

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE ... O.A.114.....OF 89..... A7

NAME OF THE PARTIES ... Sri. P.D. M. S. Shanker.....Applicant

Versus

The... Director... Postal (Accounts)... U.P.....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 19/6/2011 File B/C destroyed on 09-5-12

Counter Signed.....



Section Officer/In charge


Signature of the
Dealing Assistant

Central Administrative Tribunal

16, Lokajiv French

Case No. C.A. 114/89(2) 1993

Plaintiff: Premsukhan

Defendant: -

Director of Posts (Accts.)
Vehicle - Respondents

Particulars

Description of documents

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B4 File

(AV)

29/5

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 114 of 1989(L)

APPLICANT(S) Prem Shankar

RESPONDENT(S) Union of India

Particulars to be examined

Endorsement as to result of examination

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

100

Particulars to be ExaminedEndorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ? Yes

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

a) Identical with the Original ? Yes

b) Defective ? No

c) Wanting in Annexures ? No

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 ? Yes

15. Do the names of the parties stated in the copies tally with those indicated in the application ? Yes

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

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

a) Concise ? Yes

b) Under distinct heads ? Yes

c) Numbered consecutively ? Yes

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

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

19. Whether all the remedies have been exhausted. Yes

dinesh/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION NO. 114 of 1989 (C)

Prem Shanner

APPELLANT
APPLICANT

DEFENDANT
RESPONDENT

VERSUS

U.O.C

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

19-7-89

No Sitting Adj. to 11-8-89.

h
B.o.C

11-8-89

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

Mr. Qamrul Hasan learned counsel
for the applicant heard.

Admit.

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

List this case on 10-11-89 for orders/
hearing as the case may be.

Member (J)

(rrm)

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

10/11/89

Shri Qamrul Hasan counsel for the applicant
present. Shri K.K. Chauhan counsel for the
respondents has sought 4 weeks time to file reply.
Allowed. Let Counter be filed within 4 weeks
to which the applicant may file rejoinder within
2 weeks thereafter. List this case on 25-1-90
for orders/ hearing as the case may be.

Do

AM.

7M.

(SNS)

(K)

OR
Notices were
traded on 17-8-89.
Neither reply
nor any answer
repd. Order has been
return back.

Submitted for
order:

9/11/89

O A 14/1082

Amul

10.2.92

No. Siling of D.B. affd. 23.4.92

d

23.6.92

No. Siling of D.B. affd.

24.6.92

d

0/2
N.C.A. filed
so far Loppan
Amul 24/6

26.6.92

Hon. Mr. Justice C.P. Srivastava, V.C.

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

Copy of the Counter affidavit
is sent to Recd. Office to
take the Copy of the same
and keep it on Recd.

Copy of the Counter affidavit
may be given to the Comseel
for the applicant today. He
may file Rescinder affidavit
within 2 weeks thereafter.

Case on 18.8.92

1st for hearing

V.C.

Amul

Amul

18.8.92

No. Siling of D.B. affd

to 15.9.92

O.R.

No C.A. filed.

S.F.O. 15th Case not ready as of 27.10.92
8
14/9/92

Amul

0.A.No.114/89(L)

(AS)

22/2/93. Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

After hearing the counsels for the parties the case is disposed of as the pleadings are complete.

Judgement has been dictated in the open Court.

(tgk)

A.M.

V.C.

LUCKNOW BENCH, LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (XXXXX BENCH) ALLAHABAD.

D.A.No. 114/89(L)

OF 199

D.A.NO.

T.A.NO.

22/2/93

Date of decision:

Prem Shanker Petitioner

S.B. Hasan Advocate for the petitioner.

Versus

U.O. I & Others Respondents

V.K. Chaudhary Advocates for the Respondent(s)

CORAM :-

The Hon'ble Mr. Justice U.C. Srivastava, V.C.

The Hon'ble Mr. K. Obayya, AM.

1. Whether Reporters of local papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment ?

4. Whether to be circulated to all other Benches ?

Signature

NAQVI/

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

O.A.No.114/89(L)

Prem Shanker ::::: Applicant

vs.

Director of Postal
(Accounts) U.P.Circle, ::::: Respondents.
& Others.

Hon. Mr. Justice U.C. Srivastava, V.C.

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

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

The applicant was appointed as a daily-wager (Labourer) in the post office at Lucknow on 20/12/83 after his name was sponsored by the Employment Exchange and after giving clearance by the Selection Committee. Earlier he was paid at the rate of Rs.7.90 per day which was subsequently raised to Rs.12.40 per day. His posting was made in the Head Office of the Director of Postal (Accounts), Aminabad, Lucknow, and in 1987 he was posted in postal accounts branch at Way Road, Lucknow.

2. According to the applicant, he moved an application for leave, because of the marriage of his sister, for 3 days, between 11/7/88 and 13/7/88. But on 16/7/88 when he returned he was told that his services were put an end to. According to the applicant, this was done in order to accommodate one

Shri Mohan Singh

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

O.A.No.114/89(L)

Prem Shanker

:::::

Applicant

Vs.

Director of Postal
(Accounts) U.P.Circle, :::::: Respondents.
& Others.

Hon. Mr. Justice U.C. Srivastava, V.C.

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

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

The applicant was appointed as a daily-wager (Labourer) in the post office at Lucknow on 20/12/83 after his name was sponsored by the Employment Exchange and after giving clearance by the Selection Committee. Earlier he was paid at the rate of Rs.7.90 per day which was subsequently raised to Rs.12.40 per day. His posting was made in the Head Office of the Director of Postal (Accounts), Aminabad, Lucknow, and in 1987 he was posted in postal accounts branch at Way Road, Lucknow.

2. According to the applicant, he moved an application for leave, because of the marriage of his sister, for 3 days, between 11/7/88 and 13/7/88. But on 16/7/88 when he returned he was told that his services were put an end to. According to the applicant, this was done in order to accommodate one Shri Mohan Singh, who is nephew of an office employee. He made various representations in this behalf to various authorities including U.P. Paru Aaram Vimukta Jana Jaati Samiti and even to Prime Minister. But apart from the acknowledgement receipt, he did not get any relief. Thereafter he approached this Tribunal making complaint.

Ans

that several daily-rated labourers are working in the department and after putting more than 240 days of service they were regularised while the applicant who has worked for so long, has not been regularised and he has been terminated from service in this manner without giving even temporary status.

