbhanga for joining his service and he told that his representation would not be considered because the order was passed on the basis of political influence and the respondent no.3 told him that the order dated 24.10.1989 should be followed.

7. Details of remedies: exhausted:

The petitioner declares that he has availed the remedies by way of representation. There is no remedy against the transfer order and against the order there is no provision for appeal or revision. The petitioner has given representation on 2.11.1989 but the same was returned by the respondent no.4 saying that the petitioner should join his duty at Darbhanga West by 6.11.1989.

8. Matters and provisions filed or pending with other courts:-

The applicant further declares that he had

A17

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not previously filed any application, representation or suit regarding the matter in respect of which this application has been made before or any court of law, any other authorities or any other Bench of the Tribunal nor any such application, representation or suit is pending before any ~~xxxxxxx~~ of them.

9. Reliefs sought:

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

A-That order or direction may be issued for quashing the order passed by the respondent no.3 dated 24.10.1989⁹ contained in Annexure No.3.

B-That order or direction may be issued thereby directing the respondents not to ~~revoke~~ thereby directing the respondents not to implement the order dated 24.10.1989.

C-That order or direction may be issued in favour of the petitioner which this Hon'ble Tribunal deems just and proper in the circumstances of the case.

D-That the cost of the petition may be allowed in favour of the petitioner.

10- Interim order if any prayer for:-

For the facts and reasons stated in para no.6 it is prayed that the implementation of the order dated 24.10.1989 may be stayed and the respondent may be directed not to implement the order dated 24.10.1989.

118

11.

11. That in the event of application being sent by the registered post it may be stated whether the applicant desires to have oral hearing at the admission stage and if so he shall attach self address post-card/inland-letter at which intimation regarding the date of hearing should be sent to him:-

The application is being personally presented before this Hon'ble Tribunal.

12. Particulars of the Bank-Draft/Postal order in respect of the application fee:-

- (i) Name of the Bank on which drawn : Nil.
- (ii) No. of the Indian Postal Order:-
 DD
 6 839249.
- (iii) Name of the issuing post office: High Court Post Office, Lucknow.
- (iv) Date of issuing of the postal order: 2.11.1989
- (v) Post office at which payable: G.P.O. Lucknow.

13. List of enclosures:-

- 1. Transfer order dated 30.6.89 passed by the Regional Deputy Director.
- 2. Relieving Order dated 7.7.89 passed by the Producer.
- 3. Cancellation of transfer order dated 24.10.89 passed by the Deputy Director(Administration)

Verification.

I, Saheb Din aged about 45 years, son of Sri Muneshwar Prasad, posted as Lower Division Clerk in

119

12.

the office of Song and Drama Division 116-A, Faizabad Road, Lucknow,, resident of 529/258, Rahim Nagar, Mahanagar, Lucknow, do hereby verify that the contents of paras 1 to 13 of this petition are true to my personal knowledge and those of paras 6(F), 6(G), 6(H) are believed by me to be true on legal advice and I have not suppressed any material facts.

Lucknow,
Dated: November 6 , 1989.


Applicant.

420

ब अदालत श्रीमान in the Central Tribunal महोदय
at Lucknow

वादी (मुद्दई) का वकालतनामा
प्रतिवादी (मुद्रालेह)



Sahab deen

वादी (मुद्दई)

बनाम

Union of India and others
नं० मुकद्दमा सन् १६ पेशी की ता०
ऊपर लिखे मुकद्दमा में अपनी ओर से

प्रतिवादी (मुद्रालेह)
१६ ई०

श्री अनार्दन प्रसाद

एडवोकेट महोदय
वकील

नाम अदालत
नं० मुकद्दमा
नाम फरीकन

हाई कोर्ट बेन्च, लखनऊ

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 पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करे - वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted
Javedan Mehta
6/11/69

हस्ताक्षर.....

साक्षी (गवाह).....साक्षी (गवाह).....

दिनांक.....महीना.....सन् 1969

(121)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH :
LUCKNOW.

Claim petition No. of 1989.

Saheb Din. Petitioner/applicant.

Versus

Union of India & others. ... Respondents/opp. parties.

List of the enclosures.

1. Enclosure No.1-typed copy of the transfer order dated 30.6.89 passed by the Regional Deputy Director
2. Annexure No.2 typed copy of the relieving Order dated 7.7.89 passed by the Producer.
3. Annexure No.3-cancellation order of transfer order dated 24.10.89 passed by the Deputy Director (Admn).
4. Annexure No.4- Representation dated 2.11.1989 which returned to the petitioner.

Lucknow,
Dated: November 6, 1989.

Tanvir Ahmed
Advocate
Counsel for the
petitioner.

Tanvir

Annexure No. 1

A22

No. 1/1/89/S & D/LKO
 Song and Drama Division
 Ministry of Information & Broadcasting
 Government of India.

116-A, Faizabad Road,
 Lucknow- 226007

Dated : 30.6.1989

ORDER

Shri Sahab Din, Lower Division Clerk, Song and Drama Division, Darbhanga Centre is transferred to Lucknow Regional Office of the Division vice Shri Ram Gopal, Lower Division Clerk, Song and Drama Division, Lucknow of the Division with immediate effect.

As the transfer of Shri Sahab Din has been made at his own request, he will not be entitled for any transfer benefits.

Shri Ram Gopal will be entitled for transfer benefits as per rules.

Certified that the these transfers are regular.

Sd/-Ellisible
 30-6-89
 (H.P.Solanky)
 Regional Deputy Director.

Copy to :-

1. Shri Sahabdin, L.D.C., Song & Drama Division, Darbhanga (Through producer, S&DD, Darbhanga).
2. Shri Ram Gopal, L.D.C., S&dd, Lucknow. He is instructed to hand-over COS charge to Shri K.R. Chaudhary and cash section to Smt. Neeta Sinha immediately.
3. Producer, Song & Drama Division, Darbhanga with instruction to relieve him immediately.
4. Pay & accounts Officer, All India Radio, Lucknow.
5. Director, S&DD, New Delhi with reference to the order No. A-31016/4/87-ADMN.I dated the 10th July, 1987 regarding delegation of power to Regional Deputy Director.

sd/-Ellisible
 30-6-89
 (H.P.Solanky)
 Regional Deputy Director.

Handwritten notes:
 A22
 Tuncady
 Jemardh
 6.11.89

14 (A23)

Annexure No.- 2

No.A-22012/1/83-S&D(DBG) 1729

Song and Drama Division
Ministry of Information and Broadcasting,
Govt. of India.

Tutor's Bungalow,
Harahi Tank,
Darbhanga

Dated the 7th July 1989

OFFICE ORDER

In pursuance of order No. 1/1/89-S & D/Lko,
Dated 30-6-89 and telephonic conversation with Dy.
Director, Lucknow regarding transfer of Sh.Sahabdin,
L.D.C. from Darbhanga to Lucknow office.

Sh. Sahabdin, L.D.C. is hereby releived from
his duty today i.e. 7.7.89(A.N.) and instructed to
report Dy. Director, song & Drama Division, Lucknow
immediately.

Sh. Sahabdin,
L.D.C.

sd/- Ellisible
7.7.89
(M.N.Dubey)
Producer.

Copy to Dy.Director, Song & Grama Division,
Lucknow for information and necessary action pl.

(M.N.Dubey)
Producer.

Amis

*Alteshid
True copy
Janki
6/11/89*

15

A24

Annexure No. 3

No.A-22015/2/89/Admn.I

Song and Drama Division

Ministry of Information & Broadcasting

~~*****~~

15/16, Subhash Marg,
Darya Ganj, Delhi-110002

Dated : 24th Oct., 1989

O R D E R

In supersession of Lucknow Regional Office's order No.1/1/89/S&D/LKO dated 30.6.1989, Sh.Sahab Din, Lower Division Clerk, presently working at Lucknow, is transferred to Darbhanga office of the Division with immediate effect.

2. Consequent upon the transfer of Sh. Sahab Din, Sh. Ram Gopal, L.D.C., (under transfer) is posted at Lucknow Regional Office.

3. The transfer of Shri Sahab Din is ordered in public interest and he will be entitled for all transfer benefits.

sd/- Ellisible
(Mohan Lal)
Deputy Director (Admn.)

Copy to :-

1. S/Sh. Ram Gopal and Sahab Din, L.D.C., song and Drama Division(Through D.D. Lucknow).
2. Deputy Director, Song & Drama Division. Lucknow.
3. P & AO, in account with S & DD, Lucknow.
4. Producer, Song and Drama Division Darbhanga.
5. Personal file of each individual.
6. Guard file (Admn.).

sd/-Ellisible
(Mohan Lal)
Deputy Director(Admn.)

