

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 343 OF 1989

NAME OF THE PARTIES Dr. Surya Prasad Applicant

Versus

Union of India Respondent

Part A.


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CERTIFICATE

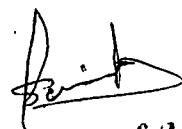
Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Dated 10-6-11

Counter Signed.....



Section Officer/In charge



Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Central Admin

Cl

to

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14-12-07

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Recd. by Secy (T)

Registration No. 343 of 1989 UN

APPLICANT(S) Singh, B.
RESPONDENT(S) Govt.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent?
2. a) Is the application in the prescribed form?
b) Is the application in paper book form?
c) Have six complete sets of the application been filed?
3. a) Is the appeal in time?
b) If not, by how many days it is beyond time?
c) Has sufficient case for not making the application in time, been filed?
4. Was the document of authorisation/Vakalatnama been filed?
5. Is the application accompanied by B.D./postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?
c) Are the documents referred to in (a) above neatly typed in double space?
8. Has the index of documents been filed and paging done properly?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?

ys

ys

ys

ys only four sets.

ys

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No

Particulars to be Examined

Endorsement as to result of examination

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

YS

YS

YS

YS

YS

NA

YS

NA

YS

direct/

(A3)

343/095

22.11.90

Hon. Mr Justice K. Nath VC
Hon Mr M. M. Singh AM

On account of the death of
Sri P.C. Saxena Advocate whose
cremation is likely to ~~be~~ today
prayer for adjournment is made
on behalf of Advocate List for
hearing on 14.2.91.

M. M. L
AM

VC

(u)

4.2.91

No sitting Adj to 14.5.91

4.5.91

No sitting Adj to 13.8.91

J

OR

CA/RA have been
exchanged on behalf of
parties No. 2

SECRET

No CA filed on
behalf of DP No 1

13.8.91
D.R.

to
14/11

Applicant's side is present
counter has not been filed
on behalf of O.P. No. 1
O.P. to file counter by
31/10/91.

(84)

O.A. 343/89 C,

31.10.91

D.R.

Respondent No. 2

is present. CA/R.A.

have been filed

on behalf of O.P. No.

2. case is listed

on 29/1/92 for filing
counter of O.P. No. 1,

✓

29.1.92

D.R.

Both the parties
are present. Dr.

D. Chandra, counsel
for O.P. has filed

M.P. application
for listing the case

before the Hon. Bench.

Hence, this case is listed

on 30/1/92 for order.

✓

(AS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT
BENCH LUCKNOW.

Original Application No. 343 of 1989.

Dr. Surya Prasad..... Applicant.

Versus

Union of India & others..... Respondents.

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

(By Hon'ble Mr. Justice U.C. Srivastava-V.C.).

As a short matter is involved in this case, the case is being heard which may be disposed of finally.

The applicant was appointed in the I.A.S. cadre in the year 1970 and was assigned the State of U.P. ~~in the year 1987~~. Some disciplinary proceedings were started against him which were concluded in the year 1987. The State Government of U.P. issued a warning to the applicant vide order dated 21.2.87. In the year 1986 selection of Super Time Scale took place. As the applicant was facing disciplinary proceedings, his case was also considered and recommendations were kept in a ~~sealed~~ ^{sealed} ~~envelope~~ ^{cover}. The ~~envelope~~ ^{cover} was opened after conclusion of the disciplinary proceedings and the applicant was also allowed Super Time Scale vide order dated 28.3.87 and that it was made clear in the said order that the applicant's promotion was notional, but the applicant will not get actual scale from the date he was

Contd.....2.

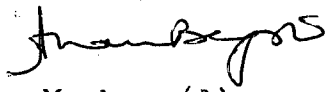
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promoted, but he ^{would} get the same only w.e.f. the date of order and in this connection the respondents have placed reliance on the office memorandum 22011/1/79. Establishment-A dated 30.1.87 issued by Government of India.

Learned Counsel for the applicant contended that the applicant not having been punished and the Government of India also decided to keep the selection date from the due date like others ^{as} ~~he~~ ^{had} ~~have~~ been found fit by the departmental promotion Committee. His selection for promotion was delayed for no fault on his part and as such he should not be deprived of the ^{benefit} ~~monetary part~~ of the same. There was always ⁴ willing-ness on his part to work at any post and actually he worked. As such he was entitled to the salary also from the date on which he was deprived and in this connection ^a reference has been made of the ^{case} ~~of the~~ Union of India and others Versus K.B. Janki Raman 1991 Supreme Court page 2010. In the said case also sealed cover procedure was adopted and the court held that when an employee ^{is} completely exonerated in criminal disciplinary proceedings and is not visited with the penalty even of ^U ~~in the least~~, he should not be deprived of any benefits including the salary of the promotional

(A7)

post. The normal rule of "no work no pay" is not applicable to such cases where the employee although he is willing to work is kept away from work by the authorities for no fault of his. The same position appears in this case and accordingly the application is allowed and the respondents are directed to give the Super Time Scale to the applicant since 29.4.86 when his juniors have been given. The payment of the arrears shall be paid to the applicant from the date within the period of three months from the date of the communication of this order. No order as to the costs.


Member (A)


Vice Chairman.

Dt: January 30, 1992.

(DPS)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
L U C K N O W

(Application no. 342/L of 1989)

DR. SURYA PRASAD

V e r s u s

Union of India & another

Applicant.

Respondents

(I N D E X)

S.NO.	P A R T I C U L A R S	Annex.	P a g e s
1.	Memo of the application	-	1 - 8
2.	Photo copy of the impugned order, dated 21.2.87	1	9
3.	Photo copy of the impugned order, dated 11.9.89	2	10
4.	Photo copy of the impugned order, dated 11.5.87	3	11 - 12
5.	Photo copy of the impugned order, dated 9.11.87	4	13 - 14
6.	Photo copy of the circular/order dated 30.1.82	5	15 - 19
7.	Photo copy of the representation dated 31.3.87	6	20 - 21
8.	Photo copy of the representation, dated 16.4.87	7	22
9.	Photo copy of the representation, dated 31.8.87	8	23 - 24
10.	Photo copy of the representation, dated 12.10.88	9	25 - 26
11.	Photo copy of the representation, dated 5.7.89 to State Govt.	10	27
12.	Photo copy of the representation, dated 5.7.89 to Govt. of India	11	28
13.	Affidavit.	-	29 - 30
14.	P o w e r .	-	31

LUCKNOW:DATED:

NOV 21 : 1989:

(A . P . SRIVASTAVA) ADVOCATE,
/COUNSEL FOR THE APPLICANT/

189

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
(LUCKNOW BENCH): LUCKNOW:

GA Application No. 343 of 1989. (L)

BETWEEN

DR. SURYA PRASAD

....

APPLICANT

AND

1. The Union of India through its Secretary, Department of Personnel, North Block, New Delhi.
2. The State of U.P. through Secretary, Appointment Department, Annexe Bhawan, Sachivalaya, Lucknow.

....

RESPONDENTS.

1. DETAILS OF APPLICATION:

- | | | |
|-------|--|---|
| (i) | Name of applicant | Dr. Surya Prasad, I.A.S. |
| (ii) | Name of the father | Sri Debi Ram |
| (iii) | Age of the applicant | 45 years |
| (iv) | Designation and particulars of the office. | Chairman, U.P. Public Services Tribunal No.V, 625, Jawahar Bhawan, Lucknow. |
| (v) | Office Address | 625, Jawahar Bhawan, Lucknow. |
| (vi) | Address for service of all notices. | As above. |

2. PARTICULARS OF THE RESPONDENTS:

- | | | |
|-----|---|--|
| (i) | Name and designation of the respondents | (i) Union of India through Secretary, Department of Personnel, North Block, New Delhi. |
|-----|---|--|



Signature

(ii) The State of U.P. through Secretary, Appointment Department, Annexe Bhawan, Sachivalaya, Lucknow.

(ii) Office address of the respondent As above

(iii) Address for service of all notices As above

3. PARTICULARS OF ORDERS AGAINST WHICH APPLICATION IS MADE:

(i) The application is filed against the order No.6520/Do-5-22/36-71, dated 21.2.87 and order No.3056/Do-5-22/36/71, dated 11.9.89, copy enclosed as Annexure no. 1 & 2 to this application.

and

(ii) against the order No.1884/Do-5-19/1(9)/76, dated 11th May 1987 and against the order No.4948/Do-5-87-19/1/9/76 dated November 9, 1987 and against the order of the Director, Department of Personnel and Admn.Reforms, Govt. of India Order No.22011/1/79 Esst.(A), dated Jan 30, 1982 (copy enclosed as Annexure no. 3, 4 and 5 to this application).

Through the above orders the applicant being a senior officer in I.A.S. cadre has been given certain warnings and denied super time scale since juniors have been given super time scale.



fulfilling

As per scale...3....

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:

(i) That the applicant was appointed in the I.A.S. cadre in the year 1970 and took his assignment on 4.7.70 in the U.P. Cadre.

(ii) That the work, conduct, behaviour and performances of the applicant has always been very satisfactory.