3. According to the respondents, the applicant was only a casual labourer working on daily-wage basis. Whenever the services of daily-wagers were required the applicant's services were taken by the department and he was not covered by the CCS(Conduct)Rules or CCS(Temporary Service) Rules. He was habitually absenting himself whenever there was exigency of service. While working in N.S.C. section at 19-Way Road, Lucknow, as the regular Chowkidar was on leave and the work of Chaukidar was managed by daily-rated mazdoor on such occasions, his services were required. But the applicant was absent on one such occasion. The work of Chaukidar being a responsible one, it could not be pulled on without any responsible person. As such a substitute in the absence of the applicant was engaged from 11-7-88 against the applicant. His behaviour with his superiors was also not found upto the mark. The applicant, when entrusted to guard the building, has allowed unauthorised persons to enter the premises of the office which caused nuisance and disruption in the work. This fact was also confirmed by the applicant. As the applicant was not found fit for work and there was no work, his services were put an end to.

4. It appears that there was work and subsequently also various persons were engaged and also deserving

AP

employees who were found fit, were allowed to work and they were also considered for regularisation in Group 'D' posts, after the requisite period of work. As the applicant has worked for a considerable period of time, being a member of S.C. community, the respondents shall consider his case for re-engagement. After re-appointment, his case may also be considered for regularisation in case the persons with lesser period of service have been regularised. Let this be done within a period of three months from the date of communication of this order. No order as to the costs.

R. Bhambhani
Member (A)

V
Vice-Chairman.

Dated: 22nd February, 1993, Lucknow.

(tgk)

(AO)

In the Central Administrative Tribunal, Addl. Bench,
Allahabad, Circuit Bench,
Lucknow. Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 29/5/89
Date of Receipt by Post.....

Application no. 114 of I989(1).

Sri Prem Shanker

...Applicant

Versus

The Director Postal (Accounts) U.P. Circle,
and others Respondents

Index

<u>Sl.no.</u>	<u>Documents</u>	<u>Page</u>
I. Petition		I-I4
2.	Impugned order dt. 28.4.1988 orally terminating applicant's services by the opp. party no. 2	
3.	Vakalatnama	
	Postal order no.	dt. 1989

Filed Today noted
19.5.89

Reason
29/5/89

Lucknow dated:
May 22, 1989

Hasan
(Qamrul Hasan)
Advocate
Counsel for the applicant

(W)

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

Application no. 114 of 1989 (2)

Sri Prem Shanker, aged about 25 years,
Sri Desh Raj, resident of House no. 554, Kha/69
Bisheswar Nagar, Post Alambagh, city Lucknow,
district Lucknow.

....Applicant

Versus

1. The Director Postal (Accounts) U.P. Circle,
Lucknow.
2. The Accounts Officer, Rashtriya Bachat Patra
Shakha, Office of the Director Postal Accounts,
Branch I9-way Gokhley Marg, Lucknow.
3. Sri B.L. Devgan, Accounts Officer, Office of
the Director Postal (Accounts), Branch I9-Way
Gokhley Marg, Lucknow.

... Respondents

Details of Application

1. Particulars of the Applicant

I. Name of applicant Prem Shanker

II. Name of father Sri Desh Raj

III. Designation and particular
of office Daily Rated
Labourer

Accounts Officer
Office

(Y) STANT

(A)

IV. Age

25 years

V. Office

Accounts Officer,
Rashtriya Bachat
Patra Shakha, I9-Way
Gokhley Marg, Lucknow.

VI. Address of service of
notices

Sri Qamrul Hasan,
Advocate
349, Gagni Shukl,
city Lucknow.

1. Particulars of the orders
against which the application
is made.

The application is
against oral order
of termination
dated 18.7.88 given
by opp. party no. 2

2. Nature

(A) For quashing of impugned oral order of
termination given by opp. party no. 2
on 18.7.88.

(B) For the issue of Mandamus to respondents
to allow the applicant to continue to work
on his post of Chowkidar in the office of
opp. party no. 2 and to pay him monthly wages
wages which are due and to pay him regularly.

2. 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
Addl. Bench, Allahabad, Circuit Bench, Lucknow.

3. Limitation

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

19/7/88

5. Facts of the Case.

5-1. That the applicant is challenging the oral order of termination given by the opp. party no.2 on 18.7.1988 saying that in applicant's place he has engaged another person.

5-2. That applicant's educational qualification is High School and he belongs to a Scheduled Caste Family (Tharu).

5-3. That the applicant's name was sponsored by the Employment Exchange on 2.12.1983 for selection and engagement as Daily rated labourer, which date was fixed for 20.12.1983. A true photostat copy of the Call letter is annexed as Annexure-I.

5-4. That the Selection Committee found the applicant as a suitable candidate for the post of IVth Class Daily rated labourer and as such the applicant joined the post in December 1983.

5-5. That at the time of engagement, the applicant was being paid Rs.7.90 per day and the same was subsequently revised as Rs.12.40.

5-6. That applicant's first posting was made by the competent Authority in the Head Office i.e. Director Postal (Accounts), Aminabad, Lucknow and in the year 1987 he was posted in the office of opp. party no.2 at Postal Accounts Branch Office, 19-way Gokhley Marg, Lucknow.

gjg ton

5-7. That it is pertinent to mention that on II.7.1988 there was a marriage of applicant's sister and for this reason he had moved leave application on 8.7.88 for 3 days (w.e.f. II.7.88 to 13.7.88) and sought permission to leave the office from the opp. party no.2 who allowed the applicant to do so on the ground that wages will be deducted hence no objection.

5-8. That in such circumstances, the applicant proceeded on II.7.88 in the evening to his parents place and participated in the sister's marriage and did the needful.

5-9. That on 16th July, 1988 the applicant returned back to Lucknow. He reported for duty to Sri B.L.Devgan, opp. party no.3 on 18.7.1988, 16th and 17th July being holidays. The said Officer told the applicant; "Aap ke jagah per doosra Aadmi rakh liya hai" On the basis of the above order, the applicant became helpless and made repeated requests to opp. party no.3 but he turned deaf ears.

5-10. That it is worthwhile to mention that opp. party no.3 on account of his caste feelings engaged another person of high caste against applicant's post, though his name was not sponsored by the Employment Exchange. The applicant also learnt that said person is a nephew of an Office employee (Daftree), namely Mohan Singh.

9/2/2001

§-II- That on 22/8/88 on behalf of the applicant, the Sanchalak, U.P. Tharu Aram Vimukti Janjati Samiti, Lucknow made a representation to Post Master General U.P. Circle Lucknow against the oral order of Termination of Prem Shankar, being a Scheduled Caste (Tharoo). A true photo-stat copy of the representation is annexed as

Annexure-2.