[Handwritten signature]

*Attest
Secretary
Darbhanga*

सेवा में,

श्रीमान् निदेशक,
गीत एवं नाटक प्रभाग,
15/16 सुभाष मार्ग, दरियागंज,
नई दिल्ली ।

द्वारा :- उचित माध्यम ।

महोदय,

निवेदन है कि प्रार्थी अवर श्रेणी के लिपिक के पद पर दिनांक 10-7-89 को लखनऊ में दरभंगा से ट्रान्सफर होकर ज्वाइन किया था, तथा ट्रान्सफर आदेश दिनांक 30-6-89 के पालन में दरभंगा से दि 07-7-89 को रिलीव किया गया था । दिनांक 10-7-89 को लखनऊ में ज्वाइन करने पर प्रार्थी ने अपने बच्चों का एडमीशन इंग्लिश स्कूल महानगर में करा दिया था, तब से वे वहाँ पर पढ़ रहे हैं । प्रार्थी अक्टूबर 1982 में लखनऊ में था। तथा एक पद अवर श्रेणी लिपिक का दरभंगा बिहार में खाली था । खाली पद पर राम गोपाल की नियुक्ति की गयी थी, किन्तु देखाभावना से प्रार्थी का स्थानान्तरण लखनऊ से दरभंगा कर दिया गया और प्रार्थी को स्थान पर अक्टूबर 82 में रामगोपाल को नियुक्त किया गया। दरभंगा में प्रार्थी करीब 7 वर्ष रहा, जबकि प्रार्थी का ट्रान्सफर 3 साल के ड्यू पूरा हो जाने पर हो जाना चाहिए था । फिर भी प्रार्थी को दरभंगा में 7 वर्ष तक रखा गया । तीन महीने के अन्दर दुबारा ट्रान्सफर प्रार्थी का आदेश दिनांक 24-10-89 द्वारा किया गया । जो कि सरकारी आदेशों के खिलाफ है, तथा आदेश दिनांक 10-6-89 किसी भी हालत में अपर निदेशक प्रशासन द्वारा अधिक्रमण नहीं किया जा सकता । क्योंकि ट्रान्सफर आदेश दिनांक 30-6-89 क्षेत्रीय अपर निदेशक द्वारा किया गया था। सत्र के मध्य में ट्रान्सफर प्रार्थी का नहीं किया जा सकता जिससे प्रार्थी को परेशानियाँ हों। तथा प्रार्थी का मनोबल गिरेगा तथा कार्य करने की शक्ति का ह्रास होगा, बार बार ट्रान्सफर करने से । एलेक्शन के दौरान ट्रान्सफर न करने के सरकार के आदेश भी हैं । आदेश दिनांक 24-10-89 जनता तथा प्रार्थी के हित के खिलाफ है। प्रार्थी को दरभंगा में मकान आदि भी नहीं मिल पायेगा। दूसरे प्रार्थी की ऐसी स्थिति नहीं है कि स्वयं दरभंगा में रहे और अपने परिवार का खर्चा लखनऊ में बच्चों के पढ़ने तथा रहने का बरदास्त कर सके ।

अतः श्रीमान् जी से प्रार्थना है कि, आदेशा दिनांक 24-10-1989 निरस्त किया जाय ।

दिनांक : 2-11-89

प्रार्थी,

साहबदीन पुत्र मुनेश्वरप्रसाद,
अवर श्रेणी क्लर्क,
गीत एवं नाटक प्रभाग,
116-ए फैजाबाद रोड, लखनऊ।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु सादर सेवा में प्रेषित :-

- 1- अवर निदेशक, गीत एवं नाटक प्रभाग, 15/16 सुभाष मार्ग, दरियागंज, नई दिल्ली ।
- 2- क्षेत्रीय निदेशक, गीत एवं नाटक प्रभाग, 116-ए, फैजाबाद रोड, लखनऊ ।

प्रार्थी

*Attest
True copy
Jambhwar
D.V.
6.11.89*

(A27)

In the Central Administrative Tribunal at Lucknow
Bench Lucknow.

O.A. No. 310/ 1989 (L)

1989
AFFIDAVIT
8 M
DIST. COURT
L. K.



Saheb Deen Applicant.

vs.

Union of India And Others..... Respondents.

Affidavit

I, Saheb Deen, aged about 55 years, S/e Muneshwar Prasad, R/c 529/256, Rahim Nagar, Mahanagar, Lucknow, do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the applicant and as such he is fully conversant with the facts of the deposed herein.



2. That the notices were delivered to the deponent on 7.11.1989 at about 530 PM by the Office of the Administrative Tribunal and deponent served the notices alongwith the duplicates of petition with Annexures and representations to the respondents no.4 on 8.11.89 at about 10 A.M. in his office. The deponent sent the notices, duplicates of petition with Annexures and representation to respondents no. 1 to 3 on 8.11.1989 in the morning through the Speed Post

A28

(Registered Post of Aeroplane) and the same was delivered to respondents no.1 to 3 on 8.11.1989 and on 8.11.1989 the respondent no.4 has also informed to other respondents about the above noted case and about the receiving of notices alongwith duplicates of petition and representation. About the receiving of notices alongwith duplicates of petition, representations by the Speed Post by the respondent no.4 to 3 on 8.11.89 the facts came in the knowledge of the deponent after making the enquiry from the office of the respondent no.4. The photostat copy of the notices about the receiving and Postal receipts of Speed Post are being annexed as Annexure No. A-1 and A-2 to this affidavit.

3. That the order dated 24.10.1989 was not implemented so far and the deponent is still holding the charge of his post.

Lucknow:

[Signature]
Deponent

Dated: 10/11/89

Verification



I, above named deponent do hereby verify that the contents of para 1 to 3 are true to my personal knowledge and the contents of para ~~to~~ ~~are~~ believed by me to be correct.

[Signature]
Deponent.

Jawad Hussain
[Signature]

[Handwritten mark]

In the Central Administrative Tribunal at Lucknow
Bench Lucknow.

O.A. No. 310 of 1989 (21)

(A-1)

Sahabdeen

—————

Applicant

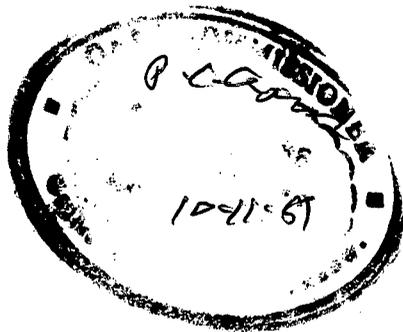
versus

Union of India and others

—————

Respondents

Amendment No. A-1



[Handwritten signature]

Registered A/D

A30
C/10

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

Gandhi Bhavan, G.P. Residency,
Lucknow - 226 001

(Registration No. 310 of 1989 (L))

NO. CAT/LKO/Jud/CA/

dated 7/11/89

Sachal- Varan

APPLICANT(S)

VERSUS

Union of India

RESPONDENT(S)

Please take notice that the applicant above named
has prescribed an application a copy whereof is enclosed
herewith which has been registered in this Tribunal and has
fixed 10 day of _____
for order _____.

If, no appearance is made on your behalf, your
pleader or by some one duly authorised to act and plead
on your behalf in the said application, it will be heard
and decided in your absence.

Given under my hand and the seal of the Tribunal
this _____ day of _____ 1989.

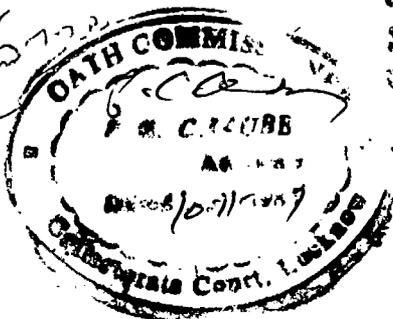


TRR/

FOR DEPUTY REGISTRAR

- ① Union of India Ministry of Information and Public Relations
Govt of India Shastri Bhawan, New Delhi
- ② Director of Song and Drama Division 15/16
Sikhasi Marg Daroga Ganj, Varanasi
- ③ Dy. Director (Admin) Song and Drama Division
15/16 Sikhasi Marg Daroga Ganj, Varanasi
- ④ Regional Director, Song and Drama Division
15/16 Sikhasi Marg Daroga Ganj, Varanasi

भारत सरकार
संग एवं नाटक विभाग
सूचना एवं प्रचार विभाग
Ministry of I & B
Govt. of India
15/16-ए, सिखासी मार्ग, दारोगा बजार
Lucknow



In the Central Administrative Tribunal at Lucknow

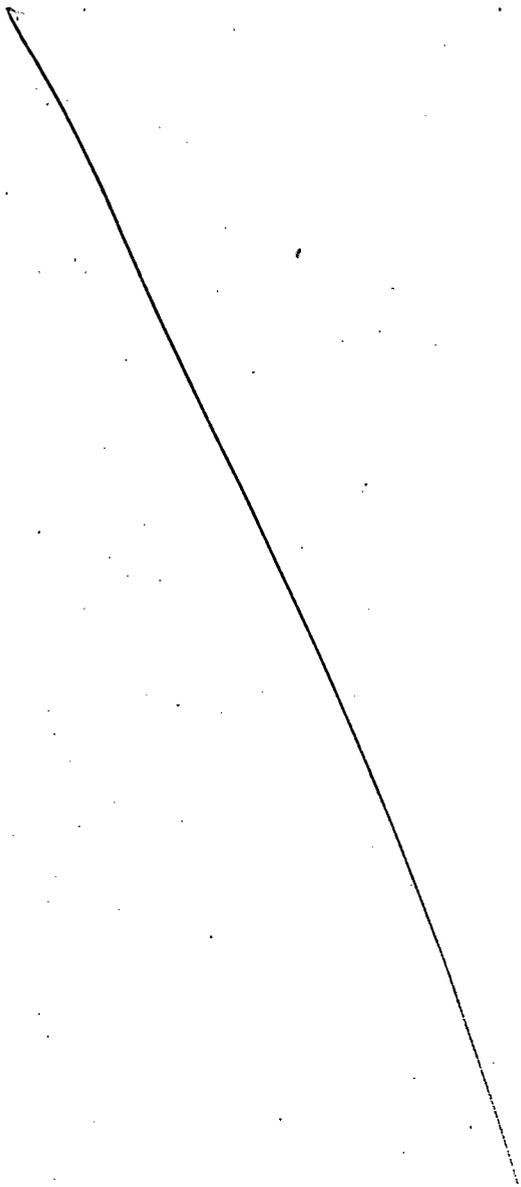
Bench Lucknow

O.A No- 310 of 1989 (L)

Sahabdeen _____ Applicant
versus

Union of India and others _____ Respondents

Annexure No. A-2



Handwritten signature or initials



AS1

आर. पी. 51

R. P.-51

क्रमांक/No.

