

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

INDEX SHEET

CAUSE TITLE O.A. 334 OF 89

NAME OF THE PARTIES S. S. Chachan Applicant

Versus

..... U.O.T. Respondent

Part A.

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CERTIFICATE

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

Dated 17-6-11

Counter Signed.....

Recheck
on 03/2/12
by

Section Officer/In charge


Signature of the
Dealing Assistant

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/space copies signed ? *u*

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

- Identical with the Original ?
- Defective ?
- Wanting in Annexures

Nos. _____ pages Nos. _____ ?

13. Have the file size envelopes bearing full addresses of the respondents been filed ? *No*

14. Are the given address the registered address ? *u/s*

15. Do the names of the parties stated in the copies tally with those indicated in the application ? *u/s*

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

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

- Concise ? *u*
- Under distinct heads ?
- Numbered consecutively ? *u*
- Typed in double space on one side of the paper ?

18. Have the particulars for interim order prayed for indicated with reasons ? *u/s*

19. Whether all the remedies have been exhausted. *u*

dinesh/

36/10/1980

37
AK

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH AT LUCKNOW.

Registration (O.A.) No. 334 of 1989 (L)

Sangram Singh Chauhan Applicant.

Versus

Union of India & others Respondents.

Hon'ble Justice K. Nath, V.C.

Hon'ble K.J. Raman, A.M.

This application, under Section 19 of the Administrative Tribunals Act, 1985, is for payment of full pay and allowances of the applicant from the date of his dismissal from service to the date of his having attained the age of superannuation.

2. The applicant is present in person and has addressed us on his claim. Annexure '6' to the application is a judgment dated 1.8.1978 passed by the Civil Judge, Malihabad, Lucknow in a Civil Suit where the applicant had challenged the order of his dismissal from service passed on 9.6.1956. The learned Civil Judge held that the order of dismissal from service was illegal, but, went on to hold that the suit itself was barred by limitation. The suit was, therefore, dismissed on 1.8.1978. The applicant preferred a First Appeal before the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow which also was dismissed by the judgment dated 27.7.1979 (Annexure '7') and it was held that the finding of the learned Civil Judge that the suit was barred by limitation was correct.

3. It appears that thereafter the applicant had been making representations to various authorities from time to time on the basis of the finding recorded by the learned

(S/H)

-: 2 :-

Civil Judge that the order of dismissal was invalid, but the concerned authorities have taken no notice of those representations. This application was filed on 5.12.1989.

4. The applicant says that since on merits the order of dismissal was found to be invalid, he should have been given some relief by some authority. His grievance is not valid in the eyes of law. The law of limitation bars a remedy even if a right exists; so even if the applicant may have had a right to hold the post on the ground of his order of dismissal having been found to be illegal, his remedy for relief in that regard became barred by time long ago, as indicated above. There is no improvement in that situation even before us. We are not in a position, therefore, to grant any relief to the applicant.

5. In view of above, the application is accordingly dismissed in limine at the admission stage.

(Signature)

MEMBER (A).

(Signature)

VICE-CHAIRMAN.

Dated: February 2, 1990.

PG.

Central Administrative Tribunal
Circuit Bench
Date of hearing : 25-12-89
1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 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100565. 100566. 100567. 100568. 100569. 100570. 100571.

10. Judgement and order daed

29.11.1979 passed by Division Bench
of High Court affirming that the
trial court has recorded a catagorical
finding of fact that dismissal order
is illegal and ultra vires.

34- 36

11. Letter dated 7. 3- 1989 of

O.P. No. 2.

37

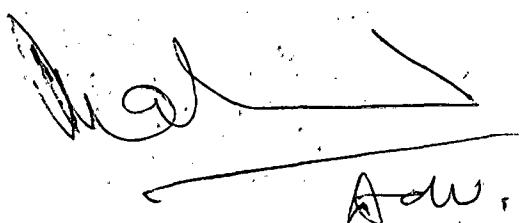
Details of letters sent by the
applicant and received by him from
authorities concerned.

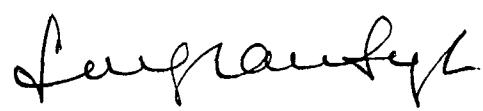
38- 40

12. Extract of Para 670Ef Chapter

10 (d) of Incometax office
Manual Vol. I restraining the
applicant to resort to court of law
without exhausting normal channels
of redress from departmental and
governmental authorities.

41


A handwritten signature consisting of a stylized 'M' and 'A' above a horizontal line, with a 'W' and 'A' below it.


A handwritten signature consisting of a stylized 'F' and 'a'.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Case No. 334 of 1989

Between

Sangram Singh Chauhan, aged about 65 years,
son of Late Shri Niranjan Singh Chauhan,
permanent resident of Village Bichhia, district
Mainpuri and at present residing at
"SHREE BHAVAN", Pandey Tola, Aliganj,
Lucknow (dismissed employee of Incometax
Department)

... Applicant

And

1. Union of India, through Secretary to
Government of India, Ministry of
Finance (Revenue Division), New
Delhi.
2. Chairman, Incharge of Grievance Cell
Central Board of Direct Taxes,
Government of India, Ministry of
Finance (Revenue Division), ~~kmkk~~
New Delhi.
3. Chief Commissioner of Income Tax,
Ashok Marg, Lucknow.

... Respondents

Sangram Singh

Mal
Kanu

Contd...p/2.

Details of Application:1. Particulars of applicant

i) Name of Applicant : SANGRAM SINGH CHAUHAN

ii) Name of father : Late Shri Niranjan Singh Chauhan.

iii) Agent of the applicant : About 65 years (24.8.1924)

iv) Designation and particulars of office (name and station) in which employed or was last employed before to be in service. : Upper Division Clerk (Rs.80-220 scale) and was working as Accountant ~~handling~~ handling cash in the office of Commissioner, Income Tax, Lucknow.

v) Office address : Office of Commissioner of Income Tax, Lucknow.

vi) Address for service of notices. : Sangram Singh Chauhan, Upper Storey, Sri Bhawan, Pandey Tola, Aliganj, Lucknow-226020.

2. Particulars of the Respondents

i) Name of Respondent : 1. Union of India through Secretary, Govt. of India, Ministry of Finance (Revenue Division), New Delhi.

2. Chairman, Central Board of Direct Taxes (Incharge Grievance Cell), Govt. of India, Ministry of Finance (Revenue Division), New Delhi.

3. Chief Commissioner of Income Tax, Ashok Marg, Lucknow.

ii) Name of Father or husband : - x

iii) Age of the respondent : - x

iv) Designation and particulars of office (name and Station) in which employed. : As mentioned at item 2(i) above.

v) Office address : As mentioned above item 2(i).

vi) Address for service of notice. : -do-

*Sangram Singh**Mal**Few* Contd...p/3.

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

The application is against the following orders:

i) Order No.DIR(GRIV)/C.H.(DT)/S 890 72/1771,

ii) Dated 11.8.1989.

iii) Passed by the Chairman (Incharge Grievance Cell) of Central Board of Direct Taxes, Government of India, Ministry of Finance (Revenue Division), New Delhi.

iv) Subject in brief : The applicant was serving as UDC (Accountant) in the Income Tax Department of the Govt. of India. He was dismissed from service vide order No.F.No.21/855 dated 9.6.1956 issued by Commissioner of Income Tax, Lucknow. The said order has already been declared void vide Order dated 1.6.1976 of the Civil Judge, Malihabad, at Lucknow and so held by the High Court of Judicature at Allahabad Lucknow Bench, Lucknow, vide order dated 29.11.79. No consequential relief has however been given.

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 under section 21 of Central Administrative Tribunals Act, 1985.