§-I2) That the applicant's representation made to Director Postal (Account) was attached alongwith the Annexure-2 to the writ petition and mentioned ^{fact} about the arbitrary and ~~illegation~~ done by the opp. party no. 2. A true photostat copy of the same is annexed as Annexure-3 to this application.

§-I3- That in this connection, the applicant contacted a Care-taker who carried the applicant to the room of the Deputy Director Postal(Account) when the applicant appeared personally before him and narrated about the harassment and high handedness of the Opp. Party no. 3 who had acted ~~maliciously~~ and at the behest of the employee whose nephew was to be accommodated.

§-I4- That on 26 August, 1988, the applicant again met the Care-taker who told the applicant that the Deputy Director has ordered him that the

copy sent

applicant must not be permitted to enter the office but the applicant should see Sri B.L.Deogan.

4-15- That on 31/8/88, the said Janjati Samiti also made a complainant against the arbitrary, malafide, and illegal action of the Opp. Party no. 2 to the Hon'ble Prime Minister of India, stating that opp. party no. 2 has orally terminated the services of dailyrated labourer Sri Prem Shanker. A true photostat copy of the complaint dated 31/8/88 is annexed as Annexure-4 to this application.

4-16- That it is to be noted that the Prime Minister's Office took favourable action and vide letter office letter dated 21/10/88, the section officer informed the applicant that/suitable action, ^{for} his representation has been sent to Postal Mantralay New Delhi. A true photostat copy of the Prime Minister's Office letter dated 21/10/88 is annexed as Annexure-5. While the applicant is also annexing the latter dated 7/II/88 of the Addl. Private Secretary of Sanchar Rajya Mantri as Annexure-6.

4-17- That the applicant now has lost hope from all corners and as such he felt to approach to this Hon'ble Court for redressal, after moving his lost representation dated 3/I/89 which is Annexure-7 to this application.

25/9/89

¶-18- That the applicant has put in near about five years service as daily rated labourers without any complaint and there has been no break up in the service ^{since} the year 1985 which proves his 'temporary' status and his claim for regularisation on his post.

¶-19- That the services of the following similarly situated daily rated labourers working in the postal department in Lucknow have been regularised on putting 240 days :-

I- Sri Jamil Ahmad II- Sri Naseem
III- Sri Kamal Khan IV- Sri Latif
V- Sri Sita Ram.

¶-20- That it would be not out of place to mention that the selection of the above persons was held alongwith the applicant on 20/12/83.

¶-21- That under Rule II of the Central Civil Services (C.C.A.) Rules 1965, it is clearly provided that the Govt. Servant does not join duty by the stipulated date, it would be open to the disciplinary authority to institute disciplinary proceedings against him.

The question of regularisation of the period of overstay ^{of} leave be left over for consideration till the finalisation of the disciplinary proceedings.

Y.S. Tant

That the opp. party no.2 has flouted the G.O. dated 12/9/86 issued by the Ministry of Personnel, Union of India according to which the employees belonging SC/ST should not be subjected to harrassment and discrimination. A true photo-stat copy of the G.O. dated 12/9/86 is being filed as Annexure-8.

That Rule II says that however, the disciplinary authority should consider the grounds adduced by the Govt. Servant for his unauthorised absence before initiating disciplinary proceedings.

¶-22- That there is statutory requirement that major punishment can not be enforced without proper disciplinary proceedings as prescribed.

That in the case at hands the applicant was proceeded on three days casual leave with the permission of Opp. Party no. 2 and had informed him about his sister's marriage.

¶-23 That the applicant on resuming his duty had explained to the opp. party no. 2 the reasons about the delay, ~~although~~ although the wages for those days were to be deducted and not to be paid due to the daily rated labourers

¶-24- That the applicant is advised to state that casual or seasonal workmen who rendered continuous service for one year or more can not be retrenched without complying with the requisites of

S-25 of the Industrial Dispute Act.

4-(25)- That it is settled law that justice must be tempered with mercy and that the erring workman should be given an opportunity to reform himself and to prove to be loyal. But it appears that the same has not been done as the applicant is a scheduled caste and from the above it indicates that high castes persons who were selected alongwith the applicant has been regularised and that his right to livelihood has been snatched away by opp. party no.2, arbitrarily, malafide, and the action of opp. party no. 3 is for collateral purpose with oblique motive which is his colourable exercise ^{of} powers of opp. party no.3 .

4- (26)- That opp. party no. 2 can not/ could not take away the services of the applicant on the ground of overstaying after permissible time and the major punishment by means of oral order of Termination awarded to him is bad in law.

4- (27)- That at the time of Termination of services , the applicant who being paid monthly wages 750/- + D.A..

5- Details of Remedies:-

W.H. 20/1
The applicant declares that he has availed of the remedy available to him.

II)- The applicant against oral order of termination dated 18/7/88 made represen-

20

-10-

-tation 22/8/88 to the Director Postal
(Accounts) ^b (A-3) and last representation
dated 3/I/89 to the Deputy Director Postal
(Accounts), U.P. Lucknow (A-7).

6- Matters Not previously filed or pending
other courts.

The applicant further declares that he
has not previously filed any application,
writ petition or suit regarding matter in
respect of which this present application
has been made before any court of law or
any other authority or any other branch
of the Tribunal, and not any such applica-
tion writ or suit is pending before any one
of them.

7- Reliefs Sought :-

That the applicant in view of the above
prays for the following reliefs.

(a)- Necessary orders may kindly be issued
to respondents to allow the applicant
to continue on the post of IVth class
daily rated labourer in the office of
the Opp. Party no. 2 treating him to be in
continuous service and to pay him arrears
entitled to get alongwith other benefits,
consequential benefits etc.

(b)- To quash the oral order of Termination
dated 18/7/88 given by the Opp. Party

no.-2 in his office and restraining him from functioning his duty.

C)- To declare the oral Termination order given by Opp. Party no. 2/I8/7/88 as illegal, arbitrary, unconstitutional, and bad in law.

3.

G_R_O_U_N_D_S

9-(I)- Because the oral order of termination restraining applicant from duty is unjust, unfair arbitrary, discriminatory, malafide and violative of principle of natural justice.

(II)- Because after putting ~~in~~ four years continuous service as daily rated labourer in the postal department, the applicant acquired temporary status ~~in~~ who is liable to be absorbed and regularised on the ground that similarly situated persons as mentioned in para 5.19 have been regularised.

(III)- Because Termination on the ground of over stayed from duty amounts to punishment and the provisions of Article 3II are attracted.

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(IV)- Because absence without leave constitutes misconduct and the employer can not terminate the services of the employee without enquiry and complying the principles of natural justice.