147 187

लगाए गए डाक टिकटों का मूल्य रु. 16.25

Amount of Stamps affixed Rs. 16.25

एक रजिस्ट्री बीमा प्राप्त किया

Received a Registered Insured

पानेवाले का नाम

Addressed to

बीमे की रकम (अंकों में) 15/16.5 M (शब्दों में)

Insured for Rs. (in figures) 15/16.5 M (in words)

बीमा शुल्क रु. 2.00 वजन (शब्दों में)

Insurance fee Rs. 2.00 Weight (in words)

भेजनेवाले का नाम व पता

Name and address of sender

डाकघर निर्देशिका में दी गई

Issued subject to terms and

conditions in P. O. guide

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer



आर. पी. 51

R. P.-51

क्रमांक/No.

148 188

लगाए गए डाक टिकटों का मूल्य रु. 16.25

Amount of Stamps affixed Rs. 16.25

एक रजिस्ट्री बीमा प्राप्त किया

Received a Registered Insured

पानेवाले का नाम

Addressed to

बीमे की रकम (अंकों में) 15/16.5 M (शब्दों में)

Insured for Rs. (in figures) 15/16.5 M (in words)

बीमा शुल्क रु. 2.00 वजन (शब्दों में)

Insurance fee Rs. 2.00 Weight (in words)

भेजनेवाले का नाम व पता

Name and address of sender

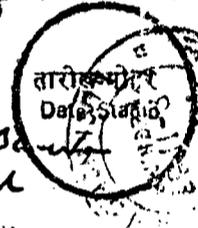
डाकघर निर्देशिका में दी गई

Issued subject to terms and

conditions in P. O. guide

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer



आर. पी. 51

R. P.-51

क्रमांक/No.

149 189

लगाए गए डाक टिकटों का मूल्य रु. 16.25

Amount of Stamps affixed Rs. 16.25

एक रजिस्ट्री बीमा प्राप्त किया

Received a Registered Insured

पानेवाले का नाम

Addressed to

बीमे की रकम (अंकों में) 15/16.5 M (शब्दों में)

Insured for Rs. (in figures) 15/16.5 M (in words)

बीमा शुल्क रु. 2.00 वजन (शब्दों में)

Insurance fee Rs. 2.00 Weight (in words)

भेजनेवाले का नाम व पता

Name and address of sender

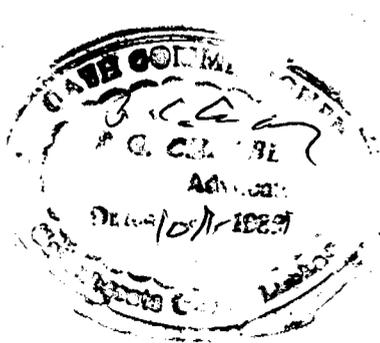
डाकघर निर्देशिका में दी गई

Issued subject to terms and

conditions in P. O. guide

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer



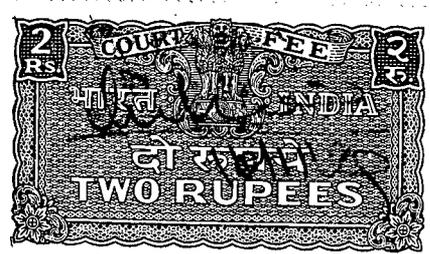
A32

In the Honble C. A. T. बिनामत शीमान Shri Birendra Shrivastava महोदय
C. B. Jadhav



का **वकालतनामा**
O.A. NO _____ of 1989 (L)

Sahab Deen vs Union of India
Others.



नं० मुद्दा 10 बनाम प्रतिवादी (रेस्पान्डेन्ट)
Ram Gopal, Shri Birendra Shrivastava Dayal
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री _____
पेशी की ता० 10-11-1989 १९ ई०

T. N. Tiwari, Advocate High Court.
वकील
एडवोकेट महोदय

नाम अदालत
नं० मुकद्दमा
नाम फरीकत

को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर राम गोपाल

साक्षी (गवाह) _____ साक्षी (गवाह) _____
दिनांक 10 महीना नवंबर सन् 89 ई०

Accepted in
(T.N. Tiwari)
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

C.M. No. 2457496

O.A. NO. 310 of 1989(L)

133

Sahabdeen

.. Applicant

-vs-

Union of India and others

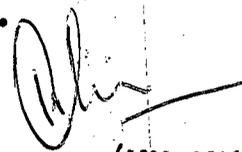
.. Opp parties.

APPLICATION FOR TAKING C.A. OF
OPPOSITE PARTIES ON RECORD XXX

The Opposite parties beg to submit as under:-

1. That the counter affidavit could not filed before due to inadvertent. Now the counter affidavit is ready for filing which are enclosed herewith along with this application.
2. That it is expedient in the interest of justice that the accompanying counter affidavit be very kindly taken on record and decide the case on merits.

It is therefore most humbly prayed that accompanying counter affidavit be taken on record and decide the case on merits.



(VK CHAUDHARI)
Advocate, High Court,
Addl Standing Counsel for Central Govt
Counsel for the Opp parties.

P.T.
L
13/4

A34

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A No. 310 of 1989(L)

Sahabdeen .. Petitioner/Applicant

-vs-

Union of India and others 7 .. Opp. parties.

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES.

...

Drafted by my directions
[Signature]
30/11/89

I, HP SOLANKY
son of SH G.R. SOLANKY
aged about 44 years, presently posted as
~~in the office~~ of Regional Deputy Director, Song and
Drama Division, Ministry of Information and Broadcasting,
Lucknow do hereby solemnly affirm and state as under:-

[Signature]
[Signature]
31/11/89

1. That the deponent is presently posted as
~~in the office of the~~ Opp. party no.4
and he has been authorised to file this counter affidavit
on ~~his~~ behalf of all the Opp. parties.

2. That the deponent is well conversant
with the facts of the case and he has read and
understood the contents of application as well as the
facts given herein under in reply thereof.

[Signature]

3. That before giving parawise reply to the
application, it is pertinent to give a brief

A35

history of the case as detailed below:-

(a) That the sanctioned strength in the grade of L.D.C. in the scale of pay Rs.950-1500, is one each at Darbhange and Lucknow offices of the Song and Drama Division, Ministry of Information and Broadcasting. Prior to June, 1989, the applicant was working at Darbhanga office of the Division and other official Shri Ram Goapl at Lucknow. The applicant vide his application dated 23.6.89, addressed to Regional Deputy Director, Song and Drama Division, Lucknow requested for his transfer from Darbhanga to Lucknow. The Regional Deputy Director, Lucknow, considered the request of the applicant and took decision to accept his request and accordingly vide his order No.1/1/89/S&D/LKO dated 30.6.1989 issued orders transferring the applicant from Dharbhanga to Lucknow and of Shri Ram Gopal from Lucknow to Darbhanga. Since Shri Ram Gopal was transferred by the Regional Deputy Director, Lucknow, he made an appeal to the Director, Song and Drama Division requesting for cancellation of his transfer orders on various grounds. The appeal submitted by Shri Ram Gopal was examined at the Hqrs. of the Division at various

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A36

levels upto the level of Head of the Department and Head of Department, ie. Director, Song and Drama Division took a decision to cancel the transfer order of Shri Ram Gopal. Accordingly order No. A-22015/2/89-Admn. I dated 24th Oct. 1989, were issued by the Hqs. of the Division under the signature of Deputy Director (Admin), who is the appointing authority for the post of Lower Division Clerk. It would be essential to make clear that the Regional Deputy Director, Lucknow has issued orders vide his order dated 30.6.89 under the powers delegated to him as well as all other Regional Deputy Directors of the Division by the Deputy Director (Admin) who is the competent authority to issue orders for transfers and postings in the grade of LDC in his capacity of being Appointing authority. A copy of delegation of powers is being filed as Annexure B to this counter affidavit.



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PRELIMINARY OBJECTION

- (i) That the petitioner has not exhausted all the channels of remedies available to the applicant under rules.
- (ii) That the applicant has failed to make affected official a party in the case.

A37

In view of this, the application is liable to be dismissed for non-joinder of essential parties.

Parawise comments.

4. That the contents of para 1 to 5 of the application needs no comments.

5. That the contents of para 6(a) ~~of~~ the application are admitted to the extent that the applicant is working in the Song and Drama Division. The other points raised by the petitioner/applicant are irrelevant as the applicant's application filed in the High Court of Allahabad, Lucknow Bench in 1982 has already been decided by the Hon'ble High Court in favour of the respondents.

6. That the contents of para 6(B) of the application are admitted to the extent that the applicant was transferred vide Regional Deputy Director's order dated 30.6.89 and joined Lucknow office on 10.7.1989. The remaining part of the para are considered irrelevant.



