

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE ...Q.A. 311.....OF ...1989.....

NAME OF THE PARTIES ...Bishwas Kumar.....Applicant

Versus

.....Superintendent Post Officer.....Respondent

Part A.

Sl.No.	Description of documents	Page
1	Check List	A 1 to 2
2	Order Sheet	A 3 to 7
3	Judgement date 21/10/92	A 8 to 11
4	Petition copy	A 12 to 21
5	Power	A 22
6	Annexure	A 23 to 28
7	Misc Appl - 10.368/90	A 29 to 36
8	Superintendent Affidavit	A 37 to 43
9	Respondent Affidavit	A 44 to 49
10	Power	A 50
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 ...15/6/2011

Counter Signed.....

*Rajesh*  
Section Officer/In charge

Signature of the  
Dealing Assistant

AI

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 311 of 1989 (L)

APPLICANT(s) Bishnus Kumar

RESPONDENT(s) Supdt Post Office & anr

Particulars to be examined

Endorsement as to result of examination

1.	Is the appeal competent ?	Yes
2.	a) Is the application in the prescribed form ?	Yes
	b) Is the application in paper book form ?	Yes
	c) Have six complete sets of the application been filed ?	four sets filed
3.	a) Is the appeal in time ?	Yes
	b) If not, by how many days it is beyond time?	—
	c) Has sufficient cause for not making the application in time, been filed?	—
4.	Has the document of authorisation/ Vakalatnama been filed ?	Yes
5.	Is the application accompanied by B.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 ?	Yes
	b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes
	c) Are the documents referred to in (a) above neatly typed in double space ?	Yes
8.	Has the index of documents been filed and paging done properly ?	Yes
9.	Have the chronological details of representation made and the outcome 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

Particulars to be ExaminedEndorsement as to result of examination

1. Are the application/duplicate copy/spare copies signed ?

Yes

2. Are extra copies of the application with Annexures filed ?

Yes

a) Identical with the Original ?

b) Defective ?

c) Wanting in Annexures

Nos. \_\_\_\_\_ pages Nos. \_\_\_\_\_ ?

3. Have the file size envelopes bearing full addresses of the respondents been filed ?

No

4. Are the given address the registered address ?

Yes

5. Do the names of the parties stated in the copies tally with indicated in the application ?

Yes

6. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?

N/A

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

Yes

a) Concise ?

Yes

b) Under distinct heads ?

Yes

c) Numbered consecutively ?

Yes

d) Typed in double space on one side of the paper ?

Yes

8. Have the particulars for interim order prayed for indicated with reasons ?

Yes

9. Whether all the remedies have been exhausted.

Yes

R  
6/4/83

:: 2 ::

Serial  
number  
of  
order  
and dateBrief Order, Mentioning Reference  
if necessaryHow complied  
with and  
date of  
complianceHon' Mr. D.K. Agrawal, T.M.  
Hon' Mr. K. Deayya, U.M.

7-11-89

Shri J. Basad counsel for the applicant is  
present and heard.This case has come up before us on  
the request of the Counsel. Now he  
wants time. Let this case be  
listed on 16-11-89 for hearing on

admission as desired.

D  
T.M.

AM

(SNS)

16-11-89

No sitting Ad. to 27-11-89  
Counsel for applicant is presentL  
16-11-89

27-11-90

No sitting Ad. to 2-1-90  
Applicant is presentL  
27-11-90OR  
Sub  
for adm  
1111

Dinesh

A4

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

Hon' Mr Justice Kamleshwar Nath, V.C.

Hon' Mr K. Obayya, A.M.

2/1/90

Shri Janardan Prajapati counsel for the applicant is present. Dr. Dinesh Chandra takes notice on behalf of Opposite Parties. Notices meant for respondents be delivered to him.

Respondents are directed to file counter reply within three weeks to which the applicant may file rejoinder within one weeks thereafter.

The case be listed for admission on 6-2-90, when the case is likely to be disposed of finally.

In the matter of interim relief, the Opp.Ps. may file a reply; but, in case any selection is made on the post, it will be subject to the order of this Tribunal.

A.M.

V.C.

(sns)

6/1  
No sitting Adj to 27.3.90  
Both the counsel are present

27/3/90

No sitting Adj to 27/3/90

R  
27/3/90

OR  
Dr D. Chandra  
takes notices on  
behalf of O.Ps. into  
Power Grid & Oilfield  
No C.A filed.  
S.P.A

1/5

Dinesh

31/189 (C)

AS

0.  
30590  
Hon. Mr. P.L. Jain - A.M.  
Hon. Mr. J.P. Sharma - J.M.

Shri Janardan Prasad counsel  
for the applicant. Shri Dinesh Chander  
counsel present for all the respondents.

The respondent filed the reply on  
25/5/90 and have prayed through M.P. No. 368/90.  
for condonation of delay in filing the  
same. The applicant's counsel has no  
objection. Counter reply may be taken on  
records. Counsel for respondent has agreed  
to give another copy <sup>of the</sup> reply to the counsel  
of the applicant within 2 days. M.P. No. 368/90.  
is disposed of according to the

The applicant ~~may file~~ may file  
within 2 weeks. List <sup>for</sup> admission/  
direction for final hearing on 28/7/90.

Le

(S.  
A.M.

J.M.

23.7.90

Hon. Justice K. Nalini, V.C  
Hon. Mr. K. Obayy & M

OR  
No RA filed  
S.F.O.  
18/7/90

Admit

list before D.R. on 24.9.90

A.M. V.C

See original  
order on  
manu letter

24/7/90

See original order  
on manu letter

D.R.  
The Case is listed before  
Hon. Court on 12.11.90 P.O.

DR

No RA filed  
S.F.O.  
11/7/90

O. 8

O.A. No. 311/89(C)

3.12.90

D. R.

✓

Applicant's side

is not present.

Dr. D. chandrea

is present for

the respondent.

Applicant did not

rejoinder

file ~~rejoinder~~

in this case.

This case is listed

before me on

21/12 for filing

rejoinder

~~rejoinder~~

✓  
21.12.90

D. R.

Applicant's

side is not present

today. Applicant

to file rejoinder

by 21.1.91. Dr. D.

chandrea appears

for the respondent

the case is listed

before me on

21.1.91 for filing

rejoinder.

✓

21.1.91

Applicant side

crosses time for

file Rejoinder.

Fix 13.3.91 for filing

Rejoinder. ✓

By 3M

(A)

3.9.92

No hearing of D.B. adj'do

C.R.

20.10.92

k

No Suppl.

R.A. has been

filed.

20.10.92

22nd M. K. obayya Am

22nd M. S. N. Prasad Jr

S. f. o.

8  
19/10/92

Dr. D. Choudhury for

suspended in part.

Argued, Heard, Judged.

reserved.

jm

Am

21.10.92

22nd M. K. obayya Am

22nd M. S. N. Prasad Jr

Judgment pronounced

Today

l

jm

Am

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
(LUCKNOW BENCH)  
LUCKNOW.

199 (L)

D.A. NO

T.A. NO

Date of Decision

Petitioner.

Advocate for the  
Petitioner(s)

VERSUS

Respondent.

Advocate for the  
Respondents

C O R A M

The Hon'ble Mr.

The Hon'ble Mr.