2

-12-

(V)- Because the applicant had not proceeded on three days casual leave without permission of opp. party no. 2 who at the time of according permission had told him that the applicant might go on leave in connection with his sister's marriage and for this period the applicant's ^{be automatically} wages will be deducted from his monthly wages.

(VI)- Because there is clear violation of Rule I4 of the Central Civil Services (classification-Central and Appeal Rules) according to which no order of imposing penalties specified in clause (V) to (IX) of Rule II, shall be made except after an inquiry is held under the Act.

(VII)- Because even casual or seasonal workman who rendered continuous service for one year or more can not be retrenched without complying with the requisites of Sec. 25-F of the Industrial Dispute Act.

(VIII)- Because the applicant had proceeded on casual leave for genuine cause and bonafide and even if the opp. party no. 2 was not satisfied he could award any minor punishment instead of severe major punishment.

IX)- Because the applicant has been denied protection of Art. 311(2) of the Constitution.

(X)- Because termination of applicant's services orally without ~~rest~~ ^{or} disciplinary proceedings is bad in law and illegal.

XI)- Because the opp. parties ought to have taken into consideration that the Govt. Servant should desist from any act of discrimination and officials to SC/ST should not be subjected to discrimination and ~~harr~~ ^{harr}assment in view of the G.O. No. 42014/7/86-Estt. (SCT) dated 12/9/86 issued by Ministry of Personnel, Union of India.

12)- Interim Order if any prayed for pending final decision of this application.
The applicant may kindly be issued interim order directing the opp. parties not to give effect to the oral order of Termination dated 18/7/88 given by the Opp. Party no. 2 and the respondents be directed to allow the applicant under the order of this Hon'ble Court to work on his post of daily rated labourers without any interference and he may be paid monthly wages regularly.

13)- Not applicable.

14)- Particulars of the Indian Postal Order
in respect of Application

I)- Indian Postal Order No. ²³ R829-A1246953 dated 19th May 1989 ²³ R828-A1240954
II)- Issued by ~~High Court~~ Post Office, Lucknow

gu

II. List of documents

Annexure-I

Annexure-2

Annexure-3

Annexure-4

Annexure-5

Annexure-6

Annexure-7

Annexure-8

Verification

I, Prem Shanker, abovenamed presently posted
as xxixth Grade XXX Assistant Engineer xx@ffxx
xx Rx Faizabad orally terminated Daily rated
labourer of Director Postal (Accounts) U.P.
resident of House no. 554, Kha/69, Bisheswar Nagar,
Alambagh, Lucknow, do hereby verify that the
contents of paras 1, ~~2, 5 to 20, 22, 23, 25 to 27, 28~~
~~7, 8, 10, and 13~~

----- are true to
my personal knowledge, those of 3-14, 5-21, 5-22,
5-24 to 5-26, bona 9, 11, -----

are true to my belief and legal advice and I have not suppressed any material facts.

Lucknow dated:

May 29, 1989

Signature of Applicant

(Qamrul Hasan)
Advocate
Counsel for the applicant

To

The Registrar,
Central Administrative Tribunal,
Addl. Bench, Allahabad.

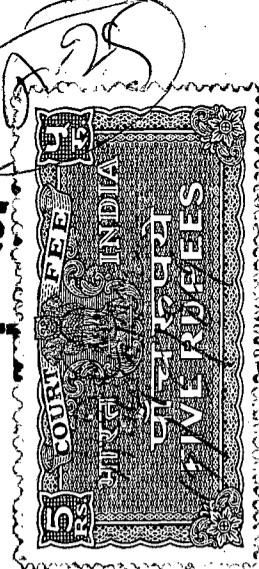
Friction

In the Central Administrative Court
बादालत श्रीमान Circuit Bench Lucknow मह

वादी (मुद्र्द्दि)
 मुद्र्द्दि (मुदालेह)

का

वकालतन



Application No. of 1989

Prem Shanker

Applicant

The Director Postal ^{1/2} Accounts
 and others

नं० मुकद्दमा

सन पेशी की ता०

प्रतिवादी (रेस्पान्डेन्ट)

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

वकील
 QAMRUL HASAN
 Md. Fatehuddin 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 डिगारी जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई 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 मेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे स्थिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

अदालत
 नं० मुकद्दमा
 नाम फैरीक

Accepted
 Dated
 18/5/89.

साक्षी (गवाह)

18/5/89

दिनांक

साक्षी (गवाह)

महीना

सन् १९ ई०

हस्ताक्षर प्रमाणात्मक
 Applicant

(A.G.B)

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

Application no. 184 of 1989 (L)

Sri Prem Shanker

....Applicant

Versus

The Director Postal (Accounts, U.P.
and others

Respondents

I n d e x

<u>Sl.no.</u>	<u>Particulars of documents</u>	<u>Pages</u>
1.	Annexure-I (Call letter dt. 2.I2.83)	15
2.	Annexure-2 (Complaint dt. 22.8.88 to) P.M.G by the Union	16
3.	Annexure-3 (Representation dt. 22.8.88) to O.P.no.I	17-19
4.	Annexure-4 (Complaint to Prime Minister) of India dt. 31.8.88 by Union regarding oral termination of the applicant.	20
5.	Annexure-5 (Letter dt. 21.I0.88) of P.M.'s office.	21
6.	Annexure-6 (Letter dt. 7.II.88) of Addl. Private Secretary.	22
7.	Annexure-7 (Representation dt. 3.I.89)	23
8.	Annexure-8 (G.O. dt. 12.8.86 by U.O.I) regarding discrimination.	24

(Qamrul Hasan)
Advocate

Lucknow dated: Counsel for the applicant
May 22, 1989

Before the Hon'ble Central Administrative Tribunal
Addl. Bench, Allahabad
Circuit Bench, Lucknow
Application No. of 1989
Prem Shankar Applicant
V/S
Director Postal (Accounts) U.P. Circle
Lucknow & Others Respondents
Annexure No. /...

15/12/83

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
U.P. CIRCLE, LUCKNOW-226018.

No: G.S./Daily Wagers. 376

Dated. 24.12.83.

Shri . . Yashwant is hereby informed that his name has been sponsored by Employment Exchange for the engagement of daily rated majdoors. He is, therefore, directed to appear before the Selection Committee for determining his suitability for working as a daily rated majdoor (i.e: casual labourer) along with his testimonials at the above noted address on 20.12.83/21.12.83/22.12.83 at 11.00 A.M. sharp. No travelling allowance will be paid for this purpose.

Yashwant
Accounts Officer 2/12
(G.S.)