6. Facts of the case: :

The Facts of the case are given below:

i) That the present application has been filed challenging the validity of order F.No.DIR(GRIV)/C.H.(DT)/S 89072/1771, dated 11.8.1989 of the Chairman, Incharge of Grievance Cell of Central Board of Direct Taxes, Government of India, Ministry of Finance (Revenue Division), New Delhi, refusing to give any relief to the applicant inspite of the impugned dismissal order dated 9.6.1956 of the applicant passed by the Commissioner of Incometax, Lucknow, having

Signature

contd

been held to be illegal and ultra vires by the Civil Judge Malihabad at Lucknow vide his judgement and order dated 1.6.1976 and its affirmation by a Division Bench of Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, vide judgement and order dated 29.11.1979.

ii) a. That the applicant was working as Upper Division ^{accountant} Clerk, in the office of Commissioner of Incometax Lucknow (Respondent No.3) in the scale of Rs.80-220 and he was suspended from service by the Commissioner of Incometax Lucknow vide order F.No.21/55 dated 15.12.1955 with retrospective effect from 13.12.1955 on the ground of absence from duty without having been allowed any leave w.e.f. 13.12.1955. Symultaneously, on the same date a case of suspected misappropriation of funds was reported to Senior Superintendent of Police vide Secret letter F.No.21/55 dated 15.12.1955. Thus criminal proceedings as well as departmental proceedings were initiated against the ^{applicant} ~~petitioner~~ at one and the same time.

ii) b. That the applicant had submitted his application for leave with effect from 13.12.1955 to Commissioner of Incometax, Lucknow, and in this application permission to leave station was sought for and addresses of his near relations like brother-in-law, who was employed in Army and posted at Fatehgarh were also mentioned. The Officer concerned did not deny this fact. This suspension order was made effective retrospectively from 13.12.1955. A true copy of the suspension order is annexed as ANNEXURE No.1 to this application.

ii) c. That the charge sheet was not delivered to the applicant nor were the disciplinary proceedings under CC & A

Subrahmanyam

Amal

Contd...p/5.

Rules. But the applicant was dismissed from service vide order F.No. 21/55 dated 9.6.1955 (A true copy of which is annexed as ANNEXURE No.4) to this application. But the applicant was dismissed from service vide order F.No. 21/55 dated 9.6.1956 (A true copy of which is annexed as ANNEXURE No.3) to this application.

v) That dismissal order was not served to the applicant, but was enforced with retrospective effect from 12.12.1955, i.e. one day prior to date of enforcement of suspension order (Annexure No. 1).

~~with a xix~~

vi) That after approaching high ranking authorities again and again the opposite party No.3 paid subsistence allowance to the applicant from 13.12.1955 to 3.6.1956 vide order C.No.21/55, dated 9.6.1956 and also paid leave salary for 12.12.1955 vide order No.C.No.21/55, dated

vii) That when applicant demanded payment of subsistence allowance from 9.6.1956 and onwards he was informed that since he has been dismissed from service and dismissal order dated 9.6.1956 has already been served on the applicant he can not be paid any dues from 9.6.1956 and onwards.

viii) That the applicant went on making representations to departmental authorities and governmental authorities as provided in para 67 Chapter X D of Incometax Office Manual Vol.I (a true copy of this provision is annexed as ANNEXURE No. 1).

Laxmikant

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AAA

ix) That after receipt of reply of the opposite parties the applicant got served notice under section 80 CPC and and after expiry of time the applicant filed a suit for declaration to the effect that the dismissal order dated 9.6.1956 is illegal and ultra vires and also for grant of consequential relief to the applicant. This suit was registered as R.S. No.71 of 1973 and heard and decided by means of judgement and order dated 1.6.1976 by the Court of Civil Judge, Malihabad at Lucknow. The trial court framed various issues and decided the main issue holding that the dismissal order dated 9.6.1956 is illegal and ultra vires.

x) That after passing of the order dated 1.5.1976 by the trial court the applicant challenged the part of the order in the High Court of judicature at Allahabad at Lucknow Bench, Lucknow ~~on 76~~ in so far it denied the payment of consequential relief to the applicant. The appeal was dismissed but the High Court held that there is categorical finding of fact recorded by the trial court that dismissal order is illegal and ultra vires.

xi) That the applicant thereafter made various petitions to opposite parties and also to even higher authorities for granting him consequential relief as his dismissal order has been held to be illegal and ultra vires by competent court of law.

xii) That a case of suspected embezzlement was reported to Police by the appointing authority vide his letter F.No.21/55, dated 15.12.1955 on the very same date on when suspension order F.No.21/55 dated 15.12.1955 was passed.

Deputy Legal Advisor

Mal - Adm.

Both of these letters are annexed herewith as

ANNEXURE NO. 1 and 2 to this application.

Subsequently another F.I.R. F.No.21/55 dated 17.12.55 was lodged with the police alleging therein that the applicant had embezzled Govt. funds as well as funds of U.P. Incometax Cooperative Society Ltd. When on 19.12.55 Investigating officer accompanied with A.D.M. (J), Lucknow, reached the house of the applicant and prepared a search memo, which included the detailed list of entire society dues which were alleged to have been embezzled by the applicant vide F.I.R. dated 17.12.1955. Subsequently the original Furd Khana Talasi duly signed by A.D.M. (J) was destroyed by Investigating Officer and a forged Search Memo was submitted to Court which did not bear signatures of A.D.M. (J.). Since the General ^{SIS} Diary of P.S. Kaiserbagh, Lucknow, bore the mention of presence of the A.D.M. (J.) after court's order to produce the same in court was reported to have been weeded out. Seals affixed on Iron Safe Exhibit of the S.T. No.41/60, 42/60 and 43/60 pertaining to applicant's case were removed before arrival of the City Magistrate in office on 26.12.1955 and contents placed therein were removed after applying key of the concealed lock which was in custody of the ^{complainant} applicant himself and the lock of Kunda of the safe was broken out and removed as the key of this handing lock was in possession of the applicant. Inspite of evidence adduced in the cases by Prosecution's own witness to the effect that the socalled auditor was working under direct control of the complainant and full papers were not given to him for audit. Even all heads of accounts of the cash book were not audited by him as he had no such instruction of the Complainant to audit all the heads of the cash book. Inspite of all

Contd...p/8.

these factors and repeated complaints by the applicant he was convicted on the charge of embezzlement under section 409 I.P.C. vide order dated 4.8.1962 and sentenced to undergo R.I. of 7 years plus fine of Rs.1000/- or in default of payment of fine to undergo further R.I. of 1 year in each case. All sentences were ordered to run consecutively. 3 appeals Cr. Appeal No.671/62, and 672/62 ~~and~~ 673 were filed by the applicant. These appeals were dismissed after a slight reduction in sentences and all sentences were ordered to run concurrently. The appeals were dismissed in December, 1964 and the applicant wrote several letters to various High ranking officers in this regard, but of no avail and as such he surrendered to undergo the ~~xx~~ sentence awarded in March, 1965. The applicant was not afforded ~~xxxx~~ opportunity of Second appeal from Jail and due to policy of financial handicapping exercised by the dismissing authorities/appointing authority he could not file second appeal before Hon'ble Supreme Court of India. After serving full term of sentence awarded by the court the father in law of the applicant sold his agricultural land and paid fine imposed on the applicant. Thus thereafter he was released from Central Prison, Varanasi in March, 1970.

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 details of the representations made etc. is annexed in ANNEXURE NO. 10 to this application.

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Ahu

Contd...p/9.

Surjan Singh

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 variety 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 of the application, the applicant prays for the following reliefs:

Since the trial court has recorded a definite finding of fact that the ~~dis~~ dismissal order of the applicant is illegal and ultra vires and this has also been affirmed by Division Bench of Hon'ble High Court by saying that the trial court has recorded a categorical finding of fact that the dismissal order of the applicant is illegal and ultra vires and thereafter the court's verdict neither the opposite parties have initiated fresh proceedings under Central Services (Classification, Control and Appeal) Rules, 1930 nor they have passed fresh order in writing for removal of the applicant (a permanent Government servant) from service, nor have served any such order under F.R. 53/54 on the application in accordance with law, it is respectfully prayed that this Tribunal may kindly be pleased to declare that the applicant is entitled for payment of full pay and allowances as enhanced by Government of India from time to time from the date of enforcement of suspension order upto

Temporary

Mal

date of his attaining age of superannuation retirement and thereafter entitled for pension and gratuity from the date of superannuation retirement and onwards.