(iii) That a disciplinary proceeding was initiated against the applicant in 1983 and that was concluded in 1987 and that the order was passed in 1987 copy of which already filed as Annexure no.1 to this application and thus the respondent no.2 delayed the disciplinary proceedings against the applicant, though the applicant submitted the reply of charge-sheet in time and took active part in the disciplinary proceedings which would be evident from the followings

- (i) Chargesheet was issued on 27.6.85
- (ii) Reply was submitted on 21.8.85
- (iii) Prosecuting Officer was appointed on 16.4.86.
- (iv) Enquiry was concluded in the end of the year 1986.



Fullin

Approved

D12

(4)

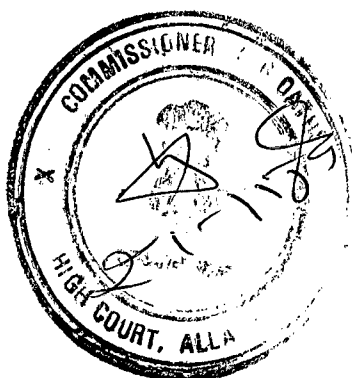
(iv) That vide Annexure no.1 merely a warning was issued against the applicant that he did not exercise effective control over the tour programme of his P.A. Sri R.B.Khare.

(v) That during the pendency of the disciplinary proceedings the junior officers of the applicant's batch were given super time scale and the applicant being senior was ignored and thus the respondents wrongly superseded the applicant, though the applicant was exonerated in the departmental proceedings. As the applicant was exonerated in the departmental proceeding therefore, the applicant was entitled to get all the benefits, which were attached to the post. But the respondents allowed super time scale to the juniors in 1986, and allowed super time scale to the applicant on 31.3.87 and thus the order of the respondents are arbitrary and discriminatory and are against the existing law.

(vi) That the super time scale was given to the applicant only on 31.3.87 and the super time scale was given to the juniors on 29.4.86.

7. RELIEFS SOUGHT:

(1) That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to get the super time scale since 29.4.86 as and when juniors have been given super time scale with all the consequential benefits viz. seniority and pay with interest at the rate of 18% per annum on the dues found payable to the applicant and accordingly notional promotion be given to the applicant.



...5...

(2) That the Hon'ble Tribunal be pleased to declare that Annexure nos. 1 and 2 of the application are void orders and the same are not a bar in granting the super time scale to the applicant.

(3) That the Hon'ble Tribunal be pleased to quash the Annexure nos. 3, 4 and 5 to this extent that the applicant will not get his pay since 29.4.86 in super time scale and be pleased to declare that Annexure no. 5 is against the Constitutional provisions and will get his super time scale since 29.4.86.

(4) That the cost of this application be awarded to the applicant.

(5) That any other and further relief as this Hon'ble Tribunal may deem fit and proper in the interest of justice keeping in view the circumstances of the case be given to the applicant.

9. DETAILS OF REMEDIES
EXHAUSTED:

(1) That the applicant made representations against the impugned orders on 31.3.87, 16.4.87, 31.8.87, 12.10.88, 5.7.89 and on 5.7.89, copies of these representations are being filed as Annexure nos. 6, 7, 8, 9, 10 and 11 to this application, but the representations of the applicant remained undisposed off, hence this application inter-alia on the followings amongst other grounds:-

(1) BECAUSE, Annexure nos. 1 & 2 are a non speaking orders and the same are not based upon evidence.

(2) BECAUSE, the orders contained in Annexure nos. 1 & 2 of the application are not a reasoned orders.



[Handwritten signature]

[Handwritten signature]

(3) BECAUSE, the applicant is entitled to get the super time scale and pay as and when juniors have been given in view of the decision of the Hon'ble Supreme Court in the case of State of Gujrat Vs. S.Tripathi 1986 L.I.C. page 1658.

(4) BECAUSE, Annexure nos. 1 & 2 are not bar in granting super time scale to the applicant.

(5) BECAUSE, there is no co-relation between the impugned orders, chargesheet and reply to the chargesheet, therefore, the orders contained in Annexure nos. 1 & 2 are the arbitrary orders which are not sustainable in the eye of law.

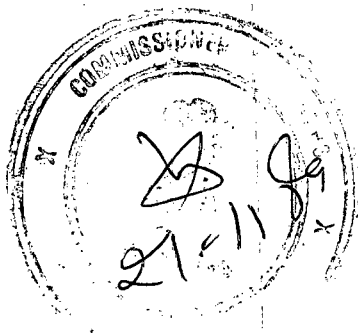
(6) BECAUSE, the applicant has been wrongly superseded in granting super time scale by the respondents.

(7) BECAUSE, the work and conduct of the applicant has always been very satisfactory and the applicant has been allowed annual increments and efficiency bar as and when it became due and thus there was no bar in making promotion and grant of super time scale.

(8) BECAUSE, the applicant was eligible and suitable in all respects to get the super time scale since 1986.

(9) BECAUSE, the policy of pick and choose in granting the selection grade and super time scale is unknown to law.

(10) BECAUSE, the order contained in Annexure no.5 has not been issued under the provisions of Article 309 of the Constitution of India hence the same is not binding upon the applicant and the same has not got the force of law.



Subin *Asst. Insp.*
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(11) BECAUSE, the orders, GOs, and circulars can only supplement the law, but cannot supplant the law, hence the same is arbitrary and is against the provisions of Articles 14 and 16 of the Constitution of India.

(12) BECAUSE, merely the pendency of the enquiry against the applicant was not a bar in granting the super time scale.

(13) BECAUSE, the super time scale was granted to the juniors in 1986 and in 1986 there was no adverse material in the records of the applicant to supersede him in granting the super time scale.

(14) BECAUSE, the applicant was granted super time scale in 1987 considering him eligible and suitable in all respect.

10. MATTERS NOT PENDING
WITH ANY OTHER COURT ETC.

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

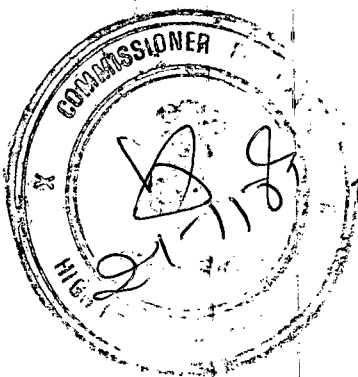
11. PARTICULARS OF BANK DRAFT /
POSTAL ORDER IN RESPECT
OF THE APPLICATION FEE:

Postal Order No. S-02 402294
dated 13.12.87 enclosed herewith.

12. DETAILS OF INDEX:

for no. 5

App. no. 5



13. LIST OF ENCLOSURES:

- (1) Order No. 6520/Do-5-22/36-71, dated 21.2.87
- (2) Order No. 3056/Do-5-22/36/71, dated 11.9.89
- (3) Order No. 1884/Do-5-19/1(9)/76, dated 11.5.87
- (4) Order No. 4948/Do-5-87-19/1/9/76, dated 9.11.87
- (5) Order No. 22011/1/79 Esst.(A), dated 30.1.82.
- (6) Representation dated 31.3.87
- (7) Representation dated 16.4.87
- (8) Representation dated 31.8.87
- (9) Representation dated 12.10.88
- (10) Representation dated 5.7.89 to State Govt.
- (11) Representation dated 5.7.89 to Govt. of India

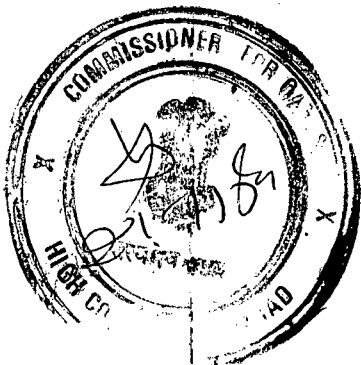
VERIFICATION:

I, Dr. Surya Prasad, Son of Sri Debi Ram, aged about 45 years, presently working as Chairman, U.P. Public Services Tribunal No.V, 625- Jawahar Bhawan, Lucknow R/o 31-Raj Bhawan Colony, Lucknow, do hereby verify that the contents from paragraphs 1 to 13 are true to my personal knowledge & belief and that I have not suppressed any material facts.

Dated: Lucknow.
Nov 21 1989.

[Signature]
APPLICANT

[Signature] *[Signature]*



117 (9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Application No.

of 1989

Dr. Surya Prasad

Vs.