Copy to Shri Yashwant

Director Postal, 376 Circle, Lucknow

Yashwant Yashwant Yashwant

Accounts Officer,
Postal Accounts, Lucknow

K. UDDIN

Yashwant

उत्तर प्रदेश थारू एवं विमुक्त जनजाति समिति

झारू झोपड़ी, इन्द्रलोक कालोनी, कृष्णानगर, लखनऊ-५

सचालक : छपाशकर सिंह थारू

मूलपूर्व महामन्त्री उत्तर प्रदेश कांग्रेस कमीटी आई० डिनोटीफाइड ट्रांस सेल

१०, माल एवं नीर, नीरु भवन, लखनऊ

कायंकर्ता : कांग्रेस सेवादल, लखनऊ

प्राप्ति २...

दिनांक १५-१०-८०.....

- १ वैधनिक विवारी पूर्वोक्त
[विवारी]
- २ बीघी कैम्पनी [बा. अध्यक्ष]
- ३ रखीव कुमार [कौशाल्या]
- ४ गीवांत प्रसाद [उपाध्यक्ष]
- ५ दुलारे गारती [सचिव]
- ६ देवेन्द्र कुमार [उपसचिव]
- ७ चन्दिका प्रसाद [किलाधिकारी]
- ८ राकेश कुमार [डबोमंड]
- ९ विधि सलाहकार
- १० भारील थारू [सामुद्र मन्त्री]
- ११ दुल्लू प्रसाद
- १२ श्रीकृष्ण
- १३ विज्ञ प्रसाद [सदस्य]
- १४ श. श्रीराम
- १५ श. श्रीमद्भास
- १६ रामवार

तेजा २

मानवीय पौराणिकीय गौतम,
पूर्णीय राजिल, लखनऊ ।

टिप्पणी :- दैनिक भौगोलीकरण के पट पर नियुक्ति दिने हेतु ।

महोदय,

प्रार्थना पन संलग्न करते हुए गह लक्ष्मा है कि प्रार्थी ये वैदिक अनुष्ठित जन जाति का सदस्य है उनकी उप जाति था है। प्रार्थी इह दैनिक पौराण राजाउन्ट में कार्य करते हुए दिसम्बर १९८३ से दैनिक दैनिक भौगोलीकरण के लिए कार्य करता रहा। प्रार्थी के पट में विवाह की शादी की जो कि दिसम्बर ११-१२-८४ को सूरजों से छुट्टी में वह गया था प्रार्थी निर्वाचित जाति था तो प्रार्थी ने कहा था कि वह आप की ओर से आदानी की जाता है जब कि प्रार्थी की ज्ञान जाति दर्शनीय है। प्रार्थी ४० वर्षों का है। प्रार्थी को जीवित जीवन के लिए कोई साधन नहीं है। उस विभाग के नियोग बहुत ही प्रभावशाली ग्राम्यकृषि व्यापार है उनके जातिन्धर अधिकारी अपने पट का उपर्युक्त व्यवस्था में उदासीन है। अतः महोदय है कि वैधनिक द्वारा की ज्ञान में इसी ही आप उपने रात हो जीप्र जारीकरण के प्रार्थी की समस्या का वितरण कर पाने का बहुत ज्यें। आपका ही वही पूर्ण विवाह है कि आप हमारे अनुरोध की तरह रहें। की हुई गार्हिकाएँ से ही भी ज्ञान रहा है।

Recd ①
Dinesh
22/10/88

प्रधानमंत्री,

भारत सरकार विवाह विभाग

सचालक

महामन्त्री
भारत सरकार
विवाह विभाग
सचालक
दिसम्बर १९८४
महामन्त्री विवाह विभाग
भारत सरकार

Before the Hon'ble Central Administrative Tribunal

Addl. Bench, Allahabad

Circuit Bench, Lucknow

Application No.

Prem Shankar

.....of 1989

.....Applicant

v/s

Director Postal (Accounts) U.P. Circle

Lucknow & Others

.....Respondents

Annexure No. 300.

लेखा मे

श्री शांकर कुमार महोदय,

निवैराक छाक गोला,

लखनऊ

विषय:- दैनिक भौगोलिक विधारी।

श्रीमान् जी,

मैं प्राचीन पूर्वरांकर आपके काव्यलिय में पिछले
लगभग 5 साल से बतोर दैनिक भौगोलिक विधारी के रूप
में काम करता रहा हूँ ऐसा इन्टर्व्यू इकावेन्ज द्वारा बुलाया
गया था और ३००१० लाख रुपये मेरा बुक्स
। १९८३ में हुआ था।

मैं भौगोलिक पास हूँ। मैं अमूर्खित जनजाति से सम्बन्ध
रखता हूँ भारत के संविधान के अनुसार सौलह, चौर, तीस
के अनुसार भारत मर्दाने एवं राज्य सरकार ने अमूर्खित जनजाति
के लिये भौगोलिकी में लाला जाय रुपये देने के अनुसूचित जनजाति के लिये रुपये देने के
अमूर्खित जनजाति के लिये रुपये देने के अनुसूचित जनजाति के लिये रुपये हैं।

MTARत को स्वतंत्र हुये 40 साल हो गये हैं परन्तु
अमूर्खित जनजाति का प्रतिनिष्ठा इतना हो।

श्रीमान् जी मैं बड़े पित के साथ आपके नौरौस में लाना
चाहता हूँ कि ११ लाटीया की मेरी छोटी बहन की शादी थी
मैं आने विधारी थी बीबूद्देव गा की जिती की मेरी बहन
की शादी है और बीबूद्देव लादी में रामिल द्वैनौरौस के बाद
विधारी महोदय किसी काम से दूर्घात के बाहर चढ़े गये मेरे
मैं अब आजीक्षा थी धीरौद्धुक्त ३० ग्र० ५० कीसी के
नीचे रुपये दी ताकि जब वह आते तो वह को देवा ले और मुझे
छुट्टी मिल सके। मेरी बहन की शादी के दौरान ही मेरे बच्चे
की हालत गम्भीर हो गयी और मुझे ५५४६ दिनों तक एटर मैं
रुका पड़ा मैं १३ जारी की जापती रिपोर्ट दी मेरी दैरानी
और दैरानी की दो ग्रीष्म योग्य मुले श्री देवगति ने छूटी पर
नहीं लिया और मुझे कह कि मैं आप की जगह आदर्शी रुप लिया
हूँ मैं भागा-भागी दैरानी के दाक्तर आया और कैर टेकर गहोदय