1. Whether reporter of local papers may be allowed to see the Judgment ?
2. To be referred to the reporter or not ?
3. Whether to be circulated to other benches ?
4. Whether ~~see~~ their Lordships wish to see the fair copy of the Judgment ?

VICE-CHAIRMAN / MEMBER

21

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW  
Original Application No. 311 of 1989(I)  
..... Applicant

vishwas Kumar . . . versus

versus

and others . . . .  
Hon'ble Mr. K. Obayya, Member (A)  
Mr. S.N. Prasad, Member

Hon'ble Mr. K. Obayya,  
Hon'ble Mr. S.N. Prasad, Member (J)  
Hon'ble Mr. S.N. Prasad

( By Hon'ble Mr. S.N. Prasad, J.M.)  
... approached this

( By Hon'ble Mr. S.N. Prasad )  
The applicant has approached this tribunal  
under section 19 of the Administrative Tribunals Act  
for quashing the order passed by the applicant

under section 19 of the Administrative 1985 with the prayer for quashing the order passed by the respondent no. 2 dated 4.10.89 whereby the applicant has been removed from service (Annexure-4), and for directing the respondents not to implement the removal order dated 4.10.1989 and to pay the salary and other consequential to the applicant. facts of this case, inter

10.1989 and to pay the benefits to the applicant.

2. briefly, stated the facts of this case, inter-  
that the applicant was appointed as S.D.O.I.  
chila, Hardoi on 15.2.79

2. 10.1989 and to pay the benefits to the applicant.

briefly, stated the facts of this case, inter-alia, are that the applicant was appointed as E.D.O.A. (Extra Departmental Agent), Majhila, Hardoi on 15.2.79 and while he was serving, he was involved in a criminal case and was convicted and as a result of his conviction and sentence in a criminal case, the impugned order dated 4.10.89 was passed. The main grievance of the applicant appears to be that since he has been bailed out during the pendency of the appeal filed by him against the conviction and sentence, ~~he was granted bail~~ and since he has been granted bail and since the sentence passed by the criminal court has been suspended, there is no conviction and sentence and as such the applicant be re-instated with all t

Conti...

:: 2 ::

consequential benefits. It has further been stated that since the above removal order dated 4.10.1989 was passed without giving any opportunity to defend him and as such the above impugned order is illegal and invalid on this ground also.

3. In the counter reply filed on behalf of the respondents, it has been contended, inter alia that the applicant was involved in a Criminal Case u/s 147/148/149/307 I.P.C., and was convicted and sentenced to undergo three years rigorous imprisonment for the offence punishable u/s. 148 I.P.C., and he was further convicted and sentenced to undergo 7 years rigorous imprisonment for the offence punishable u/s 307 read with Section 149 I.P.C., and the applicant was removed from service as a result of penalty imposed on the ground of misconduct which led to his conviction on a criminal charge (vide sub-Divisional Inspector (North) Wardi's Memo. dated 4.10.89). The applicant appealed against the Court's order and is on bail. It has further been contended that the applicant is entitled to be taken back in service on his post, if he is exonerated from criminal charges as a result of Judicial appeal and the services of the incumbent if appointed will be liable to be terminated according to the condition of provisional appointment. It has further been contended that the applicant was working on the post through which the public of 13 villages was served daily and in case no arrangement is made vice Bishwas Kumar the delivery of postal articles will be held up, and as such the application of the applicant is not tenable. It lacks merit and is liable to be dismissed with costs.

Contd.. 3/-

4. Rejoinder-affidavit has been filed by the applicant wherein he has re-iterated almost all those points which have already been mentioned in the main application.

5. We have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

6. This is noteworthy that from the perusal of the pleadings of the parties, it is apparent that a criminal appeal which has been filed by the applicant in the Lucknow Bench of the High Court of Judicature at Allahabad is still pending and has not been decided so far. It is well settled that granting bail to accused/convicted person does not connote the exoneration of the accused from the charges by the court concerned granting bail, but only conviction and sentence is -- temporarily stayed till the disposal of the appeal. It is important to point out that from the scrutiny of the entire material and evidence on record, it is apparent that the above criminal appeal which has been filed by the applicant in Lucknow-Bench of the High Court of Judicature at Allahabad, is still pending and has not been decided so far and as such unless the applicant is acquitted of the charges levelled against him by the court in the above appeal, the applicant is not entitled to relief sought for; Keeping in view the provisions contained under Rule 8-A of the S.C.A. (Conduct & Service) Rules, 1964.

7. In the result, the application of the applicant is devoid of merit and is liable to be

Contd... ✓

All

:: 4 ::

dismissed and the same is accordingly dismissed without  
any order as to cost.

  
Member (I) 21.10.92

  
Member (A)

Lucknow Dated 21.10.1992.

(RKA)

Central Admin. Tr. Lucknow  
Date of Filing 6/11/89  
Date of Registry 6/11/89  
A12  
Dept. Registration

IN THE CENTRAL ADMINISTRATIVE TRIVNLUKHNW,

BENCH LUCKNOW.

Claim Petition no. 311 of 1989. (L)

Bishwas Kumar ..... Petitioner/Applicant.

Versus

Superintendent Post  
Offices & another ..... Respondents.

I N D E X

Sl.no.	Particulars	Page nos.
1.	Claim Petition	1 to 9
2.	Annexure No. 1	10
3.	Annexure No. 2	11
4.	Annexure No. 3	12
5.	Annexure No. 4	13
6.	Annexure No. 5	14
7.	Power	15
8.		

Noted for 7.11  
(as mentioned in  
(the court

Lucknow : dated  
6-11- , 1989.

*Tanwar Prasad*  
Advocate  
Counsel for Petitioner/Applicant.

PA/3

In the Central Administrative Tribunal at Lucknow  
Bench Lucknow.

Claim Petition No. 311 /1989 (L)

Application Under Section 19 of the Administrative  
Tribunals Act 1985

Vishwas Kumar, aged about 29 years,  
S/o Ram Krishna Pandey, R/o Village and Post-Majhila,  
Pergana-Alamnagar, Tehsil, Shahabad, District-Hardoi.

....Applicant

vs.

1. Superintendent of Post Office, Hardoi.  
2. Inspector of Post Offices, Hardoi (North), Sub-Division,  
Hardoi.

.... Respondents.

Details of Application

1. Particulars of the applicant :

- (i) Name of the Applicant - Vishwas Kumar
- (ii) Name of father - Shri Ram Krishna Pandey
- (iii) Age of the applicant - 29 years
- (iv) Designation and particulars of office -  
(name and station) in which employed or was  
last employed before ceasing to be in service.  
E.D.D.A. , Majhila, Hardoi.
- (v) Office Address - Branch Post Office, Majhila,  
Hardoi.
- (vi) Address for service of notices: Village and  
post office-Majhila, Pergana-Alamnagar,  
Tehsil-Shahabad, District-Hardoi.

2. Particulars of the Respondents :

- (i) Name of the Respondent : Superintendent of  
Post Office, Hardoi.

AIY

( 2 )

(ii) Inspector of Post Offices  
Hardoi (North), Sub-Division,  
Hardoi.

(iii) Name of Father- Not applicable

(iv) Age of the Respondent: Not applicable

(v) Designation and particulars of the office  
(name and station) in which employed.

(a) Superintendent of Post Offices, Hardoi.

(b) Inspector of Post Offices, Hardoi (North)  
sub-division, Hardoi.