Union of India & another

ANNEXURE NO. 1

गोपनीय

संख्या T-6520/दो-5-22/361/71

प्रेषक,

श्री हरीश चन्द्र गुप्त
सचिव
उत्तर प्रदेश शासन ।

सेवा में,

STO सूर्य प्रसाद
विशेष सचिव
उत्तर प्रदेश शासन,
वन एवं पर्यावरण विभाग ।

नियुक्ति अनुभाग-5

लखनऊ दिनांक: 2/ फरवरी, 1987

विषय:-

अखिल भारतीय सेवाएं । अनुशासन एवं अपील। रूल्स, 1969 के
नियम 8 के अंतर्गत चल रही अनुशासनिक कार्यवाही ।

महोदय,

उपर्युक्त विषयक शासन के आदेश सं-5447/दो-5-22/361/71, दिनांक 15 जनवरी, 1986 का कृपया संदर्भ लें, जिसके द्वारा आपके विरुद्ध चल रही प्रश्नगत अनुशासनिक कार्यवाही में डा० वी० के० सक्सेना, आई० ए० एस० तत्कालीन अध्यक्ष एवं प्रबंध निदेशक, उत्तर प्रदेश राज्य वीबी विभाग संप्रति प्रमुख सचिव, वित्त विभाग को जांच अधिकारी नियुक्त किया गया था ।

2- मुझे यह कहने का निदेश हुआ है कि प्रश्नगत मामले में जांच अधिकारी की आख्या प्राप्त हो गयी है, जिस पर शासन द्वारा विस्तार से विचार करने के उपरान्त यह पाया गया है कि आप पर जो आरोप लगाया गया था उसमें आपके विरुद्ध सत्यनिष्ठा बनाये रखने में असफल होने का अंश सिद्ध नहीं हुआ परन्तु आप इस सीमा तक दोषी पाये गये हैं कि आपने अपने वैयक्तिक सहायक श्री आर० बी० खरे के दिनांक 3-5-1982 से 28-5-1982 तक के प्रमण कार्यक्रम को अनुमोदित करने तथा प्रमण के पश्चात् उनके टी० ए० धित को स्वीकृत करने में आपने श्री खरे के कार्यकलापों पर प्रभावी नियंत्रण रखने का परिचय नहीं दिया क्योंकि विभिन्न कार्यलयों से सूचना आदि मंगाना वैयक्तिक सहायक के कार्यक्षेत्र में नहीं आता है । अतः आप द्वारा उक्त वैयक्तिक सहायक पर प्रभावी नियंत्रण न रखने के लिये शासन ने आपको सचेत करने का निर्णय लिया है ।

TRUE COPY ATTESTED

भवदीय,

हरिश्चन्द्र गुप्त 20.2.87
हरिश्चन्द्र गुप्त
सचिव



A10 (10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Application no. _____ of 1989

Dr. Surya Prasad Union of India & another

ANNEXURE NO. 2



गोपनीय
=====

कृष्ण बिहारी टण्डन
विशेष सचिव,

अर्च-आओएस-3056/दो-5-22/36/71

सचिवालय एनेक्सी भवन
नियुक्ति अनुभाग-5

लखनऊ दिनांक: 11 सितम्बर, 1989

प्रिय महोदय,

विभागीय कार्यवाही में लिये गये आसन्न के निर्णय दिनांक 21 फरवरी, 1987 पर प्रत्यावेदन विषयक अपने पत्र संख्या पीओ/परसन्न-8/89 दिनांक 5 जुलाई, 1989 का कृपया संदर्भ लें।

इस संबंध में आपसे यह कहने की मुझसे आकांक्षा की गई है कि प्रश्नगत प्रकरण में सम्यक रूप से विचार करने के उपरान्त आसन्न के आपके अनुरोध को स्वीकार करने का कोई औचित्य नहीं पाया है। उल्लेखनीय है कि आपको सवेत करने से संबंधित 21 फरवरी, 1987 का जो पत्र जारी किया गया है, वह आपकी वरिष्ठ पंजी में नहीं रखा गया है।

आदर-

भवदीय,

| कृष्ण बिहारी टण्डन |

डायरेक्टर, आओएस

अध्यक्ष,

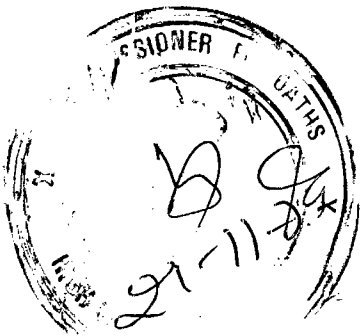
उओओ लोकसेवा आयोग-5

625, जवाहर भवन,

लखनऊ।

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TRUE COPY ATTESTED



B-11 (11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW

Application no. _____ of 1989
Dr. Surya Prasad Vs. Union of India & another
ANNEXURE NO. 3

सं०-1884/री-3-19/1(9)/76

देख कर,

श्री हरीश चन्द्र गुप्त
सचिव,
उत्तर प्रदेश शासन ।

देखते,

महासेवाकार (लेखा-2)
जी० डी०-8
इलुहाबाद ।

नियुक्ति अनुशासन

तत्काल दिनांक: 11 मई, 1987

विषय:- डॉ० सुर्य प्रसाद, आई० ए० एस० (उ० ए०-1978) का सुपर टाइम
स्केल में वेतन निर्धारण ।

यहोव्य,

डॉ० सुर्य प्रसाद आई० ए० एस० की सुपर टाइम वेतनमान में दिनांक
31-3-87 से स्थापना प्रोन्नति विषयक राज्य सरकार की विज्ञापित संख्या
2753/री-4/1(76)/80 दिनांक 9 अप्रैल, 1987 के संदर्भ में मुझे यह करने
का निर्देश हुआ है कि डॉ० सुर्य प्रसाद, आई० ए० एस० (1978) को अपने वेतन
के क्रम अधिकारियों के साथ सुपर टाइम स्केल में प्रोन्नति स्तर प्रदान नहीं
की जा सकी कि उस समय उनके विद्यमान अनुशासनिक कार्यवाही चल रही थी ।
अनुशासनिक कार्यवाही की समाप्ति, जिसमें डॉ० प्रसाद को कोई रकम नहीं दिया
गया, पर सुपर टाइम स्केल में उनकी स्थापना प्रोन्नति उक्त संदर्भित आदेश
द्वारा विवक्षित की गई है।

इस संदर्भ में यह भी निर्णय लिया गया है कि डॉ० सुर्य प्रसाद के सुपर
टाइम स्केल में कर्मचार ब्रह्म करने की तिथि अर्थात् 31-3-87 को उक्त वेतनमान
में उनका वेतन उनसे कनिष्ठ अधिकारी जिन्हें वर्ष 1978 वेतन के अधिकारियों
के साथ प्रोन्नति दी गयी थी के स्तर पर नियमित किया जायगा । परन्तु उन्हें
1978 वेतन के कनिष्ठ अधिकारी की सुपर टाइम वेतनमान में प्रोन्नति की तिथि
से 30-3-87 तक सेलेक्शन ग्रेड में अनुसूचित वेतन ही देय होगा ।

भवदीय,

(हरीश चन्द्र गुप्त)
सचिव ।

820 (12)

-2-


संख्या-1884(1)/वे-5-19/1(9)/76 तदुपनिर्दिष्ट

प्रतिलिपि निम्नलिखित को सूचनार्थ के रूप में आवश्यक कार्यवाही

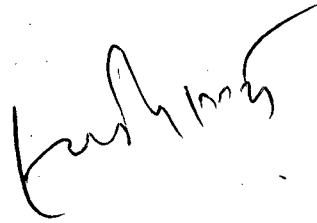
केतु प्रेषित :-

- (1) सचिव, भारत सरकार, कार्मिक और लोक शिफायत तथा पेंशन मंत्रालय, (कार्मिक एवं प्रशिक्षण) विभाग, नई दिल्ली
- ✓(2) डॉ. सुर्य प्रसाद, आई. ए. एस. अध्यक्ष, लोक सेवा आयोग - 3 जवाहर भवन लखनऊ।
- (3) कोषाधिकारी, लखनऊ।
- (4) नियुक्ति अनुभाग-1/6

साक्षात् से,


(संयुक्त सचिव टंकन)
संयुक्त सचिव।

TRUE COPY ATTESTED





(137)
(R2)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Application no. of 1989

Dr. Surya Prasad

Vs. Union of India & another

ANNEXURE NO. 4



आगत संख्या-4948/दो-5-87-19/1191/76

उत्तर प्रदेश शासन
वित्तियुक्ति अनुभाग-5

लखनऊ दिनांक: 9 नवम्बर, 1987

प्रिय महोदय,

कृपया सुपर टाइम स्केल में प्रोन्नति विषयक अपने अर्ध वार्षिकीय पत्र संख्या पीओ/परसबल-87 दिनांक 31 अगस्त, 1987 का अवलोकन करें।

मुझे आपसे यह कहने की अपेक्षा की गई है कि शासनादेश संख्या-1884/दो-5-19/191/76 दिनांक 11 मई, 1987 में आपको सुपर टाइम स्केल का लाभ अनुमत्य दिये जाने के आदेश भारत सरकार द्वारा कार्यालय भाषा संख्या 22011/1/79 इस्टे.ए। दिनांक 30 जनवरी, 1982 प्रतिश्लेषण में निर्गत निर्देशों के अनुसार प्रसारित किए गये हैं।

आपके पत्र में अपेक्षा की गई है कि सुपर टाइम स्केल में आपको वेतन आपसे कनिष्ठ अधिकारी से कम नहीं मिलना चाहिये उक्त शासनादेश दिनांक 11 मई, 1987 में तदनुसार ही यह स्पष्ट आदेश दिये गये हैं कि सुपर टाइम स्केल में आपकी कार्यभार ग्रहण की तिथि को आपका वेतन आपसे कनिष्ठ अधिकारी जिन्हें वर्ष 1970 बैच के अधिकारियों के साथ प्रोन्नति दी गयी थी के स्तर पर निर्धारित किया जायेगा। अतः इस संबंध में शासन स्तर पर अन्य किसी कार्यवाही की आवश्यकता नहीं है। आप वेतन निर्धारण के संबंध में महालेखाकार को लिखने का कष्ट करें।