It is further prayed that for the facts and circumstances mentioned above, ~~xxxix~~ this Tribunal may kindly be pleased to declare that entire period of absence from duty be treated as qualifying service for all purposes.

It is further prayed that a decree for enforcement of the above declaration of this Tribunal may also be passed in favour of the applicant and against the opposite parties.

10. Interim order if any, prayed for

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

It is prayed that the opposite parties be directed to pay Rs.20,000/- to the applicant as interim relief, which may be adjusted from the full payment of the applicant's dues so that the applicant may be able to get his right eye planted and to get his left eye treated.

Mal
Adv.

Contd... p/11.

Subramanyam

11. Not applicable.

12. Particulars of the Bank Draft/Postal Order(s) in respect of the application fee:

i) Name of the Bank on which drawn

Union Bank of India Aligarh

ii) Demand Draft No.

7002684

Serial NO - 166 Dated - 1.12.09

iii) Name of issue of Post Office :

X

iv) Date of issue of postal order :

X

v) Post Office at which payable:

X

13. List of enclosures:

Aligarh

Mal
Solv.

Engenfud

2
R.C.
/14

Verification

I, Sangram Singh Chauhan, aged about 65 years, s/o Late Sri Niranjan Singh Chauhan, permanent resident of Village Bichhia, district Mainpuri and at present residing at "SHREE BHAVAN" Pandey Tola Aliganj, Lucknow (dismissed employee of Incometax Deptt.) do hereby verify that the contents of paras 1 to 12 are believed to be true on legal advice and that I have not suppressed any material fact.

Sangram Singh

Lucknow

Dated: 5-12-89

SIGNATURE OF THE
APPLICANT

*I know and
I identify Sri Sangram
Singh who has signed
before me.*

P. Dutt

*Advocate
High Court
etc.*

Adv.

3/12/89

*Sh. Lal Singh
M. A. LL.B.
Advocate High Court
Lucknow*

Sangram Singh

13
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
IN THE HON'BLE HIGH COURT OF JUDICATURE AT LUCKNOW

LUCKNOW BENCH LUCKNOW.

Case No. of 1989

Sangram Singh Couhan Applicant,

Vs..

Union of India and Others. Respondents.

ANNEXURE NO.

9

F. NO. DIR (GRIV.) / CH (DT/ S-89072/1771

GOVERNMENT OF INDIA

MINISTRY OF REVENUE

DEPARTMENT OF REVENUE

CENTRAL BOARD OF DIRECT TAXES

CENTRAL GRIVANCE CELL

NORTH BLOCK, NEW DELHI- 110 001

To,

DATED: 11/08/89

SHRI SANGRAM SINGH CHAUHAN

SHRI BHAWAN, PENDAY TOLLA

ALIGANJ,

LUCKNOW-226 020

Sir,

Please refer to your letter dated 22/02/89.

The Central Grievance Cell decliness to
interfere.

Yours faithfully,

sd/- illegible
(P.C. CHHOTRAY)
DIRECTOR (GRIV.)

True Copy

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Mal

Temporary witness

बायदालत श्रीमान

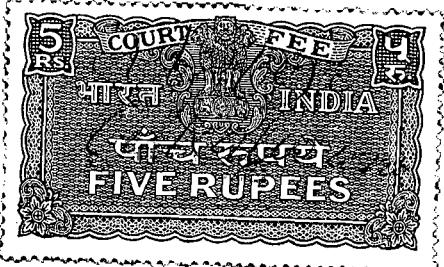
पंडित दादा का निवास द्वारा दिया गया महोदय
01/09/03

४४

वादी (मुद्र्द्वारा)
मुद्र्द्वारा (मुद्रालेह)

का

वकालतनामा



नं० मुद्रमा

बनाम प्रतिवादी (रेस्पॉन्डेंट)
सन पेशी की तां १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

वकील

एडवोकेट महोदय

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 रूपया बसूल 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 रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रूपया 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।

Superior Court
हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९०३ ई०

Accepted
W.A.C.
Accepted

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

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14

Case No. of 1989.

Sangram Singh Chauhan ... Applicant

versus

Union of India and others ... Respondents.

LIST OF ANNEXURES FILED (STATING ITS IMPORTANCE IN BRIEF)

ANNEXURE NO. 1

666666666666666666der F.No.21/55 dated 15.12.1955 passed by
Commissioner of Incometax (suspending the
applicant with retrospective effect)

ANNEXURE NO. 2

Secret Letter F. No.21/55 dated 15.12.1955
Commissioner of Incometax written to S.S.P.
reporting suspected case of misappropriation
of funds and reporting addresses of
applicant's relatives like father in law and
brother in law serving in army-- a
transferable post).

ANNEXURE NO. 3

Letter No. C.No. 21/55 dt. 28-12-59
(forwarding unsigned uninstant copy of
dismissal order which was typed on a
different typewriter other than that on
which this Annexure was typed.

ANNEXURE NO. 4

Dismissal order F-No. 21/55 dt.
9.6.56 passed by C.I.T. dismissing the
applicant with retrospective effect and with-
out service of Charge-sheet on the addresses
known vide Annexure No. 2.

Annexure No.5.

Letter C-No. 21/55 dt. 3.5.1962
of C.I.T. admitting clearly that dismissal
order has never been served on the petition
applicant.

ANNEXURE NO. 6.

Judgment and order dt. 1.6.1976
passed by Civil Judge, Malihabad at Lucknow
recording defenit finding of fact that the

*Signature Attested
by
[Signature]*

dismissal order of the applicant is illegal and ultra vires.-

ANNEXURE No. 7

~~Fixxxxxxx~~ Judgment and order dt.

29.11.79 passed by Division Bench Lucknow in 1st Civil Appeal No. 33 of 1976 confirming the order of the Trial Court by saying that the Trial Court has recorded a categorical finding of fact that dismissal order of the applicant is illegal and ultra vires.

ANNEXURE No.8

Letter No. F.No.DIR(GRIV.)CHK (DT)/8 89072/794-95 dt. 7-3-89 of Chairman Central Board of Direct Taxes Government of India Ministry of Finance New Delhi calling for report in applicant's case and directing the applicant to contract officer concern.

ANNEXURE NO.9.

Letter No. F.No. DIR(GRIV.)/CH (DT)/ S-89072/1777 dt. 11.8.89 of Chairman Central Board of Direct Taxes Government of India New Delhi Ministry of Finance, refusing to interfere in the matter.

ANNEXURE NO.10.

List of letters sent and received by the applicant from 1.6.1976 and onwards.

ANNEXURE No. 11.

Copy of para 67 chapter 10 (d) of Income Tax Office Manual Volume I restraining the applicant from resorting to Court of Law without exhausting normal channels of redress by official /departmental and governmental sources.

Lucknow

Dated:-

Mal
DR

*Sanjeev Singh Retired
18/3/89*

ADMINISTRATIVE
IN THE CENTRAL TRIBUNAL, LUCKNOW

LUCKNOW BENCH LUCKNOW

Case No. of 1989

Sangram Singh Chauhan Applicant

Vs.

Union of India & Ors. Opp. Parties.

ANNEXURE NO.

GOVERNMENT OF INDIA

OFFICE OF THE COMMISSIONER OF INCOME-TAX

Uttar Pradesh & Vindhya Pradesh

F. No. 21/55

O R D E R

15.12.1955

Establishment - Ministerial

Shri S.S. Chauhan, U.D.C...

Disciplinary action against.

Shri S.S. Chauhan, U.D.C. of this office,
has been absent without having been allowed any leave,
since 13.12.1955. He is suspended from duty with effect
from the fore-noon of 13.12.1955.

Shri N.D. Mehrotra,

COMMISSIONER OF INCOME TAX,

U.P. AND V.P. LUCKNOW.

F. No. 21/55 Dated Lucknow the 15th. December, 1955.

Registered A.D.

Copy to Shri S.S. Chauhan, U.D.C., near Mandir,
Mahanagar, Lucknow.

Sd/- Balbir Singh, I.T.O. (H.Q.)
For C.I.T. U.P. and V.P.