18
A 25

से मिला और वो भूमि छिप्टी आ देक्टर महोदय के पास ले गये और छिप्टी डाक्टर भाष्म में मूँगे बहुत जाने और भूमि लगातार उनको बिनती करता रहा फिर मूँगे कहा गया कि हमें हमने 15 दिन के लिये आदभी रहा है मैं 26 तारीख को पुनः दफूतर आया और कैपर टैकर ने खिप्टी किया जब कैपर टैकर वापस आया है उसने बताया छिप्टी डाक्टर महोदय ने आज्ञा दिया कि मूँगे के दफूतर के अन्दर न आनुसूचित जाये और कैपर टैकर ने कहा कि मैं श्री बी०एल० देक्टर के पास जाऊ और मैं श्री बी०एल० देक्टर महोदय के पास रहा तो उसने मूँगे कहा कि मैंने उसके अन्ता 15 दिन नहीं हुये जबकि ।। तारीख से 25 तारीख तक 15 दिन ही रहे थे।

श्रीमान् जी मेरे एक गरीब आदमी हूँ और पिछले 5 साल से इस कागजीय मैर्ग दर्शक दर्शक रहा हूँ मैं अनुसूचित जनजाति से सम्बन्ध रखता हूँ मूँगे आत दुभा है कि द्यूतर खुले हुये । 8 साल बो गये हैं आज तक एक भी अनुसूचित जनजाति का आदमी कलास 4 मैं भारतीय ही हुआ जबकि मैंको आदमी कलास भी और मैं भारतीय हूँ मैं जब भारत के 40 साल के हैतिहास पर नजर भारता हूँ तो मूँगे ऐसा लगता है कि भारत मैं संविधान में दी हुई सुविधाओं का माक उड़ाया जा रहा है जो आदमी अनुसूचित जनजाति के आदमियों ने उनके छक से कवित रखने में अुभेदार रहे हैं और उन्होंने सरकार के बाये हुये नियमों की अवहेलना की है उनको नोई सजा नहीं मिली बर्कि मैं लोग अनुसूचित जनजाति के लोगों को किसी न किसी बदाने से उनको नोकरी से दूर रखने में उपयोगी स्थित होते रहे हैं।

श्रीमान् जी उसी सिलसिले मैं मेरे साथ भी एक ऐसी सांजिस ही रही है और मैरे श्रीकारी महोदय मूँगे नोकरी से बिजाल कर किसी अन्य आदमी को

उच्च जाति के लोगों को भारती का यस डाक्टर बना कर रहे हैं।

श्रीमान् जी जैसे भैरवी कुछ निवेदन है कि मूँगे भैरव हक दिलाया जाय और मूँगे अविलम्ब झूटों पर त्वाय जाय।

ता कि मैं अगले साल देशबाज़र हो सकूँ इसके साथ ही मेरे अधिकारी
महोदय को कहा जाय कि मेरे साथ उस तरह जा छवदार करे
जो एक मूल्य के साथ होता है। साधारण गदामी की
तरह मेरी कृति काढ़ीरियाँ हैं मैं जीवार हो सकता हूँ और
मुझे अपने फिल्डों की जायज़ हातूदाहा। लम्ही गदामी ।

आपका आशाकारी

प्रेम राज कर ।
दैनिक वेतन २०० रुपयी कर्मियाँ
एन०एस०सी० आर्थि ।

प्रतिलिपि सेवा में:-

- 1 - श्री छोबीरद०जी० शू०पी०संकिल, लालनाड़ा
- 2 - कमिलनर भूसुचित जाति जनजाति रमा वृष्णि पुरम, न्यू दिल्ली
जो इस गांवाध से भौजी पाती है कि युवती छोबीरद०जी० दिल्ली गा.
जाधी।
- 3 - हुरमांगार शंकर भौजी न्यू दिल्ली गांवाध से जाति जनजाति,
- 4 - अनुजन खानी गांवाध। इ-इलौला लखनऊ

प्रेम राज कर ।
दैनिक वेतन २०० रुपयी कर्मियाँ
एन०एस०सी० आर्थि ।

आइटेक्सर पौर्ण एकाउन्ट १० वे तोड़
गोलाने मार्ग, लालनाड़ा।

पार्षद का पता

बाबू छोबीरद०जी० शू०पी०करामपा
५५४ रु०६१ विश्वासबद्द बगार
उत्तराम बाबू लालनाड़ा

प्रमाणिक

प्रतीक गांधी जिलायात
प्राप्ति नं. ११६

प्रतीक गांधी जारी है।

१० जून १९८९ दिन

प्रतीक नं. ११६

उत्तर प्रदेश यारू एवं दिल्ली जनजाति समिति

मुख्य मीमांसक, राजसीक कालीनी, कृष्णगढ़, लखनऊ

सचालक : हुमाई शर्मा वाक

मुख्य प्रद्युमनी उत्तर प्रदेश कार्यकारी वार्ड विभागीयारू द्वारा दिया

१०, नाल देवीनगर, लखनऊ, उत्तर प्रदेश

कार्यकारी : श्रीमति देवादास, लखनऊ

प्रधान.....

विवरण-प्राप्ति-प्राप्ति

१ देवादास विवारी एवं कोंडे
[प्रधान]

तेला मे.

माननीय श्री प्रधान मंत्री राजीव गांधी
भारत तरफार, नई दिल्ली।

२ जीपरी श्रेष्ठवाल [प्रा. वय्यक]

विवरण- अनुसूचित जनजाति के दैनिक वैतनभीगी कौशिकी जो पर्याप्त
से लगातार निदेश द्वाक लेता कार्यालय अग्रीनाराट लखनऊ
में कार्यकारी रदा था को दिनाक ११-७-१९८८ से विवा
कारण बताये, तेला से गुणा कर देने के संबंध में।

३ रामद कुमार [कोकाय्या]

गहोदय,

४ गोदर्मन प्रसाद [उपाध्यक्ष]

मिथेदेन यह है कि श्री प्रेम शंकर जो कि अ० जनजाति का है
और गत ५ वर्षों से लगातार दैनिक वैतन श्रीगी कौशिकी के स्थ. मैं
निदेश द्वाक लेता कार्यालय अग्रीनाराट लखनऊ में कार्यकर रहे हैं
को अधानक विवा कारण बताये दिनाक ११-७-१९८८ को दै। भवना
मैं अपौर्वानिक तरीके से एवं हरियाली विरोधी भायामारी के कारण
उसका लायलिय के ग्रामियाँ वर्षों में निकाल दिया है। और इनके
स्थीर पर कार्यालय के हाँ एक कौशिकी के भवीजे जो कि उच्च वार्ता
का है को इस ग्रामपाल पद पर रोजगार कार्यालय लखनऊ है विवा
नामांकित हुए रख दिया है।