भवदीय,

Ramesh Chandra
। सिद्धार्थ बेहुरा ।

डॉ. सुर्य प्रसाद,
अध्यक्ष,
उत्तर प्रदेश लोक सेवा आयोग-5
604-जवाहर भवन,
लखनऊ।

(14)
(1922)

संख्या-4945/11/दो-5-87-19/1191/76
=====

प्रतिलिपि महालेखाकार, उत्तर प्रदेश । लेखा-2, जी. ई.-6,
इलाहाबाद को इस अनुरोध के प्रेषित कि आईओएसओ के सुपर टाइम
वेतन मान में डायो सुप्रसाद । आईओएसओ 1970। का वेतन आनादेश
संख्या 1884/दो-5-19/1191/76 दिनांक 11 मई, 1987 से पारित
आदेशों के अनुसार दिनांक 31 मार्च, 1987 को उनसे कनिष्ठ अधिकारी
जिनके वर्ष 1970 बैच के अधिकारियों के साथ प्रेरक नति दी गयी थी के
स्तर पर निर्धारित करने की कृपा करे।

आज्ञा से

। सिद्धार्थ बेहुरा ।

विशेष सचिव।

TRUE COPY ATTESTED

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(Circular stamp with signature and date 21/1/89)
HABAN

(15)
(A23)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Application no. of 1989

Dr. Surya Prasad Vs. Union of India & another

ANNEXURE NO. 5

29

No. 22011/1/79-Listt(A)
Government of India/Bharat Sarkar
Department of Personnel and Admin. Reforms
(Karmik Aur Prashastik Sadhar Vibhag)

~~20/1/82~~
11/1/82

New Delhi, the 30th Jan., 1982.

OFFICE MEMORANDUM

Subject:-Promotion of officers in whose case "the sealed cover procedure" has been followed but against whom disciplinary/court proceedings are pending for a long time.

The undersigned is directed to say that according to the existing instructions, cases of the officers (a) who are under suspension or (b) against whom disciplinary proceedings are pending or (c) a decision has been taken by the competent disciplinary authority to initiate disciplinary proceedings against them or, (d) against whom prosecution has been launched in a court of law or sanction for prosecution has been issued, are considered for promotion by the Departmental Promotion Committee at the appropriate time but the findings of the Committee are kept in a sealed cover to be opened after the conclusion of the disciplinary/court proceedings. While the findings are kept in the sealed cover, the vacancy which might have gone to the officer concerned is filled only on an officiating basis

2. If, on the conclusion of the departmental/court proceedings, the officer concerned is completely exonerated, and in case he was under suspension, it is held that the suspension was wholly unjustified, the sealed cover is opened and the recommendations of the D.P.C. are acted upon. If the officer could have been promoted earlier, he is promoted to the post earlier filled on an officiating basis, the arrangements made earlier being terminated. On his promotion, the officer also gets the benefit of seniority and fixation of pay on a notional basis with reference to the date on which he would have been promoted in the normal course, but no arrears are allowed in respect of the period prior to the date of actual promotion.

3. It has been noticed that sometimes the cases in the courts or the departmental proceedings take unduly long time to come to a conclusion in spite of all efforts and the officers undergo considerable hardship, even where it is not intended to deprive them of promotion for such a long time. In the circumstances, Government have had under consideration, in consultation with the Union Public Service Commission, the question how the hardship caused by the long pendency of disciplinary/court proceedings to the Government servants, in whose case sealed cover procedure has been followed, could

.....2/-
[Signature]

21/1/82

(17)
27/2/24

- 3 -

him for the period of notional promotion preceding the date of actual promotion.

If any penalty is imposed on the officer as a result of the disciplinary proceedings or if he is found guilty in the court proceedings against him, the findings in the sealed cover/covers shall not be acted upon. The officer's case for promotion may be considered in the usual manner by the next D.P.C. which meets in the normal course after the conclusion of the disciplinary/court proceedings. The existing instructions provide that in a case where departmental disciplinary proceedings have been held under the relevant disciplinary rules, "warning" should not be issued as a result of such proceedings. If it is found as result of the proceedings that some blame attaches to the officer, then the penalty of censure at least should be imposed. This may be kept in view so that no occasion arises for any doubt on the point whether or not an officer has been completely exonerated in the disciplinary proceedings held against him.

(iv) However, in some cases the disciplinary/court proceedings may not be concluded even after the expiry of two years from the date of the D.P.C. which first considered the officer for promotion and whose findings are kept in the sealed cover. In such cases, provided the officer concerned is not under suspension, the appointing authority may review his case to consider:-

- (a) whether the charges are grave enough to/warrant continued denial of promotion and the promotion of the officer will be against public interest;
- (b) whether there is no likelihood of the case coming to a conclusion in the near future, and
- (c) the delay in the finalisation of proceedings, whether departmental or in a court of law, is not directly or indirectly attributable to the official concerned.

In case the appointing authority comes to a conclusion that it would not be against the public interest to allow ad-hoc promotion to the official, his case should be placed before the next D.P.C. held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on ad-hoc basis. Where the officer is considered for ad-hoc promotion as above, the Departmental Promotion Committee should make its assessment on the basis of the totality of the officer's record of service and the fact that the disciplinary or court case is pending should not affect the assessment regarding the suitability for ad-hoc promotion. If the officer is recommended by the D.P.C., as a result of such consideration, for ad-hoc promotion, his actual promotion will be subject to the

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attendant benefits. In such cases, the sealed cover(s) may be opened and the official may be assigned his place in the seniority list as he would have got in accordance with the recommendation(s) of the D.P.C.

5. Where the acquittal in a court case is not on merits but purely on technical grounds, and the Government either proposes to take the matter to a higher court or to proceed against the officer departmentally, the appointing authority may review whether the ad-hoc promotion should be continued.

6. Where the acquittal by court is on technical grounds, if the Government does not propose to go in appeal to a higher court or to take further departmental action, action should be taken in the same manner as if the officer had been acquitted by the court on merits.

7. If the officer concerned is not acquitted/exonerated in the court proceedings or the departmental proceedings, the ad-hoc promotion already granted should be brought to an end by the issue of the "further order" contemplated in the order of ad-hoc promotion (Please see para (vi) above) and the officer concerned reverted to the post from which he was promoted on ad-hoc basis. After such reversion, the officer may be considered for future promotion in the usual course by the next D.P.C.

8. Ministry of Finance etc. are requested to bring the contents to the notice of all authorities under their control for their information, guidance and compliance.

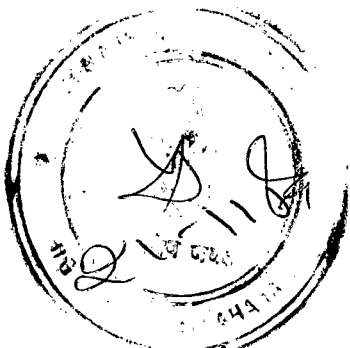
Sd/-
(S. S. NIM)
DIRECTOR.

To

All Ministries and Departments of the Government of India with usual number of spare copies.

TRUE COPY ATTESTED

July 1973



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P26

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Application no. _____ of 1989
Dr. Surya Prasad Vs. Union of India & another
Annexure no. 6

प्रश्न.

डा० सुर्य प्रसाद, आई. ए. एस.
अध्यक्ष,
उ० प्र० लोक सेवा आयोग-5,
625- जवाहर भवन,
लखनऊ ।

प्रेक्षित.

सचिव,
उत्तर प्रदेश शासन,
नियुक्ति अनुभाग-5,
एनपीसी भवन, लखनऊ ।

पत्रांक : एस. टी. / 5/87

दिनांक/मार्च 31, 1987

विषय: विभागीय कार्यवाही में लिये शासन के निर्णय दिनांक
21-2-87 के संबंध में ।

महोदय,

आया नियुक्ति अनुभाग-5 के गोपनीय पत्र संख्या: 6520/टी-
5-221361/71, दिनांक 21-2-87 का संदर्भ में, जिसमें शासन ने मेरे
विषय की जा रही विभागीय कार्यवाही में मुझे आंशिक तौर से दोषी
पाते हुये वैयक्तिक सहायक पर प्रभावी नियंत्रण न रखने के लिये
संकेत किया है । इस आदेश में यह कहा गया है कि मैं जतनीमा तक
दोषी पाया गया हूँ कि मैंने अपने वैयक्तिक सहायक श्री आर०बी० ठारे
के दिनांक 3-2-82 से 28-5-82 तक के भ्रष्टाचार कार्यक्रम को अनुमोदित
करने तथा भ्रष्टाचार के प्रचार उनके टी०ए०ए० को स्वीकृत करने में, श्री ठारे
के कार्य-कलापों पर प्रभावी नियंत्रण रखने का परित्याग नहीं दिया
था कि विभिन्न कार्यालयों से सूचना आदि संग्रहित वैयक्तिक सहायक
के कार्यक्षेत्र में नहीं आता है ।