*Subwritter Attested
by 16/12/55*

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17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW, BENCH LUCKNOW.

Case No..... / 1989.

Sangram Singh Chauhan Applicant.

vs.
Union of India and Others. Respondent.

ANNEXURE NO.

2

SECRET

F. NO. 21/55

OFFICE OF THE ~~ADMINISTRATIVE~~
COMMISSIONER OF INCOMETAX,
UTTAR PRADESH & VINDHYA
PRADESH.

Lucknow, the 15th. Dec., 195

To,

Shri D. Sen, I.P.S.,
Senior Superintendent of Police,
Lucknow.

Dear Sir,

The accountant of this office, Shri Sangram Singh Chauhan, has been absent, without leave, from the 13th. Inst. He attended the office on Saturday, the 10th. inst. as well as on the 11th inst. but put in an application for casual leave, for the 12th. inst. Thereafter he has not reported for duty.

2. It has been noticed that there were a couple of cases of double drawal of bills and in that connection investigation were being made, to see how the irregularities occurred. During the course of investigations, it appeared that there were some

*Sanjay Singh
Interim
Picnic*

18

other irregularities and perhaps a possible misappropriation of Govt. funds. The investigations are not yet complete but his being absent from duty, without leave, since 13th. inst., leads to a strong suspicion of embezzlement by him and his having absconded. Further investigations are still being made but meanwhile it is requested that Shri Sangram Singh Chauhan may be arrested kept in lock-up, till the investigations are completed.

3. Shri Chauhan's local and permanent home address are as under:-

Local home address:

Near Mandhir, Mahanagar, Lucknow.

Permanent home address:

1. S/o . Th. Niranjan Singh,

Retired Sub-Inspector of Police,

Vill. Bichia. P.O. & Distt. Mainpuri.

2. ~~Brother-in-law-~~ Shri Sheobaran Singh,

Havildar Sepoy, Army Educational Corps.,

Rajput Centre, Fatehgarh.

I also understand that Shri Chauhan was maintaining a current account with the U.P. Cooperative Bank Ltd., Hazratganj, Lucknow and was having a Saving Bank Account No. 3851/49 in the Punjab National Bank, Hazratganj, Lucknow. He was perhaps also having a safe deposit locker in the Punjab National Bank. It is requested that the U.P. Co-operative Bank and the Punjab National Bank. It is requested that the U.P. Co-operative Bank and the Punjab National Bank, Hazratganj, Lucknow may be directed not to allow any person to operate the Bank accounts or the Safe Deposit locker, maintained by Shri Chauhan in the said banks, till they hear further from you.

Yours faithfully,

Signature

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW
LUCKNOW BENCH LUCKNOW.

Case No. of 1989.

Sangram Singh Applicant,

vs. Respondent,
Union of India and Others.

ANNEXURE NO. 3

C. No. 21/55

OFFICE OF THE COMMISSIONER OF
INCOME TAX, UTTAR PRADESH,

....
Dt. Lucknow, the 28th. Dec., 1959

To,

Shri Sangram Singh Chauhan,
C/o Proprietor Sukla Hotel,
Gwyne Rd., Lucknow.

Please refer to your letter dated 22nd.

Dec., 1959.

2. You have already been dismissed from
service W.E.F. 12.12.1955 vide this office order
No. 21/55 dt. 9.6.1956, a copy of which is enclosed
herewith for ready reference.

Sd. (A.B. PANDE) ITO (HQ)

For Commissioner of Income-t

Enclos:- Copy of order Uttar Pradesh, Lucknow.
dismissal, as
above.

True-Copy

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IN CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW.

LUCKNOW BENCH

Case No...../89

Sangram Singh Chauhan Applicant

Vs.

Union of India & Others. Respondents.

ANNEXURE NO.

4

F.No. 21/55

OFFICE OF THE COMMISSIONER OF INCOME TAX

U.P. And V.P.

....

Order

9.6.1956

Establishment- Non-gazetted-

Shri S.S. Chauhan, U.D.C. (Under suspension)

-- Disciplinary proceedings against.

....

Shri Sangram Singh Chauhan, U.D.C. of the Office of Commissioner of Income-tax, U.P. and V.P. Lucknow, was suspended with effect from 13.12.55 forenoon, as per my predecessor's order dated 15.12.55 forenoon, as per my predecessor's order dated 15.12.55. The following charges were then framed against him vide this office letter dated 29.5.56:-

I. That he wilfully absented himself from duty without leave and without obtaining prior permission.

II. That he left the station of his present posting without permission and without

Malhotra
A.U.
10/12/1956

holding over the keys of the safe etc.

and thus absented himself from Govt. duty.

III. That he misappropriated and/ or embezzled Govt. money by adopting unfair means in the discharge of his duties as public servant.

2. That the facts and allegations on which the charges were based, were also incorporated in the charge-sheet. The charge-sheet was sent under a Registered/ A.D. cover to his last known address at Lucknow, but it has been received back undelivered with the postal remarks that "the addressee does not reside at residence at Mahanagar, Lucknow and has left the house."

3. Since March, 1953, the duties assigned to Shri Chauhan in the office of the Commissioner of Income-tax U.P. and V.P. Lucknow included inter alia (a) preparing contingent, pay and other bills (b) presenting the bills to Treasury, for being passed for payment, (c) getting cash or R. T.R. from Bank on the basis of the bills passed by Treasury (d) disbursing the cash or R.T.R. as the case may be to the recipients & (e) maintaining the cash-book. Towards the end of Nov. 1955, the A.G. U.D. as per his letter dated 22.11.55, brought to my predecessor's notice that in two cases the amounts for the same expenditure had been drawn twice over by two different bills. The Superintendent and Head Clerk were, therefore, asked to scrutinise the accounts for the period from 1.4.55 upto date (3.12.55) and submit a report by 15.12.55. During the ~~REX~~ scrutiny Sri Chauhan attended office upto 11.12.55. He absented on 12.12.55, but sent an application for casual leave for that date. He continued to remain absent and did

start by
TMO

not send any application for further leave. On 14.12.55 the Supdt. reported that during the course of preliminary investigations made till then it appeared that there were several items of double drawal and it was also suspected that several amounts had been misappropriated by Sri Chauhan. Further scrutiny of accounts, for the entire period during which Shri Chauhan remained in charge of the above enumerated duties was, therefore, made by the internal audit Party, which revealed that Sri Chauhan had misappropriated or embezzled about Rs.53000/- The Police to whom matter had been reported earlier made enquiries about the whereabouts of Shri Chauhan and reported that Shri Chauhan was absconding. This has been further confirmed by the postal remarks quoted in para 2 above.

4. In the circumstances the proviso (b) to Article 311(2) of the Constitution of India and also para 2 of Rule 55 of the C.S. (C.C.A.) Rules apply to this case and these departmental proceedings have to be concluded without hearing Sri Chauhan or giving him opportunity of showing cause against award of punishment. The above facts patently prove the charges levelled against him and no injustice is involved in awarding the deserved punishment that can be inflicted departmentally on him.

5. Accordingly I dismiss Shri Sangram Singh Chauhan from service with effect from 12.12.55.

(Sd. K.P. SINHA)

COMMISSIONER OF INCOMETAX

Regd. A.D.

U.P. ANDV.P. LUCKNOW

To,

Shri S.S. Chauhan, U.D.C. (under suspension)
near Mandir, Mahanagar, Lucknow. (Balbir Singh) I.T.O (H.Q.)

(S) 10/23
to

IN CENTRAL ADMINISTRATION TRIBUNAL, LUCKNOW.

LUCKNOW BENCH LUCKNOW

Case No. /1989

Sangram Singh Chauhan

..... Petitioner/Applicant

Vs.

Union of India & Others

..... Respondents.

ANNEXURE NO.

5

GOVERNMENT OF INDIA,

OFFICE OF THE COMMISSIONER OF INCOME-TAX

UTTAR PRADESH, LUCKNOW.

Dated Lucknow, May 3, 1962.