५ देवेन्द्र कुमार [उत्तरप्रदेश]

गहोदय इस प्रकार उपरोक्त आरपित पद को समाप्त परके

६ रामद वसार [किलाविकारी]

संक्षिप्त एवं भारत तरफार के प्राप्तियाँ और विभिन्न ग्रामपाल

७ रामेश कुमार एवं कोंडे

आदेशों का यह आम उल्लंघन किया है।

[किलाविकारी]

विवेदि कि माननीय प्रधानमंत्री जी समय-२- पर सभी मंत्रालयों

८ रामेश वसार [किलाविकारी]

और प्रियांगों को निर्देश देते रहते हैं कि अ० जनजाति के कौशिकी विधियों

९ श्रीकृष्ण

साथ जिसी भी तरार पर उनकी सामाजिक विधियों के कारण दैदार्ध

१० श्रीमद्वारा

न किमा जाए एवं उनके ग्रामपाल पदों को तल्काल भरा जाए परन्तु

११ श्रीमद्वारा

निदेश द्वाक लेता कार्यालय में दैनिक वैतन श्रीगी के कुल १५ पदों में

१२ श्रीमद्वारा

नियामनुसार दो जनजाति के कौशिकी होना चाहिए परन्तु आरपित

१३ श्रीमद्वारा

को न भर करके जो एक पद भरा भी था उसको भी रामापत कर

१४ श्रीमद्वारा

दिया है इस प्रकार ग्रुप डी फेडर में अ० जनजाति जी आरपित भूत्य

१५ श्रीमद्वारा

कर दिया गया है अतः ग्रा० जी से विवरण नियेदेन है कि उसके दैनिक

१६ श्रीमद्वारा

वैतन श्रीगी कौशिकी प्रियों तथे तथा ग्रुप डी वाप भूत्यों भर रहे हैं

१७ श्रीमद्वारा

को ग्रुप डी जीवों के लिए श्रीपुरियाँ पुरियाँ देने वाला है

१८ श्रीमद्वारा

ताकि ग्रुप डी जीवों वर्षों की जीविका चला सके।

ग्रुप डी जीवों वर्षों की जीविका चला सके।

प्रेम शंकर द्वारा दिया गया है।

ग्रामपाल विवरण

ग्रामपाल विवरण

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Before the Hon'ble Central Administrative Tribunal
Addl. Bench, Allahabad
Circuit Bench, Lucknow
Application No. of 1989
Prem Shankar Applicant
V/S
Director Postal (Accounts) U.P. Circle
Lucknow & Others Respondents
Annexure No. 5

प्रधान मंत्री कार्यालय
PRIME MINISTER'S OFFICE

नई दिल्ली-110011
NEW DELHI-110011

पत्र सं. 291653

दिनांक 21/6/88

प्रिय महोदय/महोदया,

मुझे निवेद हुआ कि प्रधान मंत्री जी को सम्बोधित
आपको पत्र दिनांक की प्राप्ति सूचना आपको हूँ और
मूलित करूँ कि यह पत्र उचित कार्यवाही के लिए ८/८
संत्रालय, नई दिल्ली को भेज दिया गया है।

क्रमांक ४०८८

मोनो ५५६ अ/६९, विश्वनाथनगर

लालगांव, लखनऊ (उत्तर)

भवदीय,

मनुष्य अधिकारी

मुमुक्षु

Before the Hon'ble Central Administrative Tribunal
Addl. Bench, Allahabad
Circuit Bench, Lucknow
Application No. of 1989
Prem Shankar Applicant
v/s
Director Postal (Accounts) U.P. Circle
Lucknow & Others Respondents
Annexure No. 6...

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X



यू.प० के.मि.त्रा

६५८८८(८)१८८-८८

अधिरिक्त निजी सचिव
संसार राज्य मंत्री
भारत

ADDITIONAL PRIVATE SECRETARY
MINISTER OF STATE FOR COMMUNICATIONS
INDIA
NEW DELHI-110001

नवम्बर, 1988

प्रिय श्री सिंह जी,

आपका दिनांक 12 अक्टूबर, 1988 का पत्र संलग्नक सहित प्राप्त हुआ, जिसमें आपने अवृत्तिप्राप्त जनजाति के श्री प्रेम शंकर, दैनिक वैतन भौगोलीक विवाही, निवास डाक लेखा कार्यालय अमीनाबाद, लखनऊ की विना कारण बताये सेवा से मुक्त किये जाने के सम्बन्ध में लिखा है।

आपका पत्र उपर्युक्त कार्यवाही हेतु सम्बन्धित अनुभाग को भेज दिया गया है।

सादर,

आपका,

यू.प० के.मि.त्रा
यू.प० के.मि.त्रा

श्री कृपाशंकर सिंह थारू,
संघालक यू.प० प्र० थारू एवं विमुक्त-
जनजाति समिति
हुगोली झोपड़ी, हारूलोक कालौली,
कृष्णानगर,
लखनऊ-5

कृपाशंकर

Before the Hon'ble Central Administrative Tribunal

Addl. Bench, Allahabad

Circuit Bench, Lucknow

Application No.

.....of 1989

Prem Shankar

.....Applicant

v/s

Director Postal (Accounts) U.P. Circle

Lucknow & Others

.....Respondents

Annexure No. 7.

23
3

संवाद,

श्रीमान छिट्ठी उपर्युक्त,
उत्तर प्रदेश सर्कार,
लखनऊ।

विषय :- दैनिक भागी कमितारी के पाठ पर नियुक्ति करने के सम्बन्ध में।

महोदय,

निवेदन है कि प्राप्ति श्रेम शक्ति लायके अधीनाथ कायलिय में
पिछले लगभग एवं बर्ष से बांसोर दैनिक क्रेतने भोगी कमितारी के स्वत्र
कार्य करता रहा है। प्राप्ति संवायोजन कायलिय द्वारा बुलाया गया था
और डी०षी०सी० द्वारा प्राप्ति का चयन 1983 में हुआ था। प्राप्ति
हाँस्कूल जाते हैं प्राप्ति अनुसूचित जनजाति का सदस्य है प्राप्ति । जुलाई
1986 की प्राप्ति की छहन की शादी थी प्राप्ति जाने अधीक्षारी श्री ए०षी०
षी०ष्म० देवगन से छुट्टी लेकर था गया था। प्राप्ति 18 जुलाई की शादी
गया तो उसे छुट्टी पर नहीं लिया गया और ए०० औ० महोदय
श्री बी०ष्म० देवगन ने युक्ति कहा कि आपके पागह पर मैत्रि दूसरा आदमी
को रख लिया है प्राप्ति भरोजगार है प्राप्ति के जीविका का कोई दुसरा
साथ नहीं है प्राप्ति जाने बद्दों की दो बक्त वी रोटी लेने में अस्वस्ति
कठिनाइयों का सामना लाना चल रहा है।