मुझे अत्यंत खोदपूर्वक यह उल्लेख करना है कि शासन ने मेरे
स्पष्टीकरण पर कोई ध्यान दिये बिना और उसमें वर्णित तथ्यों पर विचार
विचार किये हुये ही अपना निर्णय/आदेश दिया है । आरोप-पत्र
के उत्तर में मैंने यह स्पष्ट कहा था कि "यात्रा करने से पूर्व श्री ठारे
को अपना यात्रा कार्यक्रम मुझसे अनुमोदित कराना चाहिये था, जो उनके
लिये निम्नानुसार आवश्यक था" जो उन्होंने नहीं कराया और यात्राये

(21)
A29

121

मनमाने ढंग से की। इसप्रकार मैंने स्पष्टताया श्री वारे के दिनांक 3-2-82 से 28-5-82 तक के भ्रमण कार्यक्रम को कभी अनुमोदित नहीं किया था। इसके अतिरिक्त इसी अवधि के उनके भ्रमण कार्यक्रम से संबंधित टी०ए०बिल की भी स्वीकृति मैंने प्रदान नहीं की थी। यह बात मैंने अपने आरोप-पत्र के उत्तर में भी कही थी। आरोप-पत्र के साथ प्रस्तुत साक्ष्य में भी श्री वारे के दिनांक 3-2-82 से 28-5-82 तक के भ्रमण कार्यक्रम पर मेरा अनुमोदन तथा इसी अवधि के उनके टी०ए०बिल पर मेरी स्वीकृति का भी कोई प्रमाण उपलब्ध नहीं था। फिर किस आधार पर मुझे उक्त कार्य के लिये दोषी पाया गया है, यह स्पष्ट एवं पुष्ट नहीं है। ऐसा प्रतीत होता है कि शासन ने किसी अन्य आदेश को भ्रमण कार्यक्रम का अनुमोदन तथा किसी अन्य टी०ए०बिल को संदर्भित टी०ए० बिल, केवल भ्रम/दोषपूर्ण मान लिया है। इसप्रकार शासन द्वारा पारित आदेश सर्वथा दोषपूर्ण/दोषपूर्ण एवं न्याय की दृष्टि से पूर्णतया असंगत एवं अवैधानिक arbitrary, null and void। है।

शासन का यह आदेश पूर्णतः स्पष्ट एवं सुविचारित ~~from~~ speaking & with application of mind) भी नहीं है क्योंकि इसमें तथ्यों का स्पष्ट ब्यौरा नहीं दिया गया है, जिसके आधार पर मुझे दोषी पाया गया है। साथ ही शासन ने आरोप पत्र के संदर्भ में मेरे उत्तर पर अपनी भरीजा एवं तर्क भी नहीं प्रस्तुत किया है, जिनके आधार पर उसे अमान्य समझा गया है और न ही शासन ने यह स्पष्ट किया है कि किसप्रकार वह मुझे दोषी मानने के निष्कर्ष पर पहुँचे है।

अतः शासन से निवेदन है कि कृपया उपरोक्त आदेश को तदनुसार संशोधित करते हुये मुझे पूर्णतया दोषमुक्त करने का कष्ट करें।

भावदीय,

डा० सुर्यप्रसाद झाई. ए. एस.
अध्यक्ष।

TRUE COPY ATTESTED

[Handwritten signature]



(22)
A20

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Application no. of 1989

Dr. Surya Prasad Vs Union of India & another

ANNEXURE NO. 7

प्रेषक,

डा० सुर्य-प्रसाद, आई० एस० एस०
अध्यक्ष
उपग्रु लोक सेवा आधिकारण-5,
604- जवाहर भवन, लखनऊ।

प्रेषित,

सचिव,
उत्तर प्रदेश शासन,
नियुक्ति अनुभाग-1,
लखनऊ।

पत्रांक पी० २००/परसनल-6/87 दिनांक अप्रैल 16, 1987
विषय: सुपर टाईम स्केल के वेतनमान के संबंध में।
महोदय,

मुझे अपने पत्र संख्या पी० एस०/परसनल-1/87, दिनांक 4-4-87 के संदर्भ में यहाँ निवेदन करना है कि आपके आदेश द्वारा मुझे दिनांक 25-3-87 को आई० एस० एस० के सुपर टाईम स्केल में प्रोन्नति देकर अध्यक्ष, उपग्रु लोक सेवा आधिकारण-5 नियुक्त किया गया है, जहाँ मैंने दिनांक 31-3-87 पूर्वान्ह में योगदान दिया है। अतः इस तिथि से मुझे सुपर टाईम वेतनमान हेतु महालेखाकार द्वारा प्राधिकृत कर वेतन परीक्षा जारी की जायेगी। इस संबंध में यह उल्लेखनीय है कि मुझे कनिष्ठ वर्ग 1971 के आई० एस० एस० अधिकारियों को प्रदत्त पूर्व कदाचित् दिसम्बर/1986 के अंत में सुपर टाईम वेतनमान स्वीकृत किया गया है। चूंकि मुझे प्रोन्नति वर्ग 1970 बैच के अधिकारियों के साथ हो मिलनी थी, किन्तु मेरी वसुध उत्तम विभागीय जाँच चलने के कारण मेरा मामला सील केस में रखा दिया गया था और जाँचोपरान्त मुझे होना मुक्त पाया गया। अतः मुझे अपने बैच 1971 के अधिकारियों के साथ हो सुपर टाईम वेतनमान मिलना चाहिये और प्रत्येक वर्ष में मुझे कनिष्ठ वर्ग 1970 बैच के अधिकारियों की प्रोन्नति के पूर्व मुझे यह वेतनमान प्राप्त होना चाहिये।

आपसे अनुरोध है, कृपया मेरे प्रस्तावित पर विचार कर न्यायोचित आदेश प्रदान करने का कष्ट करें, जिससे मुझे कोई आर्थिक या अन्य प्रकार की हानि न हो।

TRUE COPY ATTESTED

भावदीय,

डा० सुर्य प्रसाद 16/4/87
अध्यक्ष।

S/C

(23)

A27

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Application no. of 1989

Dr. Surya Prasad Vs. Union of India & another

ANNEXURE NO.8

।गोपनीय।

डा० सुर्य प्रसाद, आई. ए. एस.
अध्यक्ष ।

अध्यक्षातकीय दस्तावेज पी०एस०/परतन्त्र- 27/87
उत्तर प्रदेश लोक सेवा आधिकारण-5,
604- जवाहर भवन, लखनऊ ।

दिनांक/अगस्त 31, 1987.

प्रिय महोदय,

कृपया मेरे अध्यक्षतातकीय पत्र संख्या पी०एस०/परतन्त्र-1/87, दिनांक 4-4-87 का संदर्भ लें, जिसमें मैंने आपसे अनुरोध किया था कि मुझे अपने वेतन 1970 आई०एस०एस० के अधिकारियों के तादा ही सुपर टाईम वेतनमान दिया जाय क्योंकि विभागीय जाँच में मुझे दोषमुक्त पाया गया है। इस संबंध में मैंने एक अनुस्मारक पत्र संख्या पी०एस०/परतन्त्र-6/87, दिनांक 16-4-87 द्वारा नियुक्ति सचिव को भी दिया था, किन्तु इस बारे में शासन के निर्णय से मुझे अभी तक अवगत नहीं कराया गया है। इस संबंध में यह उल्लेखनीय है कि शासन के नियुक्ति अनुभाग-5 के पत्र संख्या 1884/दो-5-89/1191/76, दिनांक 11-5-87 को महालेखाकार को सम्बोधित किया मुझे पृष्ठोक्ति है, में यह सूचित किया गया है कि सुपर टाईम वेतनमान में मेरे कार्यभार ग्रहण करने की तिथि दिनांक 31-3-87 को उक्त वेतनमान में मेरा वेतन मुझे कनिष्ठ अधिकारी, जिन्हें वेतन 1970 के आई०एस०एस० अधिकारियों के तादा प्रोन्नति दी गयी थी, के स्तर पर निर्धारित किया जायेगा, परन्तु मुझे 1970 वेतन के कनिष्ठ अधिकारी की सुपर टाईम वेतनमान में प्रोन्नति की तिथि से दिनांक 30-3-87 तक लेक्शन ग्रेड में अनुमन्य वेतन ही दिया जायेगा।

मुझे इस संबंध में पुनः निवेदन करना है कि चूंकि मेरे विरुद्ध विभागीय कार्यवाही चलने के कारण मेरी प्रोन्नति का मामला ताल्ले केस में रखा गया था और जांचोपरांत मुझे दोषमुक्त पाये जाने पर सुपर टाईम वेतनमान में प्रोन्नति दी गयी है। अतः मुझे अपने वेतन 1970 आई०एस०एस० के अधिकारियों के तादा सुपर टाईम वेतनमान में प्रोन्नति के फलस्वरूप कार्यभार ग्रहण किया है। यह विस्तृत पुस्तिका के खण्ड-2 भाग-2 के संशोधित नियम 22-बी।2। में तदा न्याय के सिद्धान्त Principle of Justice के विपरीत होगा कि मुझे मुझे कनिष्ठ अधिकारी मुझे अधिक वेतन प्रोन्नत करें और मुझे उतने कम वेतन दिया जाय।

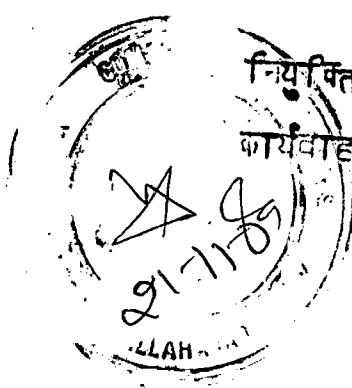
सादर ।

डॉ० सुवर्ण प्रसाद ।

प्रतिलिपि श्री हरीश चन्द्र गुप्ता, आई०ए०एस्०, सचिव,
भाग-5, उत्तर प्रदेश शासन, लखनऊ को सूचनाएँ एवं आवश्यक
तु प्रेषित ।

भावदीय.