(vi) Office Address : As above.

(vii) Address for service of notice : As above.

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

The application is against the following order :-

(i) Order No. A/Majhila Annexure no.4

(ii) Date 4.10.1989

(iii) Passed by - Inspector of Post Offices  
Hardoi (North) sub division  
Hardoi.

(iv) Subject in brief :

The applicant was appointed as E.D.D.A. (Extra  
Departmental Agent) Majhila, Hardoi on 15.2.79

and he joined on the said post on same day since  
then he is in service. The applicant was falsely  
implicated in a criminal case on 5/3/88 and

in the said case he was bailed out and before  
and after release on bail the applicant was in  
service and he was suspended by order no. A/

Majhila dated 8.10.88. The applicant was  
reinstated by memo No. A/Majhila dated 28.2.89  
but the Branch Postmaster Majhila Hardoi namely  
Shri Vinod Kumar Tripathi did not allow the

Susmita S. L. M.

applicant to resume his duty and Shri Vinod Kumar Tripathi Branch Postmaster was directed to accept the joining report of the applicant. By order dated 4.10.1989 the applicant was removed from his services due to manipulation of Shri Vinod Kumar Tripathi, Branch Postmaster, Majhila, Hardoi whose brother lodged a false report against the applicant. On the said report criminal proceeding is initiated against the applicant. The applicant was removed from services without given opportunity of being heard.

#### 4. Jurisdiction of the Tribunal :

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

#### 5. Limitation :

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

#### 6. Facts of the Case :

The facts of the case are given below :

(a) That the applicant was appointed as E.D.D.A. Majhila on 15.2.1989 and he joined his duty the same day on the said post and he discharged his duty honestly, efficiently and his work was always appreciated by his superiors and none has made any complaint against the applicant. On 5/3/1988 the brother of Shri Vinod Kumar Tripathi, Branch Postmaster Majhila, Hardoi lodged a false report against the applicant and others because Shri Vinod Kumar Tripathi

1020117 Damodar

( 4 )

wanted to get the appointment of his relative on the post of applicant. In the said criminal case the applicant was bailed out and resumed his duty. Due to manipulation of Shri Vinod Kumar Tripathi Branch Postmaster, Majhila, the applicant was suspended by memo No. A/Majhila dated 8.10.1988 and the applicant was reinstated by order dated 28.2.1989 and the applicant was removed from his services by memo No. A/Majhila dated 4.10.1989.

(b) That the applicant was convicted in the criminal case and against the order of conviction the applicant filed criminal appeal in the Hon'ble High Court, Bench Lucknow and the criminal appeal was admitted and bail was granted and the sentence was suspended by Hon'ble High Court during the pendency of the appeal. In these circumstances the removal order dated 4.10.89 is illegal and against the provisions of law.

(c) That before removing the applicant from the services no opportunity was given to the applicant for hearing which is mandatory and without given opportunity of being heard the respondents have no jurisdiction to remove the applicant from his services. The removal order was passed in violation of the Article 14,16 and 311 of the Constitution of India and Natural justice. In many cases Hon'ble High Court and Hon'ble Supreme Court have observed that the government employee can not be removed from his services on the basis of conviction without given opportunity of being heard.

(d) That the removal order dated 4.10.1989 was passed in arbitrary manner with malafide intention.

Saransh Amritpal

The brother of Shri Vinod Kumar Tripathi Branch Postmaster Majhila was lodged the F.I.R. against the applicant on the insistence of Vinod Kumar Tripathi because Shri Vinod Kumar Tripathi wanted to get the appointment of his relative on the place of the applicant and applicant was also suspended on the manipulation of Shri Vinod Kumar Tripathi and the correct facts were brought in the knowledge of the respondents the suspension order of the applicant was revoked and the applicant was put back in the service. But Shri Vinod Kumar Tripathi again approached to the respondents and narrated incorrect facts before the respondents and he got the applicant removed from services but the correct fact is that after the conviction, the criminal appeal was filed in Hon'ble High Court and applicant was bailed out and sentence awarded by the Trial Court of the criminal case was suspended by the Hon'ble High Court and the said information was given by the applicant to the respondents and the applicant was not removed from the services on the basis that sentence was suspended but Vinod Kumar Tripathi with collusion of respondents got the removal order of the applicant from the services which is against the provisions of law.

(e) That the applicant was convicted on 5/3/88 but there is no explanation on behalf of the respondents why the applicant was not removed from the services just after the conviction. These facts indicate that the sentence was suspended by the Hon'ble High court hence the applicant was not removed from the services by the respondents.

(f) That the respondent no.2 acted jurisdiction

Forwrd Banzidur

A78

not vested in them and failed to exercise jurisdiction vested in ~~them~~ him. He has passed his order on his own surmises and conducture and the said removal order is no order in the eye of law and the removal order was passed by the respondent no.2 without applying his mind and respondent no.2 was influenced by Shri Vinod Kumar Tripathi, Branch Postmaster, Majhila (Hardoi). The respondent no.2 has not considered that ~~them~~ against the conviction order appeal is pending in the Hon'ble High Court and the sentence was suspended. The respondents can not ~~remove~~ remove the applicant from his services without given opportunity to him. No explanation was called out from the applicant before passing the order dated 4.10.1989 and no show cause notice was also given to the applicant before removing him from his services.

(g) That salary and other amoluments were not given to the applicant w.e.f. 1.3.1988 and during the suspension period no suspension allowance was given to the applicant. The applicant is entitled to get the salary w.e.f. 1.3.88 and suspension allowance but the same were not paid by the respondents which are also against the provisions of law.

(h) That the removal order is not fully implemented so far and the applicant is still holding the charge of E.D.D.A.

#### 7. Details of the remedies exhausted :

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

The applicant gave application to respondent no.1 and personally contacted him but the respondent no.1 told the applicant that the applicant was removed from

F:2018/3/m/inf

the services on the basis of conviction hence there is no provision to give application or any other petition to him and applicant insisted him to take the same but the respondent no.1 told that the same would not be accepted.

8. Matters not previously filed or pending with any other court.

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

9. Relief(s) sought

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

- a) That an order or direction may be issued for quashing the order passed by respondent no.2 dated 4.10.89 contained in Annexure No.4.
- b) That an order or direction may be issued thereby directing the respondents not to implement the removal order dated 4.10.1989 and to pay the salary and other emoluments w.e.f. 1.3.88 and pen-den-telite salaries and other emoluments.
- c) That an order or direction may be issued in favour of the applicant 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 applicant and against the respondents.

For and on behalf of

## 10. Interim Order, if any prayed for :

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

For the facts and reasons stated in para no.6 above it is prayed that the implementation of the order dated 4.10.1989 may be stayed and respondents may be directed not to implement the order dated 4.10.89 and to pay salary and other arrears which is due w.e.f. 1.3.1988.

11. In the event of application being sent by registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so he shall attach a self-addressed post card/Inland letter at which intimation regarding the date of hearing could be sent to him.

The application is being personally presented before this Tribunal.