To,

Shri Sangram Singh, Chauhan,

Care of Proprietor, Shukla Hotel,

Gowyne Rd. Lucknow.

Please refer to this office letter of even number dated the 1st. March, 1962. It appears that you are emphasizing the word 'service' which is not at all material. In fact it was meant that the Order of dismissal was passed on 9.6.1956 and not 'served'. Through an over sight the words 'non-service' and 'service' were previously used. Order of dismissal was sent to you under registered cover to your address but it was obviously avoided for the reasons best known to you. No fresh address was communicated by you to us and it was not possible to trace you out. The registered envelope came back with the endorsement that you had left the place.

Rejwani Singh
Attested
You had full knowledge of the order of dismissal. However,

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please note that the order of dismissal was passed on 9.6.86 and it was given effect from that date. It is hoped that you will not unnecessarily indulge in further correspondence on this subject.

In the circumstances no question of photostat copy as demanded by you arises.

Sd/-

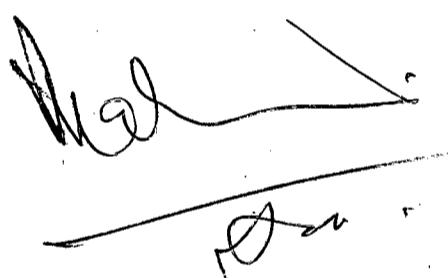
(K.N. SRIVASTAVA) I.T.O. (H.Q.)

For Commissioner of Income-tax

Uttar Pradesh, Lucknow.

.....

True Copy.



Temporary
1986

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P.S.
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In Central Administrative Tribunal

Lucknow bench

Case No. /89

Sangram Singh Chauhan

.... Applicant.

Vs.

Union of India & Others

.... Respondents.

ANNEXURE NO. 6

COPY OF JUDGMENT PASSED BY SHRI S.K. SRIVASTAVA, CIVIL
Judge Malihabad, at Lucknow on 1.6, 1976 in case of
Sangram Singh Vs. Union of India and Others.

COPY OF JUDGMENT

This is a suit for declaration that the plff.'s
dismissal from the service is null and void. The
plff. further seeks the declaration that he continues
to be in service.

The plff. alleges that on 2.2.45 he was appointed
as a Lower division clerk in Income-tax office, Meerut,
plff. was made permanent on that post on 1.7.49 and
finally confirmed on 1.10.51 in Sept. 1947 he was trans-
ferred from Meerut to Lucknow in the office of the
Commissioner of Income-tax, U.P. w.e.f. 1.2.49 the
plff. was appointed as officiating Upper Division
Clerk. On this post also he was subsequently confirmed
On account of honest work the plff. was assigned the
work of accountant, for which he gave security of Rs. 400
From afternoon of 27.2.53 the plff. actually started
working as accountant and took over charge of cash and
cash book from Sri Bankey Lal Srivastava. In the year
1947 as a result of reorganisation of Income-tax

Attested,
by R.S.M.

department, the post of accountant was merged with the post of Head Clerk. The plff. was verbally assured that he will be promoted as Head Clerk on receipt of the orders from Government of India. The plaintiff remained in service as accountant until he was dismissed from the service w.e.f. 12.12.55.

He was granted casual leave for 12.12.55 and he gave another application that very day for earned leave for 15 days. He further sought to leave the station and have left three addresses so that they could contact in case of necessity. On 13.12.55 the Commissioner of Income-tax passed an order suspending him w.e.f. 13.12.55 for being absent without leave having been allowed from 13.12.55. Plff. gave his three addresses to the Income-tax Commissioner, (1) Permanent address (2) father-in-law address (3) brother-in-law address. On 15.12.55 the Commissioner of Income-tax lodged a report with S.S.P., Lucknow to the effect that plff. was absent without leave and there is strong suspicion of his having misappropriated and embezzled government funds. The Commissioner of Income-tax requested the S.S.P., Lucknow to arrest the plff. and in the meantime further investigations were being made in the matter. The addresses of the plaintiff were also mentioned in this report. He further made a report on 17.12.55 to S.S.P., Lucknow that on the basis of the investigations made so far, it appears that the plff. has embezzled Government funds amounting to Rs. 14709.15 and another sum of Rs. 2521.03 belonging to the U.P. Income-tax Cooperative Society Ltd., Lucknow. The police registered a case against him and submitted three charge sheets u/s. 409 I.P.C. He was committed to the court of sessions on the basis of these charge sheets by the court of Judicial Magistrate, on 28.8.60. He was tried before

*Reverend High Assistant
A.P.M.*

the Asstt. Sessions Judge, Lucknow in Sessions Trial No. 41 of 60, 43, of 60 and 44 of 60. He was convicted to seven years R.I. plus 1000/- as fine or in default imprisonment for another one year in each case. He preferred an appeal before the Honourable High Court. The Hon'ble High Court reduced his sentence in one case to 6 years and in another case to 5 years and also ordered to run all the sentence concurrently. After serving the full term of the ~~xx~~ sentences awarded by the court the plff. was released from Central Jail varanasi on 20.3.70.

Through letter dated 28.12.59 the plff. was informed by the Commissioner of Income-tax that he had been dismissed from the service w.e.f. 12.12.55. From the perusal of the copy of dismissal order dt. 9.6.56 he learnt that he had been dismissed under prov. (b) of Art. 311 (2) of the Constitution of India and para 2 of rule 55 of C.S. C.C.A. Rules. The proceedings leading to his dismissal were conducted *ex parte*. The Commissioner did not send a copy of charge sheet dated 29.6.56 to the plff. on the addresses known to him and yet held that it was not possible to contact him. The charge sheet for taking departmental action was prepared on 29.6.56 with holding of reasonable opportunity to explain as provided in Art. 311 and 312 and rule 55, thus goes to hit the impugned order. The charges were vague and indefinite and plff's dismissal from service was *ultra vires* and illegal. The rest of the allegations are irrelevant and need not be discussed.

*W.M.D.
A.M.*

In their W.S. the defendant have taken the stand that the plff. was appointed as Lower Division Clerk and declared permanent on that post on 1.4.49 and he was

Senior High Assistant Clerk P.M.

confirmed on 1.10.51. The plff. deposited cash of Rs. 400 and started performing his duties as cashier till 13.12.55 when he was suspended. He applied for leave for 12.12.55, but as no casual leave was due to him, it was not allowed. Any other application for leave was as alleged by the plff. was not given to the Income tax Commissioner. The rest of the allegations are denied.

In their additional pleas the defendant have taken the stand that the plff. was held guilty of embezzlement for Rs. 52985.53-. The security amount of Rs. 400/- was adjusted towards the said embezzlement amount. The post of accountant was not merged with the post of Head clerk, in the year 1947, the post of accountant on which the plff. was working was abolished and the plff. was asked to perform his duties as cashier. He was not given any assurance as alleged by him. The plff. was suspended vide order dt. 15.12.55 w.e.f. 13.12.55 and on the same day information was sent to S.S.P., Lucknow. The Plff. could not be arrested as he had absconded. The plff. thereafter in June, 1957 surrendered to the Police. A charge sheet was sent to the plff.'s local home address. The said charge sheet returned back unserved through post. The Commissioner of Income-tax defendant no.2 applied proviso (b) of Art. 311 of the Constitution of India. read with para 2 of rule 55 of C.S.C.C.A. Rules. The suit against defendants 2 to 4 is not maintainable. They are not juristic persons. A plea of limitation has also been taken.

*Plff.
Am.*

On the pleadings of the parties the following issues were framed by my learned predecessor in office.

*Suganya Altered
- 10th Dec.*

1. Whether the order of dismissal of the plff.'s service passed on 9.6.56 is illegal ultra vires and against the rules as pleaded in para 19 to 24 of the plaint.
2. Whether the suit is within time.
3. Whether the suit is under valued and the court fee paid is insufficient.
4. Whether the suit is bad for misjoinder of defdt. no.2 to 4.
5. Is the suit not maintainable against defdt. 2 to 4 as pleaded in para 37.
6. Whether the suit against the defendants 2 to 4 is not maintainable for want of notice u/s. 80 C.P.C.