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7. That the contents of para 6(c) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was transferred ~~xxxx~~ vice Shri Ram Gopal (another LDC of this Division ^{who} consequent upon his selection and nomination by the Staff Selection Commission for the post of LDC at Lucknow office of this Division was appointed with effect from 15.10.1982 and was working at Lucknow since then continuously transferred to Darbhanga, vide Regional Deputy Director's orders dated 30.6.89. This order made Shri Ram Gopal aggrieved and he made an appeal to the Director (Head of Department, Song and Drama Division) to cancel his transfer orders on various grounds. The appeal of Shri Ram Gopal was examined at various level at the H.Qrs. of the Division and ultimately Director, Song and Drama decided to cancel the transfer order issued by the Regional Deputy Director. In the meantime the applicant has joined Lucknow office, but Shri Ram Gopal, instead of joining at Darbhanga remained on leave and waited for the decision of the Director. It was to this context that the Deputy Director (Admin) who is the appointing authority for the post of LDC issued order No.A.22015/2/89-Admn. I

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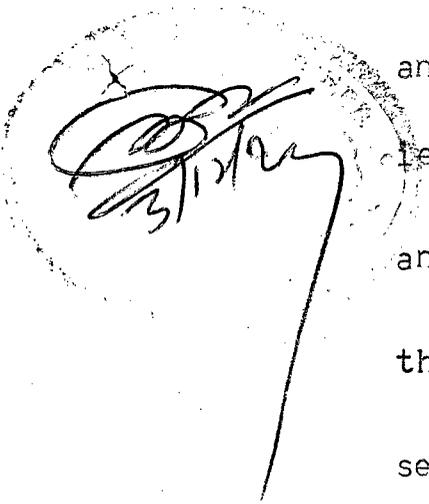
A handwritten signature in black ink, located at the bottom left of the page.

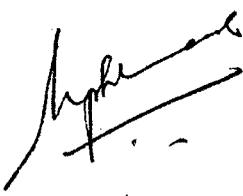
A39

- 6 -

dated 24.10.89. This order in fact is nothing but maintains the status quo position of prior to June 1989.

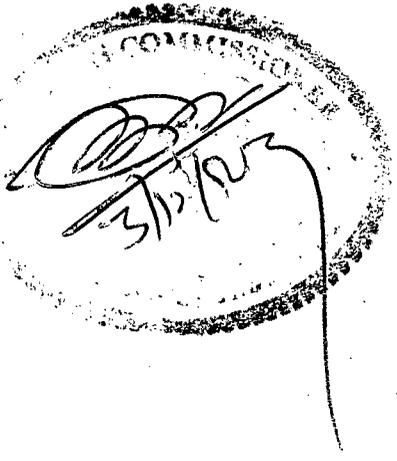
8. That in reply to the contents of para 6(D) to (H) of the application it is submitted that as per the details of the family submitted by the applicant is being annexed as Annexure No. 2 to this counter affidavit and his latest application dated 23.6.89 being annexed as Annexure-~~No.~~ 3, the petitioner has no issue. He was living at Darbhanga all alone. Every Govt servant including the applicant has right to represent against any order, to senior authorities. The applicant has never represented against the said order No.A-20013/2/89-Admn. I dated 24th Oct 1989, as claimed by him and thus not exhausted all the channels i.e. Deputy Director(Admin) Appointing Authority and Head of Department(Director) etc. Though all the Govt officials are under the obligation to serve anywhere in India, but there is no transfer policy to transfer a Govt servant after a period of three years as claimed by the applicant. The transfers are ~~only~~ ordered only ~~for~~ compelling and administrative reasons keeping in view exigencies of requirement of service in public interest.





A40

Since Shri Ram Gopal, has not joined the place of his new posting ie. Darbhanga and the applicant has joined at Lucknow in pursuance of the orders of the Regional Deputy Director, the order issued by him was partly implemented pending final decision of the Director, Song and Drama Division, on the appeal of Shri Ram Gopal. The decision of the higher authorities / competent authority and issue of orders in supersession of the order ^{of} ~~an~~ authority who is ² only competent authority by virtue of the powers delegated to him, can not be said to be arbitrary and violation of rules without any substantial evidence. Thus the action on the part of the Opp. parties in issuing the order dated 24 Oct 89/~~xxxxxx~~ which ^{is} only to ^{position relative to postings of} maintain the ~~applicant~~ of prior to June 1989, is not illegal and against the provisions of law, but the order of the competent authority is legal and valid.



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9. That ~~xxxxx~~ the contents of para 6(I) of the application are incorrect as stated and in reply it is submitted that the Respondent no.4 was to proceed on official tour on 2nd November 1989 and when the applicant approached him he only advised the

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applicant to obey the orders being that of the orders of the competent authority and also advised him to submit his appeal in the office, if he so wishes. However, instead of making an appeal to the higher authorities the applicant filed the application before the CAT on 6th November 1989.

10. That the contents of para 7 of the application are incorrect as stated, hence denied and in reply it is stated that under the Law that every Government servant has right to appeal for his grievances. The applicant instead of making an appeal, he filed this application and thus did not exhaust all the channels of remedies available to the applicant under rules.

11. That the contents of para 8 of the application need no comments.

12. That the reliefs sought by the applicant are not tenable in the eyes of law.

13. That it is pertinent to mention here that the applicant has not yet been served with the posting order nor has been relieved from his present posting as such there is no cause arises in filing this application therefore it is not maintainable under the law.

14. That in view of the facts and circumstances stated above, the application filed by the applicant is

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A12

liable to be dismissed with costs to the Respondents.

[Signature]

Deponent.

Lucknow,

Dated: 3 Dec. 1989.

Verification.

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 2 are true to my personal knowledge, those of paragraphs 3 to 11 are believed by me to be true on the basis of records and information gathered and those of paragraphs 12 to 14 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.

[Handwritten notes and scribbles]

[Signature]

(H. Prasad Solanky)

Regional Deputy Director
Song and Drama Division
Ministry of Information & Public Casting
Govt. of U.P.
116-A, Faizabad Road,
LUCKNOW-226007
Tele. No. 73214

Lucknow,

Dated: 3 Dec. 1989.

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

[Signature]

(VK CHAUDHARI)

Adtl Standing Counsel for Central Govt
Counsel for Respondents.

Solemnly affirmed before me on 22 at _____ am / pm by the deponent before the Court Compound at Lucknow.

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3/12/89

~~Serial 2 (J)~~

(S)

Annexure R-I

No. A-31016/4/87-Adm. I
Song and Drama Division
Ministry of Information and Broadcasting

(A13)

15/16, Subhash Marg,
Daryaganj, New Delhi-2.
Dated the 10th July, 87.

To

All Regional Deputy Directors,
Song and Drama Division.

Subject : Delegation of powers to Regional Deputy
Directors for transfer of staff/Staff Artists
within their Region.

Sir,

The question of delegation of additional administrative powers to Regional Deputy Directors had been under consideration of the headquarters for some time past. It has now been decided to delegate to the Regional Deputy Directors the power of transfer of Non-Gazetted staff and staff artists of all categories working under them within their Region.

2. The copies of all such orders issued by the Regional Deputy Directors should be endorsed to the headquarters for information and record.

Yours faithfully,

V.S. Bhanot

(V.S. Bhanot)
Deputy Director (Adm.)

Copy to :-

1. All Officers/Section at the headquarters.
2. All Centres of the Song and Drama Division.
3. P.A to D.D.(A) for folder.
4. P.A to Director for folder.
5. All Pay & Accounts Officers in correspondence with Song and Drama Division.
6. Guard file (Adm. I Section)

V.S. Bhanot

(V.S. Bhanot)
Deputy Director (Adm.)

Copy for information to : D.S.(J), Ministry of I & B.

V.S. Bhanot

(V.S. Bhanot)
Deputy Director (Adm.)

18/7/87

3/12/87
Nagar

[Signature]

DETAILS OF FAMILY

AMU

Name of the Government servant: Sahab Din
 Designation: L.D.C.
 Date of birth: 15-7-1944
 Date of appointment: 5-12-68
 Details of the members of my family as on

Serial No.	Name of the members of family	Date of Birth	Relationship with the officer	Initial of the Head of office.	Remarks
1	Sh. Mumeshwar Prasad	60 years	father		
2	Smt. Rampati Devi	55 "	Mother		
3	Smt. Kewalpati Devi	33 "	wife		
4	Sh. Ram Singh inf. Stora Kham	16 "	Brother		

I hereby undertake to keep the above particulars up-to-date by notifying to the Audit Officer/Head of Office any addition or alteration.

Place Lucknow
 Dated the 16-4-79

Sahab Din
 Signature of Government servant.

Family for this purpose means

- (a) Wife, in the case of a male Government servant;
- (b) Husband, in the case of a female Government servant;
- (c) Sons below eighteen years of age and unmarried daughters below twenty-one years of age, including such son or daughter adopted legally before retirement.

NOTE:- Wife and husband shall include respectively ~~x~~ judicially separated wife and husband.

Sahab Din

24/11/79

VAKALATNAMA

AMG

In the Hon'ble High Court of Judicature at Allahabad
At
Lucknow Bench

..... *Sahab Din* Plff./Applt./Petitioner/Complainant

Verses

..... *Union of India* Defent./Respt./Accused

KNOW ALL to whom these presents shall come that I/We.....
the above-named.....do hereby appoint

Shri V. K. CHAUDHARI, Advocate, *Central Administrative*.....
Tribunal.....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 untill 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.