12. Particulars of Bank Draft/Postal Order in respect of the Application Fee :

1. Name of the Bank on which drawn - NIL

2. Demand Draft No.

Or

1. Number of Indian Postal Order(s) DD 6 859256

2. Name of the issuing Post Office-High Court Post Office, Lucknow

3. Date of issue of Postal Order(s)-6.11.1989

4. Post Office at which payable-G.P.O., Lucknow.

13. List of enclosures :

1. Suspension Order dated 8.10.1988.

2. Reinstatement Order dated 28.2.1989

3. Order for joining.

4. Order of removal dated 4.10.1989

5. Order of Hon'ble High Court Bench Lucknow passed in criminal appeal.

37/1000

VERIFICATION

I, Vishwas Kumar, S/o Shri Ram Krishna Pandey  
 age about 29 years, working as E.D.D.A. in the office  
 of Majhila Branch Post Office, Hardoi, R/o Village and  
 post- Majhila, Pergana-Alamnagar, Tehsil- Shahabad,  
 District, Hardoi, do hereby verify that the contents of  
 paras 1 to 13 are true to my personal knowledge and  
 para 6(e) to 6(f) believed to be true on legal advice  
 and that I have not suppressed any material fact.

*Vishwas Kumar*  
 Applicant.

Date : 6.11.89

Place : Lucknow

A92

ब अदालत श्रीमान In the Central Tribunal of India  
महोदय

वादी (मुद्रा)  
प्रतिवादी (मुद्रालेह)

का वकालतनामा



Nishwar Kumar

वादी (मुद्रा)

बनाम

नूपुर लेह, प्रतिवादी (मुद्रालेह)  
नं० मुकदमा सन् १९ पेशी की ता० १९ ई०  
ऊपर लिखे मुकदमा में अपनी ओर से

श्री जनार्दन प्रसाद

एडवोकेट महोदय  
वकील

हाई कोर्ट बैन्च, लखनऊ

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और  
लिखे देता हूँ इस मुकदमा 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 मुकदमा 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 रहूँगा अगर मुकदमा अदम पैरवी  
में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मे-  
दारी मेरी वकील पर न होगी । इसलिए यह वकालतनामा  
लिख दिया कि प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर *दिनांक ६ महीना जून १९७५*

साक्षी (गवाह).....साक्षी (गवाह).....

दिनांक ६ महीना जून १९७५

A 23

In the Central Administrative Tribunal Lucknow,  
Bench Lucknow.

Claim Petition no. of 1989.

Bishwas Kumar ..... Petitioner/Applicant  
Versus  
Superintendent Post  
Offices and another ..... Respondents.

LIST OF ENCLOSURES

Annexure No.1 The suspension order dated 8-10-1988.  
Annexure No.2 The Revocation order dated 28-2-1989.  
Annexure No.3 The order for joining duty dated-  
15-6-1988.  
Annexure No.4 Removal order dated 4-10-1989.  
Annexure No.5 The order of High Court Dt. 9.5 1989.

Lucknow : dated  
6-11- , 1989.

1929/14/1  
Applicant.

20-11-89  
S. N.

10  
R24

Annexure no. 1

Department of Posts

Office of the Seal उप गोपनीय डॉकर राज्य  
Memo no. A/Manghila उपरी तथा व्यापारी  
दस्तावेज़ - २४१०१ Dated at HDI the 8-10-88

WHERE AS A case against Shri Bishwas Kumar EDDA Manghila account with Behtagokul po, in respect of a criminal offence is pending.

AND WHERE AS the said Shri Bishwas Kumar was detained in custody. ~~upto~~ 17-3-88 to 12-4-88 for a period excluding forty eight hours.

NOW THEREFORE, the said Shri Bishwas Kumar is deemed to have been put off duty with effect from the date of detantion in terms of Rule 98<sup>1</sup> EDAS (conduct & Services) Rules 1964 and shall remain put off duty unqill further orders.

Shri Bishwas Kumar will not be entiled to any allowance for the period for which he is kept off duty under this rule.

sd/-Ellisible

Seal  
उप गोपनीय डॉकर राज्य  
उपरी तथा व्यापारी  
-24101

Copy to :-

1. Bishwas Kumar EDDA Manghila.
2. P.S. - ~~Mr.~~ Hardoi H.A.O.
3. Mail overseer Pihani, He will arrange suitable temporary arrangmente till further order against Shri above Bishwas Kumar.
4. B.P.M., Manghila.
5. The spos Hardoi ~~wif~~ his letter no.A-375/E, dated 29-9-88.
6. O/c.

Attchd  
True copy  
Tawar Hussain  
6/11/88

A25

11

Department of Posts

Office of The Seal उपराजपत्रकान्तर्गत प्रबंधनमें  
उपराजपत्रकान्तर्गत प्रबंधनमें 24/10/89  
Memo no. A/ Manghila dated at HDI The 28-2-89

Shri Bishwas Kumar EDDA Manghila B. account with Behtagokul PO who was put off duty vide this office memo of even no. dated 8-10-88 is here by ordered to put back in duty with immediate effect.

Charge report should be submitted.

sd/- Ellisible

Seal

Copy to :-

1. Shri Bishwas Kumar EDDA Manghila. He should joine his duty immediats.

2. PM Hardoi.

3. BDM Manghila, He should joine Shri Bishwas Kumar and charge report submitted.

4. Mail overseer, Rhani. for necessary action. He will arrange the joining of Shri Bishwas Kumar.

5. The SPOS Hardoi.

Attested  
True copy  
Tawarul Islam  
6/11/89

19201/2011/09

12  
A26

Annexure 140-3

पत्र-व्योहार-22

भारतीय डाक-तार विभाग

प्रेषक *Seal* उपमण्डलीय डाक निरीक्षक

उत्तर देते समय कृपया  
निम्न संदर्भ दें

उत्तरी उपमण्डल  
हरदोई-241001

सेवा में,

श्री विनोद कुमार त्रिपाठी  
शाखाडाकपालमेंजिला,  
हरदोई।

क्रम संख्या इ/

दिनांक : हरदोई, 15-6-88

विषय

ई डी डी ए श्री विश्वास कुमार पांडे को डियूटी पर  
वापस न लेना

-----x-----x-----x-----x-----x-----

श्री विश्वास कुमार पांडे ई डी डी ए मैंजिला ने अपने प्रा-  
र्थना पत्र दिनांक 14-6-88 के सूचित किया है, कि वह ई डी डी ए,  
मैंजिला का चार्ज लेने गये, किन्तु आपने उनको डियूटी पर वापस नहीं  
लिया। कृपया फौरन उनको डियूटी पर लेकर चार्ज रिपोर्ट इस कार्यालय  
को प्रस्तुत करें।

*Seal* *20/-* *May 88*  
उप मण्डलीय डाक निरीक्षक  
उत्तरी उप मण्डल,  
हरदोई- 241001

प्रतिलिपि श्री विश्वास कुमार पाण्डेय ई डी डी ए,  
मैंजिला *2* हरदोई को, कृपया शाखा डाकपाल मैंजिला को अपनी  
डियूटी के लिए सूचित करें।

*Seal* *Shiv Kumar*  
उप मण्डलीय डाक निरीक्षक,  
उत्तरी उप मण्डल,  
हरदोई-241001

Attest  
Date 05/06/88  
T. Kumar  
6/11/89

मेरा नाम लिखा गया

A2)

13

Departments of Posts

Annexe 140/4

Office of the

उप नियुक्ति सिंह लक्ष्मी  
संघर्ष उप नियुक्ति

Memo no. A/Manghila

दिनांक - २५.१०.८९  
dated 4-10-89

Where As Shri Bishwas Kumar EDDA Manghila .  
account with Behtagokul has been convicted on a  
criminal charge to wrf. under section 148, 149,  
307 I.Pc.