FINDINGS

Issue No. 3.

After this issue was framed the plff. amended his plaint and has made it pure suit for declaration. The learned counsel for the defendants did not press this issue after the amendment of plaint. The findings have been recorded on English notes dated 5.5.76 and shall form part of this judgment.

Issue no.5 and 6.

After the close of the parties case, the plff. made an application vide that he be permitted to withdraw the suit against defendants 2 to 4. The application was allowed and the suit against the defendants 2 to 4 stands withdrawn. In view of the withdrawal of the suit against defendants 2 to 4 these two issues become redundant and, are answered accordingly against the defendant.

Issue No.1.

In support of his case the plff. Sangram Singh

A.S
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has examined himself as P.W.-1 and has supported all the allegations made by him in his plaint on oath. In his cross examination he has stated that when he joined service he gave his permanent home address. He has further admitted that he gave an application for earned leave on 13.12.55 to Sri Balbir Singh personally. He, however, did not obtain any receipt from him. He has admitted that he did not receive any confirmation as to whether his leave for 12.12.55 had been granted or not. He also did not enquire as to what had happened to his application for earned leave from 13.12.55.. During his leave he went to his village home Bichia, and thereafter he went to his ~~Seasural~~ and from there Fatehgarh. From Fatehgarh he went to Gwalior and then came to Lucknow. He came to know about the embezzlement charge against him by the suspension order dt. 15.12.55. This suspension order was received by him at Mainpuri and had been redirected. It was redirected by his father, who lives in Harniha in Shahjahanpur distt.. He, however, does not know what address was written on suspension order. He has denied the suggestion that he absconded on learning about the embezzlement charge against him and could not be traced. He has admitted that he has his suspension allowance till June, 56. He has also denied the suggestion that since he could not arrange for bail, he was running from one place to another. Against this evidence the defendants have examined Sri Brijesh Kumar as D.W..1. He has stated on oath that he is an Asstt. In the confidential section of the Income-tax Office and has dealt with the file of Sri Sangram Singh. From the entries in the register, it is certain that the plff. did not apply for any leave from 13.12.55. From 13.12.55 Sri Sangram Singh absconde

Swami
A. S. Mehta

and was not to be found on his permanent address. The department was not in know of any other address of of Sri Sangram Singh except his permanent address. Now D.W.1 Sri Brijesh Kumar has been subjected to a very searching cross examination but nothing of value has been in his cross-examination which may go to discredit him. Sri Sangram Singh plff. P.W.1 has himself admitted that he has no proof that he has made application for earned leave from 13.12.55. It is admitted case of the parties that the plff. was dismissed from service w.e.f. 9.5.56. It is further admitted that the dismissal of the plff. was brought into being any application Article 311(2) (b). Now article 311 (2) (b) provide as under:-

"Where the authority ~~empower~~ empowered to dismiss or remove a person or reduce him in rank is satisfied that for some reasons to be recorded by that authority in writing, it is not reasonabley practicable to hold such enquiry."

Now in order to avail of the provisions of art. 311(2) (b) it is necessary that the authority invoking this provision must record his reasons in writing that it was not reasonably practicable to hold an enquiry as contemplated u/s. 311(2). Strangely enough in the instant case, the order of dismissal is not forth comin Under the circumstances it is not possible for this court to lay its hands on the reasons that have been recorded by the defendant in writing, in view of the provisions 311 (2) (b) of Constitution.

Mal
Dev
Sangram

this petition, the failure of the
to the hilt that he proceed
from 13.12.55 is not prov.

held that the order of dismissal is not legal and valid. For these reasons, I hold that the plff. has succeeded in proving that the order 9.6.58 is illegal and ultravires. The issue is answered accordingly in favour of the plff.

Issue No.2

In para 18 of the plaint the plaintiff has earned that through letters dated 29.12.52 he was informed by the Income tax Commissioner that he has been dismissed from service w.e.f. 9.6.56. Before me the plff. has relied upon paper no. G.9 which has been admitted by the defendants counsel that the he came to know about the order of dismissal on March 1, 1962. Now assuming that he come to know about the order of dismissal as late as 1.3.62, the question is, in his suit within limitation. The suit was filed on 18.9.72. It has been urged by the plff. before the that he had been making representation under rule 19 of Chaper 13 of Rules of Discipline and Departmental proceedings. It has further been urged that he came to know for the first time that his representation has been rejected on 26.4.72. Quite obviously, this argument has been built on paper no. C-14, which has been admitted by the learned counsel for the defendant. Assuming for the sake of arguments that he learned about the dismissal of his representation in 1972, can it save limitation, as has been argued by the learned counsel for the plff. It is a well settled proposition of law that the period spent in pursuing departmental proceedings can not be exeluded under limitation act because successive order can not constitute a fresh cause of action, because it is always the original order of dismissal that is challanged. The suit is thus hopelessly beyond limitation even if the order of dismissal

*Farhunday / Attested by
Tissa Advocates*

was communicated to him in 1950 as averred in para 18 of the plaint or as denoted in paper no. C-9 in March, 1962.

Before concluding it must be mentioned that the plff. has made an application purporting to be one u/s. 5 of Limitation Act wherein he has pleaded that in para 19 of Chapter 13 of Procedure Manual, he could not have availed of the relief which was available to him in Law Courts, because there was a prohibition against it. I do not agree. The plff. having been dismissed from the plff. he had nothing to be afraid of because the worst had already come. No. departmental proceedings can start against a dismissed employed. He has again urged that due to supersession of dismissal order and on account of payment of subsistence allowance till 18.5.56 he had been advered that he continues in service and was bound to comply with para 2 of Chapter 13 of procedure Manual, till the final disposal of the representation. This argument is wholly misconcieved and is untenable, lastly he has urged that he remained in Jail from 1965 to 1970 and this period must be excluded. Againg if is misconcieved, the period of limitation had started running against his before he went to jail and he could not be heard to take advantage of his own conviction and sentence from a criminal charge. It is immaterial that he was in jail from 1965 to 1970. For these reason. I hold that the suit is hopelessly beyond limitation. The issue is answered accordingly against the plaintiff.

Malihab
Am

Issue No.4 In view of my findings on other issues, the plff. is not entitled to any relief. His suit must be dismissed with costs.

Order

Plaintiff's suit for declaration fails and is hereby dismissed with costs. Sd/- S.K.Srivastava

Dt. 1.8.78

Civil Judge Malihabab,

Lucknow.

*Plaintiff's Alterred
by
KSSR*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW.

Case No. of 1090.

Sangram Singh Chauhan ... Applicant.

Versus

Union of India and others. ... Respondents.

ANNEXURE NO. 7

THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

Lucknow Bench Lucknow

First Appeal No. 33 of
(Under sec. 96 C.P.C.)

Sangram Singh Chauhan ... Plaintiff-Appellant
Vs.

1. The Union of India and others... Defendant-
Respondents.

Claim : Suit for Declaration

Valuation of First Appeal: Rs. 83,659.78

First Appeal against the judgement and decree
dated 1.6.1976 passed by Sri S.K. Srivastava, Civil
Judge Malihabad, at Lucknow.

Lucknow Dated: 27.7.1979

Hon'ble Hari Swarup, J.

Hon'ble K.S. Verma, J.

(Delivered by Hon'ble K.S. Verma, J.)

Mal
Om.

This appeal arises out of the suit filed by
the appellant for declaration that the plaintiff's
dismissal from service is null and void. It is
unnecessary to go into other question as the sole
question involved this appeal is whether the suit is
within time. In order to appreciate the question of

*Sangram Singh Chauhan
Alleged by
C/S*

limitation, it is necessary to state certain facts. It is not disputed by the parties that the plaintiff was dismissed from service with effect from 9.6.1956. This dismissal order was challenged by the plaintiff on a number of grounds and in that respect issue no.1 was framed. The issue is whether the order of dismissal of the plaintiff's service passed on 9.6.1956 is illegal, ultra vires and against the rules as pleaded in paras 19 to 24 of the plaint. On this issue a categorical finding has been recorded that the plaintiff has succeeded in proving the order dated 9.6.1956 is illegal and ultra vires. The order issue is issue no.2 which is material for the purpose of this case. Issue no. 2 is whether the suit is within time.