Client

Client

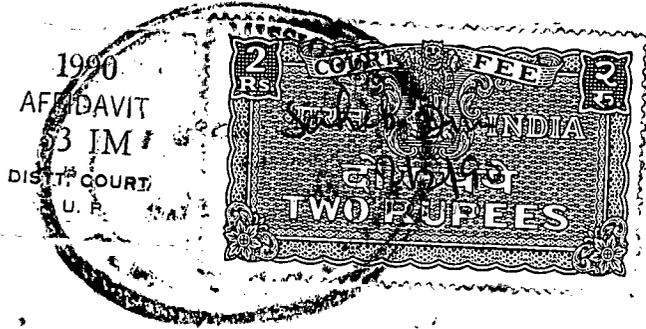
Advocate

(Hari Prasad Solanky)
Regional Deputy Director
Song and Drama Division
Ministry of Information & Public Casting
Govt. of India
116-A, Faizabad Road,
LUCKNOW-226007
Tele: No. -73214

47

IN THE ADMINISTRATIVE TRIBUNAL AT LUCKNOW,
LUCKNOW-BENCH.

O. A. No. 310/1989(L).



Saheb Din. Applicant.

Versus

Union of India & others. Opp. parties.

REJOINDER AFFIDAVIT.

I, Saheb Din, aged about 45 years, son of Sri Muneshwar Prasad, resident of 529/258, Rahim Nagar, Mahanagar, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the sole petitioner in the above case and as such he is fully conversant with the facts of the case and those deposed hereinafter.

2. That as regards to the contents of para no.1 and 2 of the Counter-Affidavit, it is stated that Sri H.P.Solanki has not filed authorisation letter to show that the opposite parties have authorised him to file Counter-Affidavit on their behalf. It is also pertinent to mention here that the affidavit was not prepared on the directions or instructions. After preparing the Counter-affidavit his name was filled in. The Counter-affidavit filed by him is not admis-



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2.

sible in evidence.

3. That the contents of sub-para (a) of para no.3 of the Counter-affidavit are denied as alleged. Sanction strength of lower-division clerks was of three posts, each post was for Darbhanga, Lucknow, Nainital and no post of lower division clerk at Patana. The appointment of Ram Gopal was made as Lower Division Clerk in the year 1982 for Naini Tal and Km. Nita Saxena was appointed by order dated 6.9.1982 at Lucknow but on the basis of political pressure Ram Gopal pressurised the opposite parties and joined at Lucknow and ~~Kum. Neta~~ was sent to Naini Tal for joining his post on the assurance that he would be called for joining at Lucknow. In the year of 1982, the deponent was working at Lucknow and was transferred from Lucknow to Darbhanga in the year of 1982 and joined at Darbhanga Regional Deputy Director Lucknow is the competent authority to transfer and pass any order. The deponent was transferred by order dated 30.6.1989 from Darbhanga to Lucknow and he joined at Lucknow. But Ram Gopal disobeyed the order and did not join at Darbhanga and started to pressurise the opposite parties Nos. 2 and 3 with the help of political leaders and the opposite party no.1 asked the report from the opposite party No.4 about the transfer. The opposite party no.4 submitted his report in 16-17 pages and in the report charges were levelled against Ram Gopal. The said facts have already been mentioned in the application but Sri H.P.Solanki has concealed the facts, did not give reply of the said facts and he has also no annexed the copy of the said report with Counter-

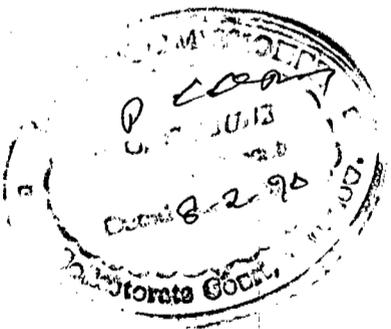


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3.

Affidavit. There is no provision to file appeal and it is also pertinent to mention here that the transfer order was passed by opposite party no.4 and ranks of the opposite party nos. 4 and 3 are same then there is no provision to consider the said appeal by opposite party no.3 against the order of opposite party no.4. The transfer order has already been implemented hence no question arose for its cancellation. It is also pertinent to mention here that there is no explanation on behalf of the opposite party why the memo of appeal was not filed by Sri H.P.Solanki with the Counter-Affidavit and he has also failed to give the account of the bill in counter-affidavit. It is also pertinent to mention here that there is no provisions to file the appeal against the transfer order and there is also no provision to examine the appeal at the head-quarters at various levels. In the said alleged appeal no opportunity was given to the deponent and the order for cancellation was not passed by the Director and the copy of the order, passed by the opposite party no.3, was given to the petitioner. The opposite parties have no jurisdiction to cancel the order dated 30.6.1989 and the order dated 24.10.1989 is purely illegal and was passed against the provisions of law for harassing the petitioner. The opposite party no.4 is competent to pass order dated 30.6.89 and the order dated 30.6.89 is ^{not} illegal and the same has already been implemented. The contents of the preliminary objections ~~are~~ given in paras (i) to (iii) are denied. In the application the petitioner has already stated that the petitioner gave representations against the order dated 24.10.1989



Am

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4.

on 2.11.1989 when he knew about the transfer order but the opposite party no.4 insisted the petitioner to go to Darbhanga for joining his services and he told that his representation could not be considered because the order was passed on the basis of political influence and opposite party no.3 told him that the order dated 24.10.1989 should be followed. The deponent has also sent the representations to the opposite parties nos. 1 to 3 through the speed post (Registered post of aeroplane) and gave representation to opposite party no.4 also. Against the alleged cancellation order the petitioner moved an application through his counsel but the same was pending. The petitioner is affected by order dated 24.10.89 hence has filed the case before the Hon'ble Tribunal. In this case no question arose of non-joinder of parties Sri H.P.Solanki failed to show how much channels are in the department for remedy and in which Acts and Rules the channels and remedy were given.

4. That the contents of para 4 of the Counter Affidavit need no comments and contents of paras nos. 1 to 5 of application are reiterated. As regards to the contents of para no.5 of the Counter Affidavit it is stated that the points raised in para 6(a) of the application are relevant but Sri H.P.Solanki how say that they are irrelevant but the reason of irrelevancy was not given in the Counter-Affidavit by him. The writ petition No.5096 of 1982 filed by the petitioner is still pending and in that writ petition the applications, affidavits and supplementary affidavits of facts have already been challenged. The contents of



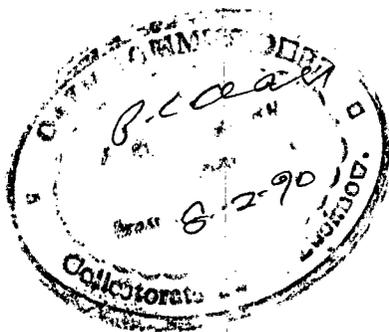
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5.

para 6(i)(a) of application are reiterated.

5. That the contents of para 6 of the counter-affidavit are denied excepted the accepted facts. The facts given in the para no.6(b) of application are relevant and the same are reiterated. The contents of para 7 of the counter-affidavit are denied as alleged. Ram Gopal was not selected for Lucknow. At Lucknow, the petitioner was in service in the year 1982 and for Lucknow Km.Nita Saksena was selected but with the help of political pressure Ram Gopal joined at Lucknow and the petitioner was transferred at Darbhanga in the year 1982 and Km.Nita Saksena joined at Naini Tal. There is no explanation on behalf of the opposite parties why Sri H.P.Solanki has not annexed the selection and appointment letters of Ram Gopal to show that he was selected to Lucknow. The transfer order dated 30.6.1989 is legal and there is no provision to file appeal and opposite party no.3 had no jurisdiction to cancel the transfer order and in the order dated 24.10.1989 no ground was given for cancelling the order dated 24.10.1989 which were given by Ram Gopal in alleged appeal and Sri H.P.Solanki has also not annexed memo of the alleged appeal with Counter-Affidavit. The opposite party no.3 has no jurisdiction to cancel the order dated 30.6.1989 or retransfer the applicant by order dated 24.10.1989. Sri Ram Gopal disobeyed the order dated 30.6.1989 and started to influence the opposite parties with the help of political leaders and on that very basis bogus order was passed by the opposite party no.3 on 24.10.1989. In the order dated



B. C. Chandra

AS2

6.

24.10.1989 no where it is mentioned that persons maintain status quo. Before 24.10.1989, the deponent has already joined at Lucknow. In these circumstances according to status quo the petitioner is entitled to have been retained at Lucknow. The contents of para no.6(b) of the application are reiterated. The true copy of the order about ^{appointment} payment of Km.Nita Saksena is being Annexed as Annexure No.R-1 to this affidavit.

6. That the contents of para no.8 of the counter affidavit are denied as alleged. The details of the family of the deponent was given by the deponent in the year 1978 and after that 12 years have already been lapsed. The numbers of the family members have already been increased. The deponent has children of his brother with him and he got them admitted in the school at Lucknow. The family of the applicant is in Lucknow and his transfer had been made at Lucknow after 8 years. The deponent has already made representations against the order dated 24.10.1989. The deponent has exhausted departmental remedy but there is no provision to file the appeal and it is also pertinent to mention here that the ranks of the opposite parties Nos. 3 and 4 are same then how so called appeal was heard by opposite party no.3 and allowed the appeal of Ram Gopal but there is no provision of appeal. There are several charges against Ram Gopal and about charges the reports in 16-17 pages were sent by opposite party no.4 to the opposite party no.2. The said facts were not given by Sri H.P.Solanki in the counter-affidavit. Ram Gopal was remained at Lucknow for 8 years and after 8 years he was transfer a to Darbhanga. According to contents of para 8 of the



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7.