And Where As it is considered that the conduct  
of said Shri Bishwas Kumar EDDA, Manghila which has  
led to his convictions is such as to render his  
further retention in the public service undesirable.

Now, Therefore, the undersigned hereby removes,  
The said Shri Bishwas Kumar EDDA Manghila from ser-  
vice with immediate effect.

sd/- Ellisible

Seal

उप नियुक्ति सिंह लक्ष्मी

Copy to :-

उप नियुक्ति सिंह लक्ष्मी

1. Shri Bishwas Kumar EDDA Manghila (प्राप्त नहीं  
from duty). R/o Village Apo Manghila.

2. Post Master Hardoi.

3. The SPOS Hardoi.

4. O/c.

विक्री  
त्रिपुरा फॉर्म  
जुलाई १९८९  
६.११.८९

A28

14

Annexure No. 5

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD LUCKNOW BENCH,  
LUCKNOW.

Criminal Appeal No. 377 of 1989.

1. Ram Chandra, aged about 65 years, son of Hari Bilas,
2. Banwari, aged about 55 years, son of Kedar Pandey,
3. Radha Krishna, aged about 50 years son of Ram Shanker,
4. Awadhesh Kumar, aged about 40 years son of Yadu Nath Prasad Pandey.
5. Biswas Kumar, aged about 20 years, son of <sup>Ram</sup> Radha Krishna, All residents of village Manjhila, Police Station Manjhila, Distt. Hardoi.

....Appellants.  
(In Jail)

Versus

The State of U.P.

....Respondent.

Criminal Appeal against the judgment and order dated 5.5.89 passed by Sri Ratnakar Dixit, Vth. Additional Sessions Judge Hardoi in Sessions Trial No. 259 of 1988 U/s 148, 307, 149 I.P.C.

Lucknow Dated:- 9.5.1989.

Hon'ble R. Singh, J.

Admit.

Summon the record.

Learned counsel for the appellants says that they were on regular bail during trial, that they did not abuse it, and that they have no previous criminal history.

The appellants shall be released on bail on their each furnishing adequate security to the satisfaction of C.J.M. concerned. The execution of the sentence shall also remain suspended during the pendency of the appeal.

Sd/- R. Singh,

9.5.1989.

VKY

Exby 102

10/5/89

10/11/89 COPY

Pandey (O.P.S) 2c

Attest  
True copy  
6/11/89

Pranit Singh

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

Misc. Application No. 368 of 1980 CL, A29

By Respondents.

O.A. No. 311 of 1989.

Biswas Kumar

.....

Petitioner

VERSUS

Union of India and others .....

Respondents.

Application for condonation of delay

in filing counter affidavit by Respondents.

In the above case it is submitted as follows :-

1. That the counter affidavit of the opposite party in the above case could not be prepared due to subsisting illness of counsel of the Respondent.
2. That the counter affidavit of the opposite party is, however, now ready and is being filed after serving a duplicate on the petitioner's counsel.

WHEREFORE, it is humbly requested that the delay in filing the counter affidavit by the opposite party owing to above reason may kindly be condoned and the same may be permitted to be filed now.

Dated : 17-5-90

J. G. S. S.  
ADVOCATE  
COUNSEL FOR RESPONDENTS.

Off.  
A.T.  
SSW  
25/5/90

A30

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

*Rly*  
Written Statement of Behalf of Respondents No. 1 & 2

In

D. A. No. 311 of 1989 (L)

Biswas Kumar ..... .... Applicant.

Versus.

Union of India & Others ..... .... Respondents.

I, B.S. Bhaskar, aged about 51 years, son of Shri Gokul pd  
Singh, Supdt. of Post Offices, Hardoi, do hereby  
solemny affirm and state as under :-

1. That the deponent is competent ~~to~~ ~~xxxxxx~~ to file this written statement on behalf of all the Respondents.
2. That the deponent has read the petition filed by Shri Biswas Kumar and understands the contents thereof.
3. That the deponent is well conversant with the facts of the case deposed hereinafter.
4. That it will be worthwhile to give a brief history of the case as under :-

contd. ..... 2....

A31

-: 2 :-

Brief History of the Case

The applicant, Shri Bishwas Kumar, Extra Departmental Delivery Agent was involved in a Criminal Case U/S 147/148/149/307 I.P.C., and was convicted and sentenced to undergo ~~for~~ three years rigorous imprisonment for the offence punishable U/S 148 IPC. He was further convicted and sentenced <sup>16</sup> undergo 7 years rigorous imprisonment for the offence punishable U/S 307 read with Section 149 IPC. Shri Bishwas Kumar was removed from service as a result of penalty imposed on the ground of mis-conduct which lead to his conviction on a criminal charge ~~wide~~ Sub Divisional Inspector (North) Hardoi Memo No. A/Manjhila dated 4.10.89. The applicant appealed against the Court's order and is on bail.

Matter of provisional appointment on the post of EDDA Manjhila ~~visq~~ Shri Bishwas Kumar is in process and has not been finalised.

Shri Bishwas Kumar is entitled to be taken back in services ~~at his post~~, if he is exonerated from criminal charges as a result of judicial appeal. Services of <sup>the</sup> incumbent if appointed vice Shri Bishwas Kumar will be liable to be terminated according to the condition of provisional appointment.

In this connection it may be submitted that the applicant Shri Bishwas Kumar was working on the post through which the public of 13 (thirteen) villages was served daily and in case no arrangement is made vice Shri Bishwas Kumar the delivery of postal articles will be held up.

It will be expedient in public interest if the deponent  
is allowed to make provisional appointment in place of Shri  
Bishwas Kumar.

Para - Wise Comments.

5. That the contents of para, 1, 2 and 3 (i) to 3 (iii) need no comments.
6. That in reply to the contents of para 3 (iv) it is stated that the applicant was put off duty by the Sub Divisional Inspector, (SDI) North, Hardoi, on 8.10.88 as he was under detention from 17.3.88 to 12.4.88 (Annexure - 1 of the application). Later on, on 28.2.89 he was ordered to be put back on duty (Annexure - 2 of the application) but the applicant expressed his inability vide his letter dated 8.3.89 to resume his duties. ~~Temporary Duty~~.

On 5.5.89 the applicant was ~~committed~~ convicted and sentenced by Vth Addl. Sessions Judge, Hardoi to undergo 3 years rigorous imprisonment for the offence punishable U/S 149 IPC. He was further convicted and sentenced to undergo 7 years rigorous imprisonment for offence punishment U/S 307 read with Section 149 IPC. On receipt of the said judgment of the Court, the services of the applicant were terminated vide order dated 4.10.89 (Annexure - 4 of the application) as it was not reasonably practicable to hold any enquiry into the criminal offence committed by him and the procedure laid down in Rule 4

-: 4 :-

Rule 8 of the EDA (Conduct and Services ) Rules, 1964 was not applicable in this case as laid down in Rule- 8A of the said Rules.

The applicant has filed an appeal against the Court's order dated 5.5.89. He was released on bail by the Hon'ble High Court, Lucknow Bench on 9.5.89.