From a perusal of the plaint it appears that the date of cause of action for filing the suit has been set up as 1.7.1972. It appears further that the suit was filed on 18.9.1972. Obviously, the suit was beyond limitation. In order to get over the plea of limitation, the plaintiff put forward the case that after his dismissal, he made representation to various authorities and the plaintiff for the first time came to know that his representation had been rejected on 26th April, 1972. The question that arises is whether the time taken in the disposal of the representations would arrest the running of time which had already started. In this respect, there is a clear decision of the Supreme Court reported in Sita Ram Goel Vs. The Municipal Board, Kanpur and others (A.I.R. 1958) Supreme Court 1036). A perusal of the said decision would indicate that the

*Forwards & filed by
T. S. S. S.*

appellant was an employee of the Municipal Board and his appointment was determined under sub-section (1) of section 326 of the U.P. Municipalities Act. The period of six months provided by sub section (3) of section 326 of the Act was to commence to run after the accrual of the cause of ~~section~~ action and the suit had to be filed within that period. The U.P. Municipalities Act made provisions for filing appeals. The appellant in that case filed an appeal after disposal of the appeal, the suit was filed. When the suit came up for hearing, the plea of limitation was raised. Ultimately the Supreme Court observed that the mere fact that an appeal is provided, would not stop the running of limitation which has already commenced and held that the suit filed by the appellant was beyond time. The principal enunciated in aforesaid decision applies with equal force to the facts of this case. In our opinion, there is no escape from the conclusion that the suit is not within limitation and the findings recorded by the trial court on this aspect of the matter is correct.

For the reasons stated above, we are of the view that there is no merit in this appeal and the appeal ~~and~~ is accordingly dismissed. There will be no order as to costs.

Sd/- Har Swarup, J

Sd/- K.S. Verma. J.

27.7.1979.

True copy

Adv

Har Swarup

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IN CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH LUCKNOW.
Case No. of 1989.

Sangram Singh Chauhan Applicant.
Vs.
Union of India and others. Respondents.

ANNEXURE NO.

8

F.NO. DIR (ORIV.) CH DT)/ 8-8972/794-95

07/03.89

G.N. GUPTA

My dear,

Enclosed please find a copy of a petition from SHRI SAN GRAM SINGH CHAUHAN. You are requested to take necessary action and submit a report within 20 days of the receipt of this letter.

Yours sincerely

Encl: as above

Sd/- illegible

SHRI A.P. SAXENA (G.N. GUPTA)

CHIEF COMMISSIONER OF INCOME TAX (ADMN)

LUCKNOW.

AAYAKAR BHAWAN

ASHOK MARG.

LUCKNOW-226001

Copy to :

1. SHRI SAN GRAM SINGH CHAUHAN
SHRI BHAWAN PANDEY TOLLA ALIGANG
LUCKNOW-00020.

He may please contact the CHIEF COMMISSIONER
TAX (ADMN.), LUCKNOW.

Received
Benzal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

Case No. of 1989

Sangram Singh Chauhan ... Applicant

Versus

Union of India and others ... Respondents.

ANNEXURE NO.

10

Detailed list letters sent and received by the
applicant from respondents.

| Date | Letter sent by | Letter addressed to |
|--------------|---|---------------------|
| 1. /76. 1976 | DATE OF PRONOUNCEMENT OF JUDGEMENT OF | |
| | COURT HOLDING DISMISSAL ORDER ILLEGAL AND | |
| | ULTRA VIRES. | |
| 2. 6. 1976 | Applicant | C.I.T. |
| 16.6. 1976 | -do- | -do- |
| 15-6. 1976 | -do- | -do- |
| 25.6.76 | C-IT. | Applicant. |
| 2.12.76 | Applicant | C.I.T. |
| 14.01.77 | Applicant | C.B.D.T. |
| 02-07.77 | Applicant | Secretary Shal |
| | | C.I.T. Enquiry |
| 05.07.77 | -do- | -do- |
| 25.10.77 | -do- | -do- |
| 07.11.77 | Applicant | Chaudhary Charan |
| | | Singh (P.M.) |
| 13.03.78 | Applicant | H.M. Patel (F.M.) |
| 03.09.78 | Applicant | |

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Case No. of 1989

Sangram Singh Chauhan

... Applicant

Versus

Union of India and others

... Respondents.

ANNEXURE NO.

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| 1. /76. 1976 | DATE OF PRONOUNCEMENT OF JUDGEMENT OF | |
| | COURT HOLDING DISMISSAL ORDER ILLEGAL AND | |
| | ULTRA VIRES. | |
| 2. 6. 1976 | Applicant | C.I.T. |
| 16.6. 1976 | -do- | -do- |
| 15-6. 1976 | -do- | -do- |
| 25.6.76 | C-IT. | Applicant. |
| 2.12.76 | Applicant | C.I.T. |
| 14.01.77 | Applicant | C.B.D.T. |
| 02-07.77 | Applicant | Secretary Shal |
| | | C.I.T. Enquiry |
| 05.07.77 | -do- | -do- |
| 25.10.77 | -do- | -do- |
| 07.11.77 | Applicant | Chaudhary Charan |
| | | Singh (P.M.) |
| 13.03.78 | Applicant | H.M. Patel (F.M.) |
| 03.09.78 | Applicant | -do- |
| 11.10.78 | -do- | |

01.01.78

28.09.78

07.11.78

-do-

-do-

Satosh

Charan Singh (P.M.)

C.I.T.

Charan

Attested

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| Date | Letter sent by | To whom addressed |
|----------|--------------------------------|--|
| 27.7.79 | Applicant | Hon'ble Sri KS Verma
Minister of Finance |
| 11.8.89 | -do- | Hon'ble Fin. Min. of India |
| 2.8.79 | -do- | Sh. Dharnidhar
Commissioner I.T. |
| 23.9.79 | -do- | Ghulam Hidaitullah
of Income Tax. |
| 4.10.79 | Vice President | Applicant |
| 17.10.79 | Applicant | P.A. to Vice President
Sri Y.K. Hebballi |
| 20.10.79 | Applicant | Dharnidhar |
| 26.10.79 | -do- | Vice President |
| 6.11.79 | -do- | Dharnidhar, Commissioner,
I.T. |
| 25.11.79 | I.T. Deptt. | Applicant |
| 29.11.79 | Lko. Bench
(Judgment of HC) | Applicant |
| 12.12.79 | Applicant | Y.K. Hebballi |
| 28.12.79 | Secy, V.P. | Applicant |
| 28.12.79 | A.N. Obrai | Applicant |
| 19.1.80 | Applicant | Dharnidhar, I.T. |
| 22.1.80 | Applicant | Central Board of
Direct Tax, Secretary. |
| 23.2.80 | I.T. Deptt. | Applicant |
| 15.6.80 | Applicant | Sanjay Gandhi |
| 19.4.80 | -do- | Rly. Minister |
| 12.8.80 | -do- | Smt. Indira Gandhi |
| 22.9.80 | -do- | DPO Divisional
Supdt. NR, Lko. |
| 29.10.80 | Union of India | Applicant |
| 21.7.80 | Applicant | Akbar Ali Khan, MLA |
| 24.4.81 | Applicant | JP Goel, Advocate, SC. |
| 4.8.81 | -do- | Smt. Indira Gandhi |
| 16.10.81 | -do- | Sanjiva Reddi |
| *1.11.81 | -do- | P.S. to Sanjeev Reddy |
| 4.11.81 | -do- | Dharnidhar, I.T. Comm. |
| 8.11.81 | -do- | -do- |
| 21.10.81 | President Sec. | Applicant |
| 6.11.81 | Applicant, | Sec., Deptt. of
Revenue, Ministry of Fin. |
| 11.11.81 | -do- | Dharnidhar Comm. |
| 18.11.81 | -do- | Sh. Bhattacharya, I.T.O. |
| 20.11.81 | -do- | -do- |
| 1.12.81 | -do- | Sec., G.O.I., M/Revenue |