Counter-affidavit, Ram Gopal is bound to join at Darbhanga and order dated 30.6.1989 is legal. There is no provision to remain employed several years according to his choice at the place chosen by him. The transfer order dated 24.10.1989 was passed under undue influence of political leaders and the same was passed against the public interest. Ram Gopal disobeyed the order dated 30.6.1989 and at present the said order has not been followed by Ram Gopal. The order dated 30.6.1989 has ~~not~~ already been implemented on 10.7.89 when the deponent joined at Lucknow. There is no provision to file the appeal and the order dated 24.10.1989 was not passed by the higher authority ~~the~~ the opposite party no.2. The order dated 30.6.1989 was passed by the competent authority but the order dated 24.10.1989 was passed in arbitrary manner with malafide/ⁱⁿ intention. There is no provision to re-transfer the employee in few times from one place to other place. When the deponent joined at Lucknow no T.A. & D.A. etc. was given to the deponent and for the same the deponent has also not grievance. But the transfer order dated 24.10.1989 is illegal and void. The contents of para 6(d) to 6 (h) of the application are reiterated.



Pm

7. That the contents of para 9 of the counter-affidavit are denied as alleged. The deponent has already given the representation to opposite party no.4 on 2.11.89 and he has stated this fact in the application. There is no provision to file appeal, representations have already been given and departmental remedy has already been exhausted. The transfer order dated 24.10.1989 has been

ASW

8.

~~Illegal~~^R, challenged and the same is liable to be quashed. The contents of para no.6(i) of the application are reiterated.

8. That the contents of para no.10 of the counter-affidavit are denied. There is no provision to file appeal and the representation has been given to all the opposite parties. Sri H.P.Solanki failed to give under what rule appeal is provided. The contents of para 11 of the Counter-affidavit need no comments. The contents of para no.12 of the Counter-affidavit are denied. The deponent is entitled to get all the reliefs sought for.

9. That the contents of paras Nos. 13, 14 of the counter affidavit are denied as alleged and the opposite parties insisted to give the charge of the post. The deponent made representations against the order and thereafter filed the case before this Tribunal. The application of the deponent is liable to be allowed and the order dated 24.10.1989 is liable to be quashed. All the facts and grounds given in the application are tenable and the same are reiterated. The application for vacation of stay order given to the opposite parties is liable to be rejected.



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Lucknow,
Dated: February 8th, 1990.

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Deponent.

Verification.

I, the above named deponent do hereby verify

ASS

that the contents of paras 1 to 9
of this affidavit are true to my knowledge
and those of paras X
are believed by me to be true.

Signed and verified the above this
the 8th day of February, 1990, at courts
compound, Lucknow.

Lucknow,

Dated: February 8, 1990.

[Signature]
Deponent.

I identify the deponent

0. No. 531/90 who has signed before me.

Identified by Shri *Saket Das*

Janardan Prasad
Advocate
8-2-1990.

I have satisfied myself by examining the
deponent that he understands the contents of
the affidavit which has been read out and
explained to him fee Rs. 1/- 1-30

P. C. Chauhan
P. C. CHAUBE
Advocate
Sessions Court, Lucknow
8-2-1990

A

Before the Central Administrative Tribunal at Lucknow

Bench Lucknow:

O.A.No. 310/1989 (L)

Sahab Din ————— Applicant

versus

Union of India and others ————— opposite parties

Answer no. R-1



Ans

AS6

सं०- /2032/2/82-प्रशासन एक
गीत और नाटक प्रभाग,
सूचना एवं प्रसारण मंत्रालय

15/16 सुभाग मार्ग,
दरियागंज,
नई दिल्ली-110002

दिनांक : 6-9-1982

ज्ञापन

इलाहाबाद

क्षेत्रीय निदेशक, कर्मचारी चयन आयोग ने कुमारी नीता सक्सेना को गीत और नाटक प्रभाग के लखनऊ/नैनीताल केन्द्र पर अवर श्रेणी लिपिक के पद पर रू० 260-6-290-द०रो०-6-326-8-366-द०रो०-8-380-10-400 के वेतनमान में नियुक्ति के लिए मनोनीत किया है।

श्री/श्रीमती/कु० नीता सक्सेना से अनुरोध किया जाता है कि वह अवर श्रेणी लिपिक के पद पर नियुक्ति के संबंध में अपनी सम्मति से सूचित करें।

श्री/श्रीमती/कु० नीता सक्सेना से अपेक्षा की जाती है कि वे अपने निम्न प्रमाण-पत्र दो प्रमाणित प्रतिलिपियों सहित तथा अन्य कागजात इस ज्ञापन के प्राप्त होने की तारीखा से 15 दिन के अन्दर अधोहस्ताक्षरी को भेज दें।

- 1- आयु प्रमाण-पत्र
- 2- शैक्षिक योग्यता प्रमाण-पत्र
- 3- अनुसूचित जाति/जनजाति/भूतपूर्व सैनिक/विस्थापित व्यक्ति आदि से संबंधित प्रमाण-पत्र
- 4- सिविल सर्जन/जिला स्वास्थ्य अधिकारी/मुख्य स्वास्थ्य अधिकारी से शारीरिक स्वस्थता का प्रमाण-पत्र।
- 5- दो राज पत्रित अधिकारियों से चरित्र प्रमाण-पत्र जो जिला मजिस्ट्रेट एम.डी.एम. द्वारा प्रतिहस्ताक्षरित हो। § नमूना संलग्न है §
- 6- सत्यापन प्रोफोर्मा की तीन प्रतियाँ भरकर § प्रोफोर्मा संलग्न है §
- 7- विवाह संबंधी घोषणा-पत्र § प्रोफोर्मा संलग्न है §
- 2- यदि कुमारी नीता सक्सेना गीत और नाटक प्रभाग के लखनऊ/नैनीताल में नियुक्ति का प्रस्ताव स्वीकार नहीं करते/करती हैं तो अधोहस्ताक्षरी को तत्काल सूचित करें।



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ह०/- तारा चन्द अग्रवाल
§ ताराचन्द अग्रवाल §
उप निदेशक §५०§

सेवा में, कुमारी नीता सक्सेना द्वारा श्री जी०के०सक्सेना,
557/16 ओमनगर, आलमबाग, लखनऊ 226005

AS7

IN THE ADMINISTRATIVE TRIBUNAL AT LUCKNOW,
LUCKNOW BENCH.

O.A. No. 310 of 1989(L)



Sahib Din Applicant

Versus

Union of India and others Opposite Parties

Supplementary Rejoinder Affidavit.

I, Sahib Din, aged about 45 years, son of Sri Muneshwar Prasad, resident of 529/358, Rahim Nagar, Mahanagar, Lucknow, do hereby solemnly affirm and state on oath as under:-

Handwritten initials 'ET' and 'R/B'.

1. That the deponent is the petitioner in the above noted case and as such he is fully conversant with the facts of the case as deposed herein.

2. That in the present case the deponent has challenged the order dated 24-10-89 by which Sri Ram Gopal was transferred at Lucknow on the place of the deponent. By order dated 27-2-91 Ram Gopal was promoted on the post of Upper Division Clerk from the post of Lower Division Clerk and he was directed to join on the vacant post of Upper Division Clerk at Chandigarh. The deponent is still Lower Division Clerk and his promotion was not made and there is no dispute between the deponent and Sri Ram Gopal at present. The order dated 24-10-89 became infructuous. The photostat copy



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ASD

of Promotion order of Sri Ram Gopal is being annexed as Annexure No. SR-a to this affidavit.

3. That Ram Gopal filed representation before the opposite parties and wanted his posting at Lucknow on the promotional post but no post of Upper Division Clerk is vacant hence his representation was rejected and Sri Ram Gopal gave application to the opposite parties that he will be ready to join at Chandigarh on the promotional post as Upper Division Clerk and he has also stated that he will join at Chandigarh immediately.

4. That the deponent has already been discharging his duties at Lucknow as Lower Division Clerk by the order dated 30-6-89 which is for the deponent. Sri Ram Gopal is not affected by the order dated 30-6-89 at present and the order dated 24-10-89 has become infructuous because Sri Ram Gopal is promoted on the post of Upper Division Clerk. The order dated 24-10-89 can not be implemented because Ram Gopal's promotion was made on the post of Upper Division Clerk from the post of Lower Division Clerk and the deponent will be transferred on the post of Lower Division Clerk and Ram Gopal will be transferred on the post of Upper Division Clerk.

5. That the order dated 24-10-89 is liable to be declared infructuous because Ram Gopal's promotion was made on the post of Upper Division Clerk.

Dated Lucknow
18th July, 1991.

Sahib Din
Deponent.

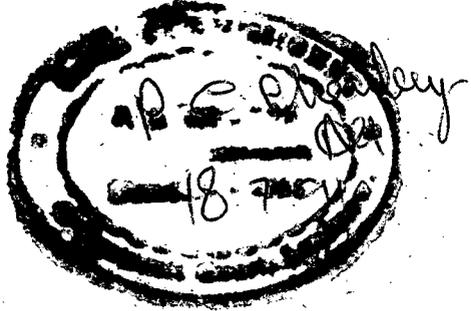
Verification.

I, Sahib Din, the deponent, do hereby verify that the contents of paras 1 to 5 of this Affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this 18th day of July 1991 in the court compound at Lucknow.

Sahib Din
DEPONENT

To identify the deponent who has signed before,
JA hand down



IN The Administrative Tribunal Lucknow Bench.

O.A No. 310 of 1989 (L)

AS9

Sahib Din

Applicant

versus

Union of India and others

opposite parties

Annexure No. S.R.a.

No. A-32016/2/90-Admn. I
Song & Drama Division
Ministry of Information & Broadcasting

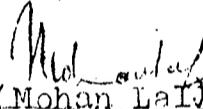
15/16 Subhash Marg
Daryaganj, New Delhi-110002.