(red signed)



(2)

written in Para 2 of the said office memorandum. Therefore, there arises the need for representing to the Government of India.

It is cardinal principle of law and justice that a person cannot be penalised or rendered to suffer financially with no fault of him. If the Government has started any departmental enquiry against me, and I have not been punished due to charges not being established against me, I should not be allowed to suffer because of delayed promotion. When the Government agrees to notionally promote me from the date my next junior has been promoted and gives me seniority from that date, I cannot be denied the benefit of pay in super time scale from that date when my next junior had been promoted. This is a clear violation of Articles 14 and 16 of the Constitution of India also. Many cases have been decided by the Court awarding the petitioners consequential benefits of pay etc. from the date of notional promotion. Therefore, the Government ought to consider to remove the referred clause from Para 2 of the office memorandum barring the payment of arrears consequent on such promotion. I, therefore, request the Government of India to kindly consider my case and direct the State Govt. of U.P. to allow me the benefit of drawing pay under super time scale from the date my next junior had been promoted in the State, and do not compel me to seek the assistance of a Court of Law or a Tribunal for this matter. Kindly

Enclosures:

- (1) Representation dt. 4/4/87
- (2) Reminder dt. 31/8/87
- (3) Govt. Order dt. 11/5/87
- (4) Govt. Order dt. 9/11/87

Copy to:

✓ 1.

The Secretary, Appointment & Personnel Department, Govt. of U.P., with request to kindly forward this representation to the Secretary, Personnel Department, Govt. of India for necessary action, with recommendation.

2.

The Secretary, Department of Personnel, Govt. of India, North Block, New Delhi in advance for information and necessary action.

TRUE COPY ATTESTED

Yours faithfully,

(Dr. Surya Prasad)
Chairman.

Yours faithfully,

(Dr. Surya Prasad)
Chairman.

o/c

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW (Regd.)
BENCH, LUCKNOW.

Application no. of 1989
Dr. Surya Prasad Vs. Union of India & another

पुष्पक

ANNEXURE NO. 10

डा. सुर्य प्रसाद, आई. ए. एस.
अध्यक्ष
उपरोक्त लोक सेवा आयोग-5,
625- जवाहर भवन, लखनऊ।

सेवा में

तयिय
उत्तर प्रदेश शासन,
नियुक्ति अनुभाग-5,
जवाहर भवन, लखनऊ।

पत्रांक: पी0एच/ परतन्त्र-2 /1989

दिनांक/संख्या 5.1989

विषय: विभागीय कार्यवाही में लिये शासन के निर्णय दिनांक 21-2-87 पर प्रत्यावेदन के संबंध में।

महोदय,

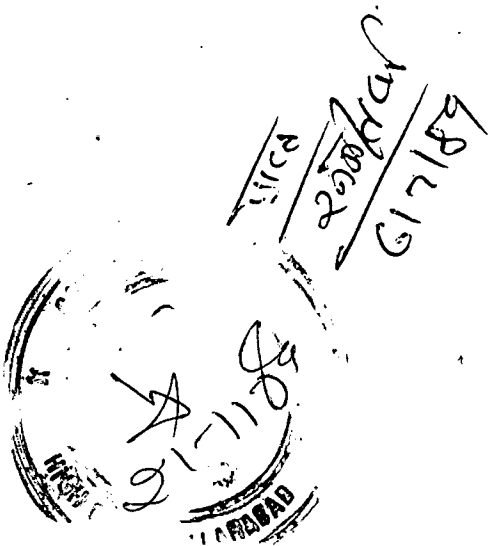
कृपया मेरे पत्र संख्या: एसटी0/5/87, दिनांक 31-3-87 का संदर्भ में, जिसमें मैं अपने विस्तृत विभागीय कार्यवाही में शासन के निर्णय दिनांक 21-2-87 में संशोधन करके मुझे पूर्णतः दोषमुक्त करने का अनुरोध किया था। इस संबंध में शीघ्र कार्यवाही हेतु मैं शासन का ध्यान दो अनुस्मारकों द्वारा पूर्व भी आकर्षित कर चुका हूँ, किन्तु अभी तक शासन तार से लिये हुये निर्णय की जानकारी मुझे प्राप्त नहीं हुई है। उपरोक्त संदर्भित पत्र/प्रत्यावेदन की एक प्रति आपकी सुविधा हेतु संलग्न करते हुये पुनः अनुरोध है कि कृपया शीघ्र-शीघ्र मेरे प्रत्यावेदन पर निर्णय लेकर कार्यवाही में अग्रसर कराने का कष्ट करें।

संलग्न:- फोटोपरि।

भावदीय,

डा. सुर्य प्रसाद आई0एस0एस0
अध्यक्ष।

TRUE COPY ATTESTED



Handwritten signature.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

Application no. _____ of 1989
Dr. Surya Prasad Vs. Union of India & another

ANNEXURE NO. 11

FROM,

DR. SURYA PRASAD, I.A.S.
Chairman,
U.P. Public Services Tribunal No. V,
625- Jawahar Bhawan,
LUCKNOW.

TO,

The Secretary,
Department of Personnel,
Government of India, North Block,
NEW DELHI.

NO. PA/Personal- 4 /1989

Dated/July 5, 1989

Sub: Representation regarding arrears of pay.

Sir,

Kindly refer to my letter No. PA/Personal/88, dated 10.10.88 addressed to you in which a request was made to consider the case for modifying the office memorandum No. 22011/1/79-Estt. (A), dated 30.1.82 issued under the signatures of Sri B.S. Nim, Director, Personnel and Administrative Reforms, Government of U.P. and accordingly directing the State Government of U.P. to allow me the benefit of drawing pay in the super time scale from the date my next junior has been promoted in the super time and not from the date I had joined on the super time post. I have not received any information regarding the decision on my representation by the Government of India. In case the Government has decided my representation, I may kindly be intimated with the orders made in this respect soonest possible. In case no decision has been taken so far, kindly expedite the decision and inform me also accordingly.

Yours faithfully,

(DR. SURYA PRASAD)
Chairman.

Copy to the Secretary, Government of U.P., Appointment Section-5, Annexe Bhawan, Lucknow for information and necessary action at their end.

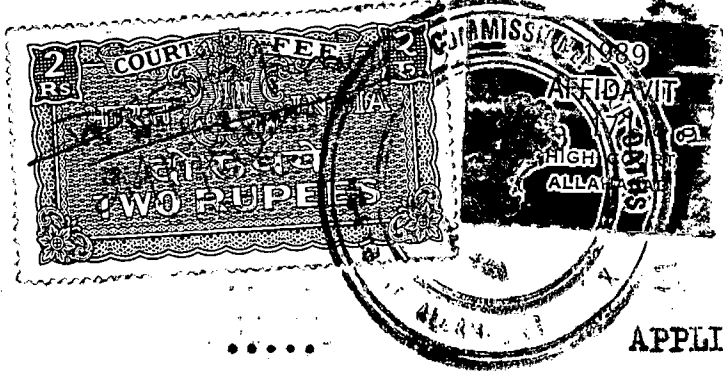
TRUE COPY ATTESTED

Yours faithfully,

(DR. SURYA PRASAD)
Chairman.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
L U C K N O W

Application no. of 1989



DR. SURYA PRASAD

APPLICANT.

V e r s u s

Union of India & another

Respondents.

AFFIDAVIT

I, Dr. Surya Prasad, aged about 45 years, son of Sri Debi Ram, Resident of 31- Raj Bhawan Colony, Lucknow, the deponent do hereby solemnly affirm and state on oath as under:

- 1/- That the deponent is the applicant in the above noted application and as such he is well versed with the facts of the case.
- 2/- That the contents of paras 1 to 8, 10, 11, 12 and 13 of the annexed application are true to my own knowledge and para no. 9 is also believed by me to be true on the basis of legal advice derived from the counsel.
- 3/- That Annexures no. 1 to 11 enclosed with the application are the true attested photo copies of their originals, which have duly been compared by the deponent himself from their originals.

Lucknow, dated.
Nov. 21, 1989.

Deponent.

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own knowledge. No material fact has really been concealed by me, so help me God.

Lucknow, dated.
Nov 21, 1989.