7. That in reply to the contents of para 4 and 5 it is stated that the applicant has not availed of the departmental remedy available to him under Rule 10 of the P & T. Extra Departmental Agent (Conduct and Service ) Rules, 1964 in as much as he has not filed any appeal to the departmental authorities against the removal order dated 4.10.83. The application is, therefore, not tenable and is liable to be dismissed.

8. That the contents of para 5 need no comments.

9. That in reply to para 6 (a) of the application, submissions made in para 6 above are re-iterated.

10. That the contents of para 6 (b) are admitted to the extent that the appeal of the petitioner against his conviction has been admitted by the Hon'ble High Court and that he has been released on bail. The Hon'ble High Court has also ordered that the execution of the sentence shall also remain suspended during the pendency of the appeal.

:- 5 :-

11. That in reply to para 6 (c) it is stated that the applicant was removed from the services as he was convicted in a Criminal offence and was sentenced to rigorous imprisonment. Provision of Rule 8 of the P & T., Extra Departmental Conduct & Service ) Rules 1964 (EDA Rules), wherein procedure for imposing a penalty has been spelled out, are not applicable to the present case in terms of Rule 8-A of the EDA (Conduct & Service ) Rules 1964.

The applicant has failed to make any representation or appeal against the impugned order to higher authorities of the department.

12. That the contents of para 6 (d) are denied. Submissions made in para 6 are re-iterated.

13. That in reply to Para 6 (e) it is submitted that the applicant was removed from service vide order dated 4.10.89 on his conviction on criminal offence on 5.3.1988.

14. That in reply to para 6 (f) it is submitted that Respondent No. 2 is the competent authority to pass an order of removal from service in respect of the applicant. The applicant was ~~committed~~ convicted in ~~to~~ criminal offence & was sentenced to imprisonment. The execution of the sentence was suspended by the Hon'ble High Court. But the sentence was not set aside. It remained at its own place, only its execution was suspended and the applicant was released on bail. Therefore, the order

of removal was fairly & correctly passed.

15. That in reply to para 6 (g) it is stated that the applicant is not entitled to any salary or allowances for the period he did not work as Extra Departmental Delivery Agent, Majhila neither any salary or allowance is admissible during the period the applicant was kept off duty.
16. That in reply to para 6 (h) it is submitted that the applicant received the removal order on 6.10.1989.
17. That the contents of para 7 are not admitted. No application/representation/appeal was received by the deponent regarding the order of his removal from service.
18. That in reply to para 8 it is submitted that the ~~controversy~~ <sup>Criminal Appeal</sup> No. 377 of 1989 filed by the applicant in the Hon'ble High Court is still pending disposal.
19. That in view of the submissions made in the above paragraphs, the relief sought for in para 9 and interim relief prayed for in para 10 are not admissible and are liable to be rejected.
20. That the contents of para 11 to 13 need no comments.

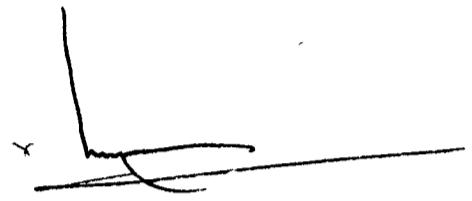
A36

-: 7 :-

Wherefore, it is respectfully prayed that in view of submissions made in the above paragraphs, the application filed by the petitioner is not tenable, it lacks merit and is liable to be dismissed with costs.

Lucknow ;

Dated : 16.5.90

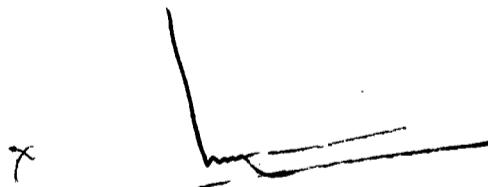
  
Signature of Respondent.

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 2 of this written statement are true to the best of my knowledge and those of paras 4 to 20 are believed by me to be true based on records and as per legal advice. That nothing material facts has been concealed.

Lucknow ;

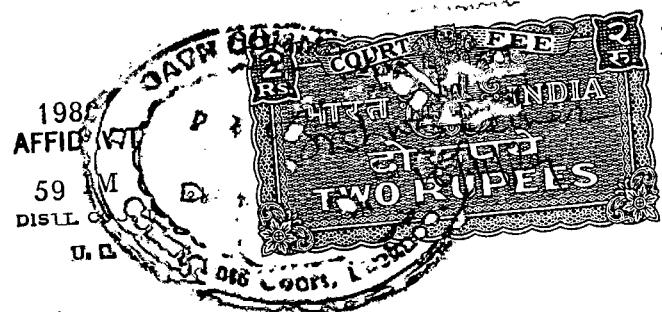
Dated : 16.5.90

  
Signature of Respondent.

In the Central Administrative Tribunal at Lucknow  
Bench Lucknow.

C.A. No. 311/1989(L).

A37



Bishwas Kumar ..... Applicant.

vs.

Superintendent of Post Offices,  
Hardoi and another

..... Respondents.

Affidavit

2/1/90  
I, Bishwas Kumar, aged about 29 years, S/  
Ran Krishna Pandey, R/o Village and Post-Nejhila,  
Pergana-Almora, Tehsil Shahabad, District-Hardoi  
do hereby solemnly affirm and confirm on oath as under:

1. That the defendant is the applicant and as such he is fully conversant with the facts of the case detailed herein.
2. That the defendant was appointed on post of E.D.D.A. Nejhila by order dated 25.2.1979 and he joined on the post on the same day and he was falsely implicated alongwith the others in criminal case on 5.3.1988 and on the F.I.R. lodged by Prasad Kumar who is the brother of Shri Vinod Kumar Tripathi, Branch Postmaster, Nejhila because Shri Vinod Kumar



Passionately

Tripathi wanted to get appointed of his relative on the place of dependent. The dependent was put off duty by order dated 8.10.88 and by order dated 28.2.1989 he was put back in duty and when Shri Vinod Kumar Tripathi, Branch Postmaster, Majhila did not allow the dependent to discharge his duty then the dependent gave an application to respondent no.2 and respondent no.2 directed him to allow the dependent to work.

3. That the order dated 4.10.89 contained in Annexure No.4 was delivered to the dependent on 2.11.89 the reason is that the Branch Postmaster, Majhila was and is Shri Vinod Kumar Tripathi who is the brother of Pramod Kumar and on the initiation of Shri Vinod Kumar Tripathi the P.I.R. was lodged by Pramod Kumar against the dependent alongwith others and being the Branch Postmaster Shri Vinod Kumar Tripathi did not deliver the order dated 4.10.1989 to the dependent in the month of October, 1989. The Branch Post Office Majhila is also in the house of Shri Vinod Kumar Tripathi. The dependent came on 3.11.89 for challenging the order dated 4.10.1989 and the case was prepared on 4.11.1989 and on 5.11.1989 was Sunday and the case was filed on 6.11.1989 without any delay.

Lucknow

Dated: 16.11.89

Verification

I, above named dependent do hereby verify that the contents of para 1 to 3 are true to my personal knowledge and the contents of para 4 to 7 are believed by me to be correct.

Dependent  
Dependent.