Dated the 27th February, 1991.

ORDER

The following Lower Division Clerks are appointed by promotion to the post of Upper Division Clerk in the scale of pay of Rs. 1200-30-1560-EB-40-2040 with effect from the date of their joining at the place of their posting mentioned against their names:-

S.No.	Name	Present place of posting	Place of posting on promotion
1.	Sh. J.V. Krishna-murthy.	Madras	Jodhpur
2.	Sh. Ran Gopal	Lucknow	Chandigarh
3.	Smt. Neeta Sinha	Lucknow	Lucknow
4.	Kn. C. Vasantha	Bangalore	Guwahati

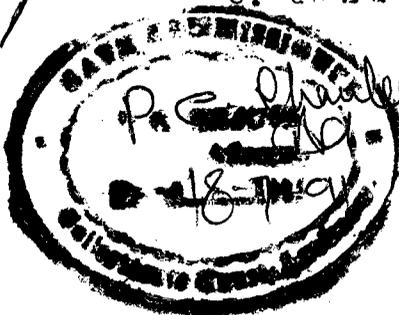

(Mohan Lal)
Deputy Director (Admn.)

Copy to:

1. Each individual concerned (Through their respective Controlling Officer) - The officials at Sr. Nos. 1, 2 & 4 shall give their willingness to their Controlling Officers latest by 11th March 91 positively. In case, however, any official on his relieving does not join his new place of posting on promotion, it shall be treated as refusal to accept the promotion and shall be debarred for one year.
2. Deputy Director, Song & Drama Division, Madras/Lucknow/Chandigarh/Bangalore/Guwahati with the request that the concerned officials should be relieved latest by 18th March, 1991 to report at the place of their posting after availing usual joining time.
3. Pay & Accounts Offices in Accounts with S&DD, Lucknow, Guwahati, Bangalore.
4. P/Files of each individual.
5. All officers/sections at Hdqrs of the Division
6. Guard file (Admn. I)

/immediately
after avail-
ing usual
joining
time.


(MOHAN LAL)
DEPUTY DIRECTOR (ADMN.)



APCO

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH ALLAHABAD.

Circuit Bench-Lucknow.

C.M.Appln. No. 351 of 1989. (4) ✓

Ram Gopal aged about 32 years, son of Shri
Bateshwar Dayal, Resident of 4/265 Vikas Nagar,
Lucknow, presently serving as L.D.C. in the Office
of Songs and Drama Division, Ministry of Information
and Broad Casting, 116-A, Faizabad Road, Lucknow.

...Applicant.

In re;

O.A.No.310 of 1989.(L)

Saheb Deen. Applicant.

Versus.

Union of India and others. ... Respondents.

APPLICATION FOR VACATION OF STAY ORDER AND IMPLEADMENT
AS RESPONDENT NO.5.

To,

The Hon'ble The Vice Chairman,
And his other companion members
of the aforesaid Tribunal.

The humble application of the applicant
named above most respectfully showeth as under:

1. That all the facts, reasons and circumstances have already been enumerated in the C.M.Appln.No.313 of 89 in O.A.No.310 of 1989 (L) i.e. in the instant case.
2. That the applicant is an affected party in

Filed by
18/12/89

As mentioned in
the court.

[Handwritten signature]

AC 7

the instant original application and deliberately has not been made as a party respondent no.5.

3. That the applicant had already moved aforesaid civil m̄sc. application on 10.11.1989 before the Divisional Bench comprising of Hon'ble Mr.D.K. Agarwal, J.M. and Hon'ble Mr.K.Ubayya,A.M. and Hon'ble Members were pleased not to consider the application for impleadment as respondent no.5 whereas the applicant Sahab Deen in original application had made specific allegations against the applicant and as a result of non consideration of aforesaid C.M. Application the original application was admitted and the stay for 30 days was granted by the Hon'ble Tribunal vide order dated 10.11.1989.

4. That it is very much pertinent to mention here that the applicant Sahab Deen in original application making allegations against the applicant in para 6(a) and(c) respectively has stated absolutely false in para 6 (d) and (e) that his children have been admitted in school and are taking education whereas he is totally issueless which is well evident from his application requesting transfer from Darbhanga to Lucknow (annexed as Annexure No.A -1 to the C.M. Appln.No.313 of 1989 in the instant case and is on record of the Hon'ble Tribunal.

5. That the applicant had already joined at Lucknow on 3.11.1989 and copy of the joining report

A62

is annexed as Annexure A-3 in the said civil misc. application No.313 of 1989 even then the applicant has not been paid his salary as yet.

6. That it will not be out of place to mention here that as it was specifically stated in the aforesaid C.M. Application para 3(b) that the respondent no.4 is in collusion with the applicant Saheb Deen and as such deliberately has ~~not~~ avoided appearance before the Hon'ble Tribunal on 10.11.1989 consequent upon which the original application was admitted and stay order was granted on 10.11.1989 for only 30 days which has already expired on 11.12.1989 and as such the same has become infructuous.

7. That in the circumstances aforesaid it is very much expedient in the interest of justice that the Hon'ble Tribunal is pleased to vacate the stay order dated 10.11.1989 and direct the applicant Saheb Deen to implead the applicant as respondent no.5 for proper adjudication because he is the main affected party by the impugned order.

P R A Y E R.

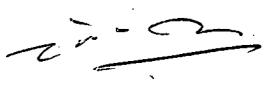
It is, therefore, most respectfully prayed

[Signature]

that the Hon'ble Tribunal may graciously be pleased to vacate the stay order dated 10.11.1989 and direct the applicant Sahab Deen to implead the applicant as respondent no.5 being main affected party otherwise the applicant shall suffer irreparable loss and injury.

Lucknow; Dated

13-12-1989

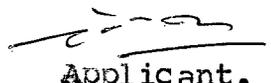

Applicant.

Verification.

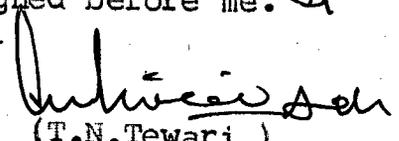
I, Ram Gopal, son of Shri Bateshwar Bayal presently serving as L.D.C. in Songs and Drama Department, hereby verify that the contents of para 1 to 6 of this application are true to my personal knowledge and para 7 on legal advice which I believe to be true and that I have not suppressed any material fact.

Lucknow; Dated

13-12-1989


Applicant.

Identified Shri Ram Gopal L.D.C. who is personally known to me and has signed before me. *at my residence.*


(T.N. Tewari)

Advocate

Counsel for the Applicant.

In the Hon'ble Central Administrative Tribunal,
Additional Bench Allahabad,
Circuit Bench, Lucknow.

C.M. Application No. 313 of 1989.

Ram Gopal aged about 32 years, son of
Shri Bateshwar Dayal, resident of 4/265,
Vikas Nagar, Lucknow presently serving as
L.D.C. in the office of Songs & Drama Division,
Ministry of Information and Broad Casting,
116-A, Faizabad Road, Lucknow.

....Applicant.

In re:

O.A. No. 310 of 1989 (L)

Saheb Deen

...Applicant.

Versus

Union of India & others

...Respondents.

Application for Impleadment as
respondent no.5.

To

The Hon'ble the Vice Chairman
and his other companion Members
of the aforesaid Tribunal.

The applicant named above most
respectfully begs to submit as follows :-

Filed today
L
10/11/89

[Handwritten signature]

#65

1. That the applicant is the main affected party in the subject original application and has deliberately not been made as party i.e. respondent no.5.

2. That in case the original application is admitted or any order is passed by this Hon'ble Tribunal without hearing the applicant, the same may cause injury to the applicant which would not be proper and technically correct.

3. That the applicant strongly opposes the admission of the original application and also the interim relief prayed by him. The brief facts to oppose the instant application and interim relief are as follows :

(a) That the applicant having a mad brother totally depends on him and there is none to look after him. The parents are very old and they also need physical help in their old age.

(b) That the applicant (Saheb Deen) of original application had a good approach and access to local Deputy Director and taking disadvantage of the same, he could manage

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

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

10/11/89 Heard Shri Janardan Prasad counsel for the applicant.

ADMIT.

Issue notice to respondents to file counter affidavit within four weeks to which the applicant may file rejoinder within 2 weeks thereafter.

As regards interim prayer we find that the applicant was transferred from Darbhanga to Lucknow in June, 89.

He has been again subject^{ed} to transfer by an order dated 24.10.89 from Lucknow to Darbhanga. We made the applicant

by our order dated 7-11-89 to serve notice on the

respondents. However, the respondents have not appeared.

The applicant alleged that the order of transfer has not yet been implemented. We, therefore, stay the operation of the order of transfer dated 24-10-89 for a period of

30 days hereof and call upon the respondents to file written reply if they so choose within 3 weeks hereof. List

this case on _____ for orders.

As regards the application for impleadment by one Ramgopal, we are of the opinion that the matter of inter-se transfer is not to be adjudicated upon by the Tribunal.

The matter ^{lies} within the jurisdiction of the competent authority, therefore, we do not consider a fit case of ordering the impleadment of Ramgopal who claims that the impugned order of transfer dated 24-10-89 was correctly

passed and the applicant was liable to be transferred from Lucknow to Darbhanga and ^{dispute, the maintainability of the application} that his application against the ~~transfer order is not maintainable.~~

A.M.

J.M.