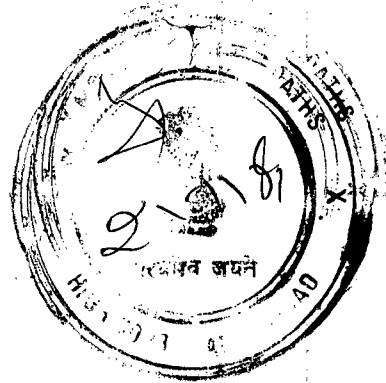
Deponent.

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

A.P. Srivastava
(A.P. SRIVASTAVA) ADVOCATE,
Counsel for the deponent.

Solemnly affirmed before me on *21-11-89*
at *9-15 am* by the deponent, who has
been identified by Sri A.P. Srivastava,
Advocate, High Court, Lucknow Bench, Lucknow.
I have satisfied myself by examining the deponent,
that he understands the contents of this
affidavit, which have been read out and explained
by me.

Subscribed

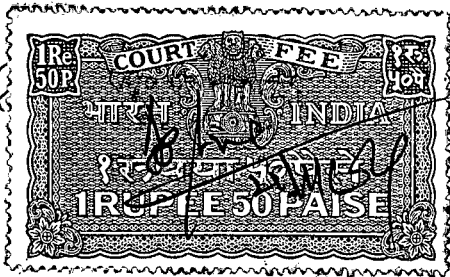


[Signature]
H. D. ARJUN
OATH COMMISSIONER
High Court Lucknow Bench Lucknow
No. *17/11/89*
Date *21-11-89*

1837

ब अदालत श्रीमान् Civil Administrative Tribunal
 [वादी] अपीलान्त Circuit Bench, Lko. महोदय
 प्रतिवादी [रेस्पाडेंट] Dr. Suryapada का **वकालतनामा**

Dr. Suryapada



वादी अपीलान्त

Union of India & another

नं० मुकद्दमा सन् पेशी की ता० प्रतिवादी (रेस्पाडेंट)
 ऊपर लिखे मुकद्दमा में अपनी ओर से श्री ए. पी. श्रीवास्तव एडवोकेट, हाईकोर्ट
 बकील
 सोनी हाउस बिरहाना पार्क, लखनऊ।-----महोदय
 एडवोकेट

नाम अदालत
 मुकद्दमा नं०
 नाम फरीकें
 बनाम

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

हस्ताक्षर [Signature]

साक्षी (गवाह) 21 साक्षी (गवाह) 11
 दिनांक 21.11.50 महोना 11 सन् १९५० ई०

स्वीकृत
 एडवोकेट [Signature]
21.11.50

1738

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. No. 343 of 1989 (L)

Dr. Surya Prasad

... Applicant

Versus

Union of India and others

... Respondent

COUNTER AFFIDAVIT

.. On Behalf of the
Opposite Party no.2



I, K.B. Tandon aged about 58 years

s/o late Shri M.C. Tandon Special Secretary

Appointment Department U.P. Government Lucknow

do hereby solemnly affirm and state on oath

as under :-

1. That the contents of para 6(1) and 6(ii) of the application need no comments.
2. That in reply to the contents of para 6(iii) and (iv) of the application it is stated that disciplinary proceedings were started against the applicant and charge

cd..2..

Filed + day
L
24/4/90

K.B. Tandon

.. 2 ..

sheet was served on him vide State
Government letter No. 3030³²/11-5-85-22

(36)71 dated 27.6.85. The Enquiry Officer
was appointed vide State Government Order
No. 5447/11-5-22(36)71 dated 15.1.86. The
report of the Enquiry Officer was received by
Government vide his letter dated 27.12.86.

After examining the report of the Enquiry
Officer the State Govt. issued a warning to
the applicant vide order dated 21.2.87 (copy
placed as annexure-1 of the application)

3. That in reply to the contents of para 6(v)
of the application it is stated that the
applicant is an officer of 1970 batch. I.A.S
Officers of this batch were promoted to
Super-time-scale of I.A.S. in April, 1986.
As disciplinary proceedings were in progress
against the applicant, the Selection Committee
had placed its recommendations in regard to
the applicant in closed cover. The closed cover

cd..3.



cc Botandor

.. 3 ..

was opened after the conclusion of disciplinary proceedings and the applicant was allowed Super-time-scale vide D.O. No. 2581/11-1-4/1(76)/80 dated 28.3.87.

4. That in regard to the contents of para 6(vi) of the application it is stated that the order regarding Grant of pay to the applicant in Super-time-Scale of I.A.S. was issued vide State Government letter dated 11.5.87 in accordance with the following instructions of Govt. of India contained in their Office Memorandum No. 2201²²/1/79-Estt.(A) dated 30th January, 1982²²(copy ~~xxxxxx~~ placed at annexure-5 of the application) relevant particular is reproduced ~~xx~~²² below :

"In the normal course, on the conclusion of the disciplinary/court proceeding, the sealed cover or covers may be opened and in case the officer is completely exonerated

cd..4..



h. S. Gaudin

i.e. no statutory penalty, including that of censure, is imposed, the earliest possible date of his promotion but for the pendency of the disciplinary/court proceedings against him may be determined with reference to the position(s) assigned to him in the findings in the sealed cover/ covers and with reference to the date of promotion of his next junior on the basis of such position. The officer concerned may then be promoted, if necessary by reverting the junior most officiating person, and he may be given a notional promotion from the date he would have been promoted, as determined in the manner indicated above. But no arrears of pay shall be payable to him for the period of notional promotion preceding the date of actual promotion".

5. That in view of the facts narrated in

cd..5..



C. S. Dauda

... 5...

foregoing paras Applicant has no case,
none²⁷ of the grounds taken by Applicant are
tenable in the eye of law. Application
deserves to be dismissed with cost.

K B Tandon 23.4.90.
DEPONENT

The deponent is known to me and he
has signed before me.

C. S. Pandey
U.D.A.
Appt. Sec. 5
U.P. Sectt. Lko.

The deponent has read the affidavit
and understands the contents thereof

Dated.....

2030V
Oath Commissioner
& Section Officer,
Judicial (Writ) Section



Serial No.	40/137/90
Sworn (or affirmed) by	Sri K.B. Tandon
Spl. Secy. U.P. Govt. Appt. Dept.	
(who was identified by)	Sri C.S. Pandey
U.D.A., Appt. Section-5, U.P. Sectt. Lko.	
Date	23.4.1990
Time	4.40 pm
Place	in case No. 343
Year	1989/90
Signature	<i>RAT. Lko.</i>
Remarks	Twelve only
Signature	<i>2030V 28/4/90</i>
Designation	Section Officer, Judicial (Writ) Section

Recd on 22/11 (AM)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

APPLICATION NO. 343 / 1989 (L)

Dr. Surya Prasad Applicant

Vs

The Union of India and others..... Opposite parties

Application for taking the
rejoinder affidavit on record.

Sir,

In the above noted application , the
rejoinder affidavit is being filed to day and due
to certain unavoidable circumstances, it is could
not be submitted earlier.

It is therefore, prayed that the rejoinder
affidavit may kindly be allowed to be kept on record
after condoning the delay in the interest of justice.

Dated June 10, 1990

Filed on
22.11.90

A.P. Srivastava
(A.P. Srivastava)
Advocate
Counsel for the Applicant

Filed today
20/11/90

943

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

O.A. No. 343/ 1989(L)

DR. SURYA PRASAD

....

Applicant.

V e r s u s

Union of India & others

....

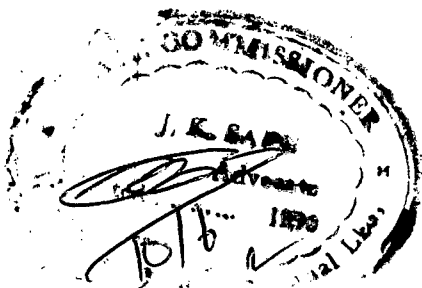
Opp.Parties.



REJOINDER AFFIDAVIT OF DR. SURYA PRASAD,
AGED ABOUT 45 YEARS, SON OF LATE SRI
DEBI RAM, CHAIRMAN, U.P. PUBLIC SERVICES
TRIBUNAL NO.V, 625- JAWAHAR BHAWAN,
LUCKNOW AGAINST THE COUNTER AFFIDAVIT OF
THE OPPOSITE- PARTY NO.2

- 1/- I, the above named deponent, do hereby swear
and solemnly affirm on oath as under.
- 2/- That the deponent is the applicant in the above
noted application and has gone carefully through
the counter affidavit and have to lay down
the reply of each and every paragraph as
under:
- 3/- That the contents of paragraph 1 of the
counter affidavit needs no comments.
- 4/- That paragraph 2 of the counter affidavit needs
no comments. The departmental enquiry resulted
in no punishment and the warning issued vide
Annexure no.1 was not ordered to be kept in
the character roll of the applicant. May kindly
see Annexure no.2 of the application. As such
warning is not to be kept in view in considering
the applicant's case for promotion.