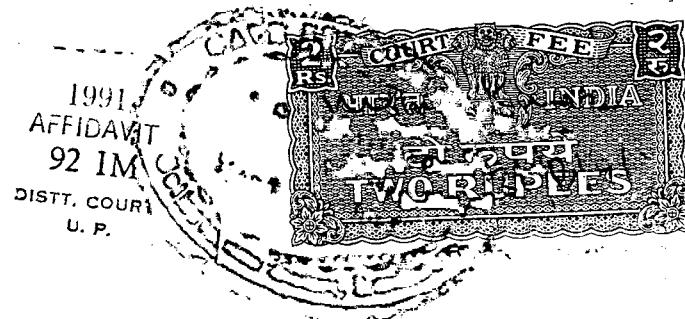
I identify the dependent who has signed before me.

J. K. M. A. P. B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,  
LUCKNOW.

AB3g

O.A. No. 331 of 1989 (L)



## Versus

Superintendent of Post Offices

F-F-3-9-91

Rejoinder Affidavit to the Counter

Affidavit sweared by B. S. Phaskar.

I, Biswas Kumar, aged about 30 years, son of Ram Krishna Pandey, resident of Village and Post Manjhila, Pargana Alampagar, Tehsil Shahabad, District Hardoi, do hereby solemnly affirm and state on oath at under-

1. That the deponent is the applicant and as such he is fully conversant with the facts of <sup>the</sup> case deposed herein.

2. That the contents of para No. 1 of the counter affidavit are denied as alleged. Sri B.S.Bhaskar is not competent to swear the affidavit on behalf of opposite party No. 2 and no authorisation was given by the opposite party No. 2 to Sri B.S.Bhaskar to give counter affidavit on his behalf. The contents of paras Nos. 2 and 3 of the counter affidavit need no comments.

0.2

17. *Chrysanthemum*?

3. That the contents of para No. 4 of the counter affidavit are denied as alleged. The deponent was falsely implicated in a criminal case U/S 148, 307, 149 I.P.C. and he was convicted and under appeal the conviction was challenged and the execution of the sentence was suspended by the Hon'ble High Court during the pendency of appeal. In the said criminal case there were four other persons. The complainant and injured in the criminal case are of the village of the deponent and according to the prosecution the matter was of the girl of defence side. The appointment of the deponent was not provisional. The impugned order challenged in the present case is purely illegal and was passed against the provisions of law and the same is liable to be set aside. The services can not be terminated in arbitrary manner with malafide intention and against the provisions of law on the basis that the injured's side of criminal case has post office of Manjhilla in his house and he is the master. It is the duty of the opposite parties to give strict proof about the working of the deponent and the work of the deponent has always been good and he is entitled to be retained on his post. The contents of para 5 of the counter affidavit need no comments and the contents of paras 1, 2, 3(i) to 3(iii) of the application are reiterated.

4. That as regards the contents of para No. 6 of the counter affidavit it is stated that Sub Divisional Inspector (S.D.I.) North, Hardoi had no jurisdiction to pass any order against the deponent. The conviction awarded against the deponent was suspended by the Hon'ble High Court. The rules mentioned in the counter affidavit are applicable in the case of deponent



The contents of para No. 3(iv) of the application are reiterated.

5. That the contents of para 7 of the counter affidavit are denied. For getting the departmental remedy the deponent filed appeal but no remedy was given to the deponent saying that his appeal is not maintainable, the same is being dismissed and order of the appeal was also not supplied to the deponent due to the manipulation of Post Master of Post Office, Manjhila who is the main person for falsely implicating the deponent in criminal case. The application is tenable and is liable to be allowed. The contents of paras 4 and 5 of the application are reiterated.

6. That as regards the contents of paras Nos. 8, 9 and 10 of the counter affidavit it is stated that the sentence awarded in appeal was suspended hence there is no material against the deponent. The content of para 5, 6(a) and 6(b) of the application are reiterated.

7. That as regards the contents of para 11 of the counter affidavit it is stated that according to opposite parties the deponent was removed from service as he was convicted but without giving opportunity of being heard the deponent can not be removed from service. The representation had been made but the same was not considered. The other contents of the counter affidavit are denied. The contents of para No. 6(c) of the application are reiterated.

8. That the contents of paras 12, 13 and 14 of the counter affidavit are denied except the accepted

facts. The removal is purely illegal. The conviction was suspended and on the basis of conviction the deponent can not be removed from service. The appeal is pending then how the sentence can be set aside at the time of filing the appeal. The order of removal was not passed fairly and correctly. The contents of paras 6(d), 6(e) and 6 (f) of the application are reiterated.

9. That the contents of paras 15 to 20 of the counter affidavit are denied except the accepted facts. The deponent has worked and when he was not allowed to discharge his duty by the opposite parties and the deponent has not committed any fault in discharging his duties he is entitled to get all the salaries and he should be deemed to be in service. It is totally false that the removal order was received by the deponent on 6-10-90 and no charge was taken from the deponent and he is still holding charge and is deemed to be in service. The departmental remedy was availed by the deponent and the representation was filed by him. The deponent is entitled to get all the reliefs sought by him. The contents of paras Nos. 6(g), 6(h), 7, 8, 9, 10, 11, 12 and 13 of the application are reiterated.

10. That the deponent can not be removed from service without giving him opportunity of being heard. The order was passed in violation of the principles of natural justice and Articles 14, 16 and 311 of the Constitution of India. The impugned order is illegal as held by the Hon'ble High Court and Hon'ble Supreme Court in several cases.

Dated Lucknow  
August 31, 1991.

Deponent.

(5)

AM

Verification

I, Biswas Kumar, the deponent, do hereby verify that the contents of paras 1 to 10 of this Rejoinder Affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So help me God.

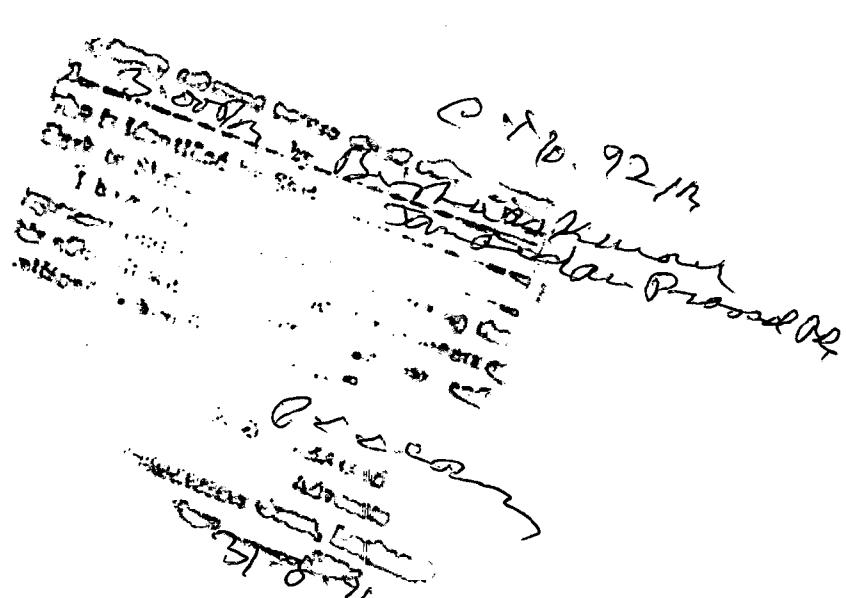
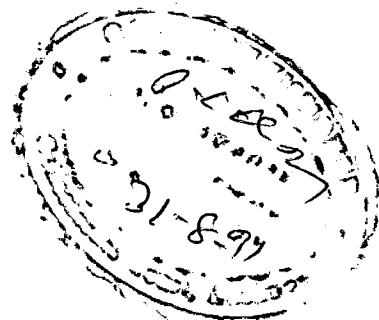
Signed and verified this 31<sup>st</sup> day of August, 1991 in the court compound at Lucknow.