(Sns)

AGG

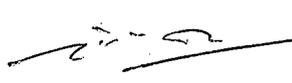
3

his posting to Lucknow on own request by shifting the applicant without consent to Darbhanga w. e. f. 30-6-1989. His request to transfer is Annexure A-1 to this application.

(c) That the the prevailing circumstances were and are of such a serious nature which compelled the applicant to represent against the same transfer order and after due representation the applicant did not join at Darbhanga.

(d) That the applicant at first instance represented before the Transferring Authority i. e. local Dy. Director who did not consider the request. The applicant and his mother both represented the matter to the Hon'ble Director at New Delhi on 17-7-1989 who was pleased to consider the facts and request and re-transferred the applicant to Lucknow vide his order dated 24-10-1989. The copies of the request made by the applicant and his mother are annexed herewith as Annexure A-2 to this application.

(e) That being aggrieved of the order dated 24-10-1989 Shri Daheb Deen has filed the original application without impleading the applicant as respondent. The applicant has in fact joined at Lucknow on 3-11-1989



167

in pursuance of the transfer order dated 24-10-1989. A true copy of the joining report duly received is annexed herewith as Annexure A-3 to this application.

4. That as stated above the previous transfer order was passed by the local Dy. Director of Lucknow whereas the impugned order of transfer is passed by the Director of Delhi Head quarters officer giving due consideration to the facts and dispensing justice thereof.

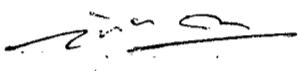
5. That in the circumstances aforesaid it is very much expedient in the interest of justice that the applicant Saheb Deen is directed to implead the applicant (affected party) as party in the original application.

6. That in the circumstances aforesaid the original application filed by Shri Saheb Deen is wholly misconceived and is liable to be dismissed with costs for non joinder of necessary party.

5
A68

Wherefore, it is most respectfully prayed that the hon'ble Tribunal may graciously be pleased to direct the applicant in the original application i.e. Shri Sahab Deen to implead the applicant (affected party) in the original application for proper adjudication of the matter in controversy and on failure the Hon'ble Tribunal further be pleased to dismiss the original application with cost for non-joinder of necessary party.

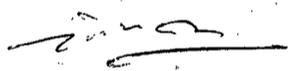
Lucknow, dated;
November 10, 1989.


Application.

Verification

I, the above named applicant do hereby verify that the contents of paras 1 to 4 are true to my personal knowledge and the contents of paras 5 and 6 are believed by me on the basis of legal advice and that I have not suppressed any material fact.

Lucknow, dated;
November 10, 1989.


Applicant.

Identified Sri Ram Gopal who is personally known to me and has signed before me

Luhian saw
10/11/89

Thakur Sri
Luhian
(F.H. Prasad)
Advocate
Counsel for the applicant.

To

The Director,
Song & Drama Division
Min. of I & B, Govt. of India
Darya Ganj, New Delhi.

Sub:- Representation against my transfer from Lucknow to Darbhanga.

Sir,

In continuation of the representation dated 17/7/89 against the transfer order No. 1/1/89-S&D/LKO dt. 30/6/89 I have to submit a few more facts for your kind consideration:-

1. I was nominated by Staff Selection Commission Allahabad for the post of L.D.C. at Lucknow on 15/10/1982.
2. My transfer for Darbhanga has been done all of sudden, without giving any notice whatsoever without any reason.
3. On the 30/6/89 at the evening when after doing my routine work, i.e. disbursing the salary I went to Dy. Director for obtaining his signature on the cash book, then I was given the transfer order and was also ordered by Dy. Dir. to hand-over the cash balance and cash book to Smt. Neeta Singh L.D.C. Lucknow immediately.
4. I was also ordered to hand-over the other C.O.S. charges to Sh. K.R. Chaudhary, Cipyist Lucknow immediately.
5. I was verbally ordered to leave Lucknow for Darbhanga at the very next day to join there before the arrival of Sh. Sahab Din.
6. The transfer has been made to help Sh. Sahab Din, after putting me into great trouble.
7. Recently on the 18/6/89 only I invested a ^{in my hire & accommodation} sum of Rs 1400/- from my own pocket for boring a hand-pump, due to scanty of water, that will be a total wastage.
8. I belong to a poor family so with my meagre salary I can not maintain two establishments at two different places. My old parents are living with me and without me they will be helpless. I am a L.D.C., a low paid employee.

From this transfer you will kindly find that this transfer is to accommodate one at the cost of my life.

May I request honourable Director to look into this matter and retain me at Lucknow by doing a justice.

Yours faithfully

(Ram Gopal),
L.D.C., Lucknow.

Received
R.G.
18/7/89

The Attached
Distinction

(371)

सेवा में,

निदेशक
गीत और नाटक प्रभाग
सूचना और प्रसारण मंत्रालय
भारत सरकार,
४५/१६ सुभाष मार्ग, दरियागंज,
नई दिल्ली।

नं० ४/२६५
विकास नगर
अलीगंज, लखनऊ
दिनांक ७-७-६९

महोदय,

मेरा पुत्र श्री राम गोपाल प्रभाग के लखनऊ कार्यालय में कनिष्ठ लिपिक के पद पर कार्यरत है जिसका तबादला प्रभाग के दरभंगा केन्द्र पर कर दिया गया। इस संबंध में महोदय से निम्न निवेदन है:-

- १- मैं ६६ वर्षीय वृद्धा हूँ जोकि विगत कई वर्षों से गुर्दा की खराबी, मधुमेह, हृदय तथा पेट की गंभीर बीमारियों से एक साथ ग्रस्त हूँ।
- २- मैं अपना इलाज लखनऊ में रह कर करवा रही हूँ। अपनी बीमारी के कारण मुझे चलना फिरना मुश्किल है।
- ३- मेरा बड़ा पुत्र पागल है जोकि मेरे साथ ही रहता है।
- ४- राम गोपाल ही मेरे बुढ़ापे में एक मात्र सहारा है जिसके अधीन रह कर मैं इलाज करा रही हूँ।
- ५- ऐसी अवस्था में मैं अपने पुत्र के साथ दरभंगा जाने में असमर्थ हूँ तथा लखनऊ में मेरी देखभाल करनेवाला कोई दूसरा नहीं है।
- ६- इस संबंध में लखनऊ कार्यालय के क्षेत्रीय उपनिदेशक श्री हरी प्रसाद सोलंकी से मैं प्रार्थना कर चुकी हूँ।

अतः आपसे प्रार्थना है कि राम गोपाल का तबादला रोक दिया जाये जिससे कि वह मेरी देखभाल तथा इलाज लखनऊ रह कर करा सकें। निम्न वेतन भोगी होने के कारण दरभंगा में रह कर श्री राम गोपाल मेरी देखभाल बिलकुल नहीं कर पायेगे और मैं अकेली असहाय रह कर मर जाऊँगी।

कृपया राम गोपाल को लखनऊ में ही रह कर कार्य करने दिया जाये।

भवदीया,

उर्मिला देवी

(श्रीमती उर्मिला देवी), म/०

माता श्री राम गोपाल, कनिष्ठ लिपिक
गीत और नाटक प्रभाग, लखनऊ।

दिनांक: - 17.7.69

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Handwritten signature

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To

The Regional Dy. Director,
Song & Drama Division,
Min. of I & B,
Govt. of India,
Lucknow.

Sub:- Regarding transfer.

Sir,

Please refer your order no.1/1/89-33D/LKO dated 30/6/89, on the subject noted above.

I am to bring to your kind notice the facts that do not permit me to leave Lucknow for transfer:-

- i. My parents are completely dependant on me and they are residing with me at Lucknow.
 - ii. My bedridden mother of 56 is a chronic patient of heart trouble and high B.P., also facing the troubles of kidney damage is under treatment at Lucknow.
 - iii. My brother of 38 years is mentally retarded. He is also a complete dependant on me and residing with me.
 - iv. My father is also quite old a patient of asthma, unable to move smoothly.
- I am the only earning member of my family.
- I am unable to keep my dependants with me at any other place except Lucknow since all of them are under treatment at Lucknow, ~~xxxxxxx~~
- vii. There no other person except me to look-after my dependants.

My case may please be considered sympathetically on humanitarian ground and be allowed to serve under your kind controll at Lucknow office so that I may be able to work more enthusiastically and look after my ailing parents properly as I am a lowpaid employee.

Yours faithfully

(Ram Gopal)

LDC,
Song & Drama Division,
116 A, Patna Road, Lucknow.

Date:- 03/7/89
Place:- LUCKNOW.

*Pl put up in
This was
discuss with
& R.G. in
detail
his case may be
reconsidered
Oct/Nov 89*

*M.P.
A.A.*

*mps
5/7/89*

to the effect

Annexure A-3

ARB

To

The Regional Dy. Director,
Song & Drama Division
116-A, Faizabad Road,
Lucknow.

Sir,

With reference hars, order no. A-22015/2/89-Adm-I dated 24/10/89 (a photocopy enclosed) I beg to join my duties to day i.e. 03/11/1989 (F.N.).

Submitted for information & necessary action.

Yours faithfully

(Ram Gopal),
L.D.C., Lucknow centre.

Copy for information:-

1. Dy. Director (Adm.), Song & Drama Division, New Delhi.
2. The Director, Song & Drama Division, New Delhi.

(Ram Gopal), 3/11/89
L.D.C., Lucknow centre.

प्रिजाडिपिक अडिलारी
पीत वीर नाटक प्रभाग,
पुस्तक एवं प्रसारण संभाग
शाखाधिकार, प्रकाशक

The attached
documents
are
for
your
reference