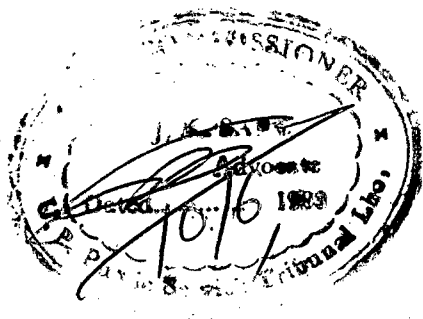
10/6/90



5/- That paragraph 3 of the counter affidavit is misconceived . When the warning was not ordered to be kept on record, that was also not to be considered in making the promotion. The sealed cover provision though was adopted in the case of the applicant, but he was not given promotion as and when juniors were given promotion. The G.O. issued by the State Government regarding sealed cover is being filed as Annexure no.R-1 to this affidavit. The G.O. makes specific provision that the post, till the opening of the sealed cover be kept reserved in favour of the employee/ officer concerned. As such it was incumbent upon the opposite-parties to keep one post reserved in favour of the applicant. But that was not done arbitrarily. As such the opposite parties flouted the provisions of law.

If the one post of super time scale would have been kept reserved in favour of the applicant, the applicant would have got the super time scale as and when juniors got their promotion.

6/- That in reply to paragraph 4 of the counter affidavit, it is to state that the Annexure no.5 of the application has been impugned by the applicant to the extent that the applicant will not get the pay. The notional promotion has also been claimed by the applicant and that could not be granted to the applicant. The Annexure no.5 is void to the extent that the applicant will not get the pay in view of the decision made by the Hon'ble Supreme Court as cited in paragraph 9(3) of the application.



J. K. S. S.

11/11

1945

(3)

The decision made by the Hon'ble Supreme Court is a binding force in accordance with the provisions contained in Article 141 of the Constitution of India.

7/- That paragraph 5 is misconceived and is against the facts and law stated in the application as well as in the rejoinder affidavit .The application is liable to be allowed with costs.

8/- That Annexure R-1, which is enclosed with the rejoinder affidavit, is true and verified copy of the original.

Dated: June 10, 1990.

[Signature]
DEPONENT.

VERIFICATION

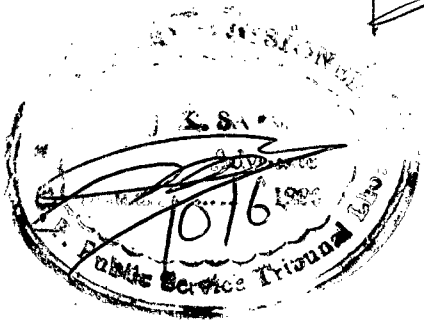
I, Dr. Surya Prasad, aged about 45 years, son of Sri Debi Ram, presently working as Chairman, U.P. Public Services Tribunal- V, 625- Jawahar Bhawan, Lucknow, R/o 31- Raj Bhawan Colony, Lucknow, do hereby verify that the contents of paragraphs 1 to 8 of this affidavit are true to my personal knowledge & belief and that I have not suppressed any material facts.

Dated: June 10, 1990.

[Signature]
DEPONENT.

[Handwritten note:]
Surya Prasad
who has signed
for me

[Handwritten signature]
Surya Prasad



[Handwritten signature]

[Handwritten signature]
I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read out and signed by me. For Charge.

[Handwritten signature]

[Handwritten signature]
Commissioner of Affidavits

10/6/90

In the control Administrative Tribunal Mysore
Application No.
Dr. Surya De v. Union of India.
Annex R.1.

नोटिफिकेशन नम्बर ४१।३।७०-कार्मिक-२

डेटेड सितम्बर १३, १९७७

विषय :- प्रोन्नति चयन के दौरान जांच या निलम्बन मोहरबन्द लिफाफे की प्रक्रिया ।

अधोहस्ताक्षरी की नियुक्ति अनुभाग -३ के कार्यालय ज्ञाप सं० ४१।३।७० -नियुक्ति-३ के चुनावों में ऐसे अधिकारियों के सम्बन्ध में अपनायी जाने वाली प्रक्रिया निर्धारित की गई है, जिन के विरुद्ध जांच या औचापरिक कार्यवाही आदि चल रही हो । इस कार्यालय ज्ञाप में यह भी निर्देश दिया गया है कि ऐसे अधिकारियों, जो निलम्बित हों या जिन के विरुद्ध आरोप-पत्र जारी हो गए हों और जिन के विरुद्ध औपचारिक वैभाषिक कार्यवाही अथवा प्रशासनाधिकरण की कार्यवाही चल रही हो, के विरुद्ध में चयन समिति का मत कार्यवाही के साथ अंकित न किया जाए वरना एक मोहरबन्द लिफाफे में रक्खा जाए तथा लिफाफा तब खोला जाए जब जांच समाप्त हो जाए । यह प्रक्रिया उन अधिकारियों के सम्बन्ध में नहीं अपनायी है जिन के विषय में सतर्कता विभाग अथवा सी० आई० डी० में प्रारम्भिक जांच या विभागीय जांच हो रही हो ।

२- उपर्युक्त प्रक्रिया के सम्बन्ध में यह शंका व्यक्त की गई है कि ऐसे मामले में कौन सी प्रक्रिया अपनायी जाए जिस में सतर्कता अधिष्ठान द्वारा सुनी जांच (जो साधारणतः प्रारम्भिक गोपनीय जांच के बाद होती है) चल रही हो । इन जांचों के आरम्भ होने की सूचना सतर्कता विभाग द्वारा सम्बन्धित विभाग को हर मामले में दी जाती रही है । इस सम्बन्ध में यह स्पष्ट किया जाता है कि सतर्कता अधिष्ठान में सुनी जांच के मामले में भी मोहर बन्द लिफाफे की प्रक्रिया ही अपनाई जायगी अर्थात् ऐसे मामले में भी चयन समिति का मत कार्यवाही के साथ अंकित न किया जायगा बल्कि एक मोहर बन्द लिफाफे में रक्खा जायगा और लिफाफा तब खोला जायगा जब जांच समाप्त हो जाए । ऐसे मामलों की सूची सतर्कता सचिव को भेजी जायगी जिस से यह जांचें वरीयता से सम्पन्न हो सकें ।

३- मोहर बन्द लिफाफे के सम्बन्ध में इस बात की विशेष सावधानी बरती जानी चाहिए कि वे अविकसित समय के लिए ऐसे हो स

Defunct शेष २ पर

(२)

पड़े न रहजार। अतः यह आवश्यक है कि ऐसे मामलों में जांच आदि की स्थितिका द्विवाषििक पुनरीक्षा अवश्य किया जाए। यह भी सुनिश्चित किया जाना चाहिए कि अगले चयन के समय या जांच समाप्त होने पर, जैसा भी स्थिति हो, इन मामलों को ध्यानमें रखा जाए तथा आवश्यकतानुसार कार्यवाही की जाए।

४- बहुधा स्थायीकरण के समय में भी यह प्रश्न सामने आया है कि निलम्बन। औचापरिक विभागीय कार्यवाही। प्रशासनाधिकरण की कार्यवाही। सतकता अधिष्ठान की खुली जांच के होने की दशा में क्या प्रक्रिया अपनायी जाए। इस सम्बन्ध में भी स्पष्ट किया जाता है कि कथित दशा में स्थायीकरण के मामले में तब ही विचार किया जाए जब उक्त कार्यवाही या जांच समाप्त हो जाए और तब तक के लिए सम्बन्धित अधिकारी के लिए पद आरक्षित रखा जाए।

५- अनुरोध है कि उपरोक्तानुसार कार्यवाही की जाए।

Dr. M. S. Sare

10/6

748

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

M.P.No. 84 of 1992. (2)

Union of IndiaPetitioner/Respondent

In

O.A.No.343 of 1989.

Dr.Surya PresadApplicant.

Versus


Union of India & others,.....Respondents.

The Petitioner/Respondents respectfully submits as under :-

1. That in the above O.A., the Union of India is a proforma party and the relief prayed for is to be granted by the U.P.Govt.
2. That under the above circumstance no Counter-affidavit from the above respondents is called for and the Govt. of U.P. has been requested to contest the case on behalf of the Union of India also.
3. That the U.P.Govt. has filed the Counter-affidavit and the case is ripe for hearing.

It is, therefore, requested that the above case may kindly be listed for hearing on 29-1-92 when it is fixed for filing Counter-affidavit from the Union of India.

Dated:- 28-1-92


(Dr.Dinesh Chandra)
Advocate.

Counsel for Union of India.

(37)

ब अदालत श्रीमान

Central Administrative Tribunal

Shuknow

महोदय

[वादी] ~~अपीलान्त~~

श्री Dr. Surya Prasad

का वकालतनामा

~~प्रतिवादी (रेस्पान्डेंट)~~

Dr. Surya Prasad

V.

Union of India
and another



वादी (अपीलान्त)

बनाम

प्रतिवादी (रेस्पान्डेंट)

मुकदमा नं० 343(L) सन् 1989 पेशी की ता० 29-1-1992 ई०

अपर लिखे मुकदमा में अपनी ओर से श्री Shirdhar Tewari,

एडवोकेट

महोदय

नाम अदालत	मुकदमा नं० नाम	फरीकन
.....
.....
.....

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया बसूल करें वा सुलहनामा व इकबाल दावा तथा अपील 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 विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

[Signature]

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

25

महीना

1

सन् 1992 ई०

Accepted.

Shewari
25.1.92
Advocate.