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| <u>Date</u> | <u>Letter sent by</u> | <u>To whom addressed</u> |
|-------------|---|---|
| 27.12.81 | Applicant | Sanjeev Reddy |
| 27.11.81 | G.O.I., I.T. Deptt. | Applicant |
| 5.12.81 | Applicant | Secy. Govt. of India. |
| 11.2.82 | Applicant | Section Officer, S.C., New Delhi. |
| 19.11.82 | P.M. office | Applicant |
| 19.11.82 | Applicant | Zail Singh, President of India |
| 11.1.83 | Applicant | Gyani Zail Singh |
| 31.1.83 | Applicant | Pranab Mukherjee Fin. Min. |
| 18.2.83 | President Secretary | Applicant |
| 17.3.83 | Applicant | Secy, G.O.I. |
| 5.6.84 | Secy, Central Board
of Direct Taxes, ND. | Applicant |
| 18.10.84 | Secy, G.O.I., M/Fin. | Applicant |
| 14.11.84 | Fin. Minister, GOI | -do- |
| 10.6.85 | Applicant | Fin. Minister of India |
| Oct.85 | -do- | Rajiv Gandhi |
| 25.10.85 | -do- | -do- |
| 29.10.85 | -do- | Dharindhar Comm., I.T. |
| 1985 | -do- | Sonia Gandhi |
| 5.12.85 | -do- | J.K. Kalyankrishan, Chief
Secy, Govt. of U.P. |
| 5.12.85 | -do- | Dharnidhar, I.T.C. |
| 12.12.85 | -do- | -do- |
| 12.12.85 | -do- | Natwar Singh, Fin. Min. |
| 14.1.86 | -do- | Sh. Onkar Chand Sood, S.O.,
P.M. Office Office. |
| 17.1.86 | -do- | U.C. Pandey, Secy, Revenue, G.O.I. |
| 17.1.86 | -do- | Fin Min of India. |
| 20.1.86 | -do- | Shri Rajiv Gandhi |
| 10.2.86 | -do- | Fin Secy, G.O.I. |
| 7.4.86 | -do- | Shri Rajiv Gandhi |
| 4.5.86 | -do- | Sri V.P. Singh |
| 7.5.86 | -do- | G.C. Sood Sec Officer
P.M.'s office. |
| 17.5.86 | Annexure A | |
| 17.5.86 | Applicant | Anu Sachiv I/c Personal
& Public Grievances Sec. |
| 10.7.86 | -do- | Rajiv Gandhi |
| August, 86 | -do- | -do- |
| 6.9.86 | -do- | Secy, G.O.I. |
| 12.9.86 | -do- | Chief Secy, G.O.I. |

Paraphrased by *Shri. Rajiv Gandhi*

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| <u>Date</u> | <u>Letter sent by</u> | : 4 : | <u>To whom addressed</u> |
|----------------------------|------------------------|-------|---|
| 25.10.86 | Applicant | | Shri V.P. Singh |
| 8.11.86 | -do- | | Secy. Govt. of India |
| 23.11.86 | -do- | | -do- |
| 2.12.86 | -do- | | Comm. I.T. |
| 6.12.86 | -do- | | Gyani Zail Singh |
| 9.12.86 | -do- | | V.P. Singh |
| 19.12.86 | -do- | | Rajiv Gandhi |
| 23.12.86 | -do- | | Secy, G.O.I. |
| 7.1.87 | -do- | | Secy, G.O.I. |
| 12.1.87 | -do- | | Zail Singh |
| 25.1.87 | -do- | | Shri Brahma Dutt, Fin. Min. |
| 27.1.87 | -do- | | R.R. Bharti, U.S.,
Central Board of Direct
Taxes. |
| 30.1.87 | -do- | | Rajiv Gandhi |
| 5.3.87 | -do- | | -do- |
| 30.3.87 | -do- | | President of India |
| 25.3.87 | -do- | | -do- |
| 24.4.87 | -do- | | U.S., CBDT. |
| 2.4.87 | President Secy | | Applicant |
| 20.4.87 | Applicant | | Brahma Dutt |
| 21.4.87 | U.S., Amar Singh | | Applicant |
| 14.5.87 | Applicant | | Chief Justice of India. |
| 16.5.87 | -do- | | Rajiv Gandhi |
| 8/87 | -do- | | R. Venkataraman, President
of India. |
| 25.8.87 | Asstt. Registrar, S.C. | | Applicant |
| 3.9.87 | President's Sectt. | | -do- |
| 29.10.87 | Applicant | | Asstt. Reg. S.C. |
| XXXXXXRegXXXXXX | | | |
| 11.11.87 | Asstt. Registrar, S.C. | | Applicant |
| 18.11.87 | G.P. Mishra, P.A, S.C. | | -do- |
| 1.2.88 | Applicant | | Home Minister of India |
| 4.7.88 | Secy -do- | | Secy, Fin Ministry (R.D.) |
| 18.10.88 | Applicant | | Secy Central Board of
Direct Taxes. |
| 10.12.88 | Prime -do- | | Prime Minister of India |
| 15.7.88 | Applicant | | President of India |
| 25.12.88 | Applicant | | Commissioner of Income Tax. |

Mal

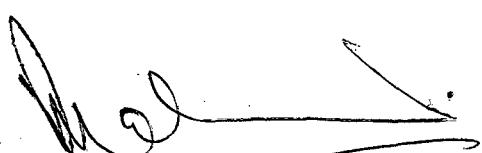
Am

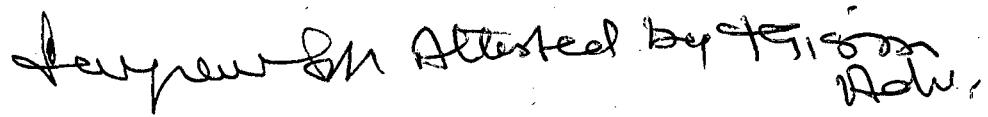
Contd.. p/5.

*Lalwani & Associates
Adv.*

| <u>Date</u> | <u>Letter sent by</u> | <u>To whom addressed</u> |
|-------------|---|---|
| 7.3.89 | Chief Commissioner, I.T. | Applicant |
| 20.3.89 | Applicant | A.P. Saxena, Chief Comm., Lko. |
| 8.4.89 | -do- | Rajiv Gandhi |
| 27.3.89 | -do- | -do- |
| 28.3.89 | -do- | Dy. Comm., I.T., Lko. |
| 27.3.89 | -do- | Rajiv Gandhi |
| 21.3.89 | -do- | G.N. Gupta, Chairman, Central Board of Direct Taxes, N.D. |
| 2.4.89 | Applicant | -do- |
| 6.4.89 | -do- | Chief Minister, U.P. |
| 26.4.89 | -do- | S.O., P.M.'s office. |
| 11.7.89 | -do- | R. Venkataraman, President |
| 12.8.89 | -do- | Shri Rajiv Gandhi |
| 11.3.89 | Sri A.P. Saxena, Chief Comm. I.T., Lko. | Chairman, Central Board of Direct Taxes |
| 11.8.89 | Applicant | Chairman, Central Board of Direct Taxes. |

...


A.M.


Signature Attested by 
A.M.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW

Case No. of 1089

Sangram Singh Chauhan ... Applicant

Versus

Union of India and others ... Respondents.

ANNEXURE NO. 11

PARA 67 of Chapter 10 (d) of INCOME TAX OFFICE MANUAL
Volume I , published under signatures of Shri Kanyaiya
Singh, Director of Inspection, in Ministry of Finance
Govt. of India (In excercise of powers under Central Board
of Revenues Act 1924 / Govt of India Act 1935)

67- RESORT TO LAW COURTS.

Any attempt by a Government servant to seek a decision on service matters in a Court of Law (even in cases where such a remedy is legally admissible) without first exhausting the normal official channels of redress, is contrary to official propriety and subversive of good discipline and may well justify the initiation of disciplinary action against the Government servant.

Mad
Att

Sangram Singh Chauhan
Attested by
S. Chauhan