Dated Lucknow  
August, 1991.

Biswas Kumar  
Deponent.

I identify the deponent who has signed before me.

Jawad Hussain  
Advocate.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,  
LUCKNOW.

O.A. No. 331 of 1989 (L)

Rejoinder Affidavit to the Counter  
Affidavit sworn by P.S. Bhaskar,

I, Biswas Kumar, aged about 30 years, son <sup>of</sup> Ram Krishna Pandey, resident of Village and Post Manjhila, Pargana Almora, Tehsil Shahabad, District Hardoi, do hereby solemnly affirm and state on oath at under-

1. That the deponent is the applicant and as such he is fully conversant with the facts of <sup>the</sup> case deposed herein.

2. That the contents of para No. 1 of the counter affidavit are denied as alleged. Sri D.S.Bhaskar is not competent to swear the affidavit on behalf of opposite party No. 2 and no authorisation was given by the opposite party No. 2 to Sri D.S.Bhaskar to give counter affidavit on his behalf. The contents of paras Nos. 2 and 3 of the counter affidavit need no comments.

3. That the contents of para No. 4 of the counter affidavit are denied as alleged. The deponent was falsely implicated in a criminal case U/S 148, 307, 149 I.P.C. and he was convicted and under appeal the conviction was challenged and the execution of the sentence was suspended by the Hon'ble High Court during the pendency of appeal. In the said criminal case there were four other persons. The complainant and injured in the criminal case are of the village of the deponent and according to the prosecution the matter was of the girl of defence side. The appointment of the deponent was not provisional. The impugned order challenged in the present case is purely illegal and was passed against the provisions of law and the same is liable to be set aside. The services can not be terminated in arbitrary manner with malafide intention and against the provisions of law on the basis that the injured's side of criminal case has post office of Ranjhila in his house and he is the master. It is the duty of the opposite parties to give strict proof about the working of the deponent and the work of the deponent has always been good and he is entitled to be retained on his post. The contents of para 5 of the counter affidavit need no comments and the contents of paras 1, 2, 3(1) to 3(11) of the application are reiterated.

4. That as regards the contents of para No. 6 of the counter affidavit it is stated that Sub Divisional Inspector (S.D.I.) North, Haridwar had no jurisdiction to pass any order against the deponent. The conviction awarded against the deponent was suspended by the Hon'ble High Court. The rules mentioned in the counter affidavit are applicable in the case of deponent.

The contents of para No. 3(iv) of the application are reiterated.

5. That the contents of para 7 of the counter affidavit are denied. For getting the departmental remedy the deponent filed appeal but no remedy was given to the deponent saying that his appeal is not maintainable, the same is being dismissed and order of the appeal was also not supplied to the deponent due to the manipulation of Post Master of Post Office, Manjhiha who is the main person for falsely implicating the deponent in criminal case. The application is tenable and is liable to be allowed. The contents of paras 4 and 5 of the application are reiterated.

6. That as regards the contents of paras Nos. 8, 9 and 10 of the counter affidavit it is stated that the sentence awarded in appeal was suspended hence there is no material against the deponent. The content of para 5, 6(a) and 6(b) of the application are reiterated.

7. That as regards the contents of para 11 of the counter affidavit it is stated that according to opposite parties the deponent was removed from service as he was convicted but without giving opportunity of being heard the deponent can not be removed from service. The representation had been made but the same was not considered. The other contents of the counter affidavit are denied. The contents of para No. 6(c) of the application are reiterated.

8. That the contents of paras 12, 13 and 14 of the counter affidavit are denied except the accepted

B  
85

facts. The removal is purely illegal. The conviction was suspended and on the basis of conviction the deponent can not be removed from service. The appeal is pending then how the sentence can be set aside at the time of filing the appeal. The order of removal was not passed fairly and correctly. The contents of paras 6(d), 6(e) and 6 (f) of the application are reiterated.

9. That the contents of paras 15 to 20 of the counter affidavit are denied except the accepted facts. The deponent has worked and when he was not allowed to discharge his duty by the opposite parties and the deponent has not committed any fault in discharging his duties he is entitled to get all the salaries and he should be deemed to be in service. It is totally false that the removal order was received by the deponent on 6-10-90 and no charge was taken from the deponent and he is still holding charge and is deemed to be in service. The departmental remedy was availed by the deponent and the representation was filed by him. The deponent is entitled to get all the reliefs sought by him. The contents of paras Nos. 6(g), 6(h), 7, 8, 9, 10, 11, 12 and 13 of the application are reiterated.

10. That the deponent can not be removed from service without giving him opportunity of being heard. The order was passed in violation of the principles of natural justice and Articles 14, 16 and 311 of the Constitution of India. The impugned order is illegal as held by the Hon'ble High Court and Hon'ble Supreme Court in several cases.

(5)

B  
86

Verification

I, Biswas Kumar, the deponent, do hereby verify that the contents of paras 1 to 10 of this Rejoinder 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 31<sup>st</sup> day of August 1991 in the court compound at Lucknow.

Dated Lucknow  
August 4, 1991.

Deponent.

I identify the deponent who has signed before me.

Advocate.

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

M.P.No. 287 1992.

APPLICATION TO FILE SUPPLEMENTARY COUNTER-AFFIDAVIT.

Union of India & Others ..... Applicant/Respondents.

In

O.A.No. 311 of 1989

Biswas Kumar ..... Applicants

Versus

Union of India & Others ..... Respondents.

\*\*\*\*\*

To,

The Hon'ble Vice Chairman & his companion members of the afore-  
said Tribunal.

The application of the above named Applicant/Respondent most  
respectfully.

SHEWETH:-

That certain issues have been raised in the Rejoinder-affidavit  
filed by the applicant in the above case which in the interest of  
justice have been clarified in the accompanying Supplementary Counter-  
affidavit.

-: PRAYER :-

Wherefore it is respectfully prayed that for the facts & cir-  
cumstances mentioned in the Supplementary Counter-affidavit. This  
Hon'ble Tribunal may be graciously pleased to take the accompanying  
Supplementary on record in the interest of justice for which act of  
kind the respondents shall remain grateful as in duty bound.

) (L.S.)

( DR.DINESH CHANDRA),

Counsel for Respondents.

Filed today  
over  
4/4/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD, *AUS*  
LUCKNOW BENCH, LUCKNOW.

SUPPLEMENTARY COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENTS.

In

O.A. NO. 311 of 1989 (L)

Biswas Kumar ..... Applicant

Versus

Union of India & Others ..... Respondents.

\*\*\*\*\*

I, R.M. Misra, aged about 56 years, son of Shri Sri Ram Misra, Superintendent of Post Offices, Hardoi Division, do hereby solemnly affirm and state as under :-

1. That the deponent has read the rejoinder-affidavit filed by the applicant has understood the contents thereof. He is well conversant with the facts of the case deposited hereinafter.
2. That the deponent is fully competent to swear this affidavit on behalf of respondent No.2 also as the deponent is his next higher authority.
3. That in the rejoinder-affidavit certain issues have been