अतः श्रीमान जी से प्राप्ति है कि प्राप्ति के इस क्षेत्रीय
द्वारा को ध्यान में रखी दिए जाने जाने स्तर से उचित छावेवाही कराकर
प्राप्ति को नियुक्ति दिलाने का काट करें। ताकि प्राप्ति अपने बद्दों का
जानने पाएं शर ले। इसके लिए प्राप्ति सलैरिवार लाभका अधीक्षन आभारी
रहेगा।

प्रेस्ट्रीटर
प्राप्ति,

दैनिक भागी कमितारी,
नियुक्ति डाक नियंत्रण वायलिय,
अधीनाथ, लखनऊ।

घर का पता:-

प्रभार द्वारा श्री नारायण
गोपनी ५५४ द्वा० ६९ प्लॉक लेवर नगर,
आलगा बाग, लखनऊ।

१५.२.९८

In the Hon'ble Central Services Tribunal Addl. Bench Allahabad
Circuit Bench, Lucknow

Applicant No.

..... of 1989

Prem Shankar

.... Applicant

v/s

Director Postal (Accounts)

.... Respondents

U.P. Circle & Other

Annexure 8

No. 42014/7/US-Estt (SCT)
Government of India/Bharat Sarkar
Ministry of Personnel, Public Grievances
and Pensions
(Department of Personnel and Training)

New Delhi, the 12 August, 1986

OFFICE MEMORANDUM

Subject:- Harassment of and discrimination against Scheduled Castes and Scheduled Tribes employees in Central Govt. Services/Posts.

The undersigned is directed to say that in the Department of Personnel and Training's O.M. No. 36035/3/B5-Estt (SCT) dated the 24th June, 1985, it is emphasised that Government servants should desist from any act of discrimination against members of Scheduled Castes/Scheduled Tribes Communities on grounds of their social origin. (copy enclosed).

2. It has come to notice that the contents of the O.M. referred to above dated 24th June, 1985, has not received wide publicity. It is once again emphasised that in order to achieve the objective of the Government to uplift officials belonging to the SC/ST socially and to merge them in the mainstream of the national life, it is absolutely necessary that the officials belonging to SC/ST are not subjected to any harassment or discrimination.

3. Ministry of Finance are requested once again to bring the contents of O.M. dated 24th June, 1985 referred to above to the notice of concerned and action taken against officials who violate the instructions.

Sd/-

(BATA K. DEY)
DIRECTOR

SLA

982 Ton
B. 8. 9.
Lokmanya
Lucknow.
Notice Board.
Guard File.

(P. SHUPENDER NANDEA)
SECTION OFFICER
14/7/11

16 (16) A35
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW
C.M. No. 316/1989
O.A. NO. 114 of 89 (L)

Prem Shankar

... Applicant

-vs-

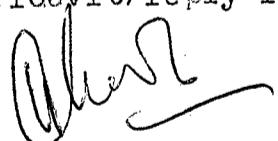
Union of India and others ... Opp. parties.

Application for grant of time for filing
counter affidavit.

The opposite parties beg to submit as
under:-

1. That the reply/counter affidavit is under
preparation and will take at least four weeks
and the opposite parties are required 4 weeks
for filing their counter affidavit in the inter-
est of justice.

2. Wherefore it most respectfully prayed
four weeks time may be granted to the opposi-
tion for filing their counter affidavit/reply in
noted case.


(VK Chaudhary)
Addl. Standing Counsel for
Counsel for the Opp.

Lucknow,

Dated:  Nov. 1989.

VAKALATNAMA

X28

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

Prem Shanker Plff./Applt./Petitioner/Complainant

Verses

Union of India & Others Defent./Respt./Accused

KNOW ALL to whom these presents shall come that I/We

the above-named opp. Narsa do hereby appoint

Shri V. K. CHAUDHARI, Advocate,

..... High Court, Lucknow Bench

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

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

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

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

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

To take execution proceedings.

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

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

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

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

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

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

Accepted subject to the terms of fees.

Client

Client



Advocate


Accounts Officer

लेखाधिकारी

Administration - I

प्रशासन - प्रथम

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO.114 of 89(L)

A 2d

Prem Shanker

... Applicant

-vs-

Union of India and others ... Opp. parties

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.

I,

S. R. Abidi

aged about 54

years, son of Late Tomizel Hasam 2
Accounts Officer Admin I o/o
at present posted as Director of Accounts (Postal)

UP Circle, Lucknow do hereby solemnly affirm and
state as under:-

- That the deponent has been authorised
to file this counter affidavit on behalf of opposite
parties.
- That the deponent has read the application
filed by the applicant and has understood the contents
thereof and is fully conversant with the facts stated
in the application and he is in a position to give
parawise comments as hereinunder:



3. That before giving parawise comments it is necessary to give brief history of the case as under:

(a) That the office of the Director & of Accounts (P), Lucknow is at present functioning in three different building in Lucknow. The main building is at Aminabad, the secibd at k9, Way Road, Lucknow and the third one at New Hyderabad. In addition to officers and Group 'C' staff, there are group 'D' staff also. (for example peons, chaukidars, sweepers and daftaries). There has been shortage of various categories of staff including that of Group-'D' in this office from time to time. Apart from this office, the quantum of work is increasing occasionally in this office. Some time the Group-D staff proceeds on leave on permanent personal grounds or illness. The work of Group-D staff during their absence on this account is managed by engaging Mazdoors for a day or so, or for a longer period, as the case may be on the basis of daily-wages rates. Whenever a Daily wager is required

(Signature)

(Signature)

(Signature)

for a day or so, arrangement of Daily-wager is made from the local market. Whenever the services are required for a longer period, the list of casual labourer is obtained from the Employment Exchange and such labourers known as casual labourers are engaged in this office after judging their fitness. The name of Shri Prem Shanker the applicant was forwarded by the local Employment Exchange and he was engaged as a Daily-rates Mazdoor with effect from 20.12.83.

(b) That the engagement of casual labourers are different from those regularly employed Group-D staff. The regular Group D staff is covered under the CCCS(Conduct) Rules or CCS(Temporary Service) Rules. Their appointment and termination of service are made under certain rules prescribed by the Govt. rules and regulations. Whereas engagement of daily rated mazdoor is not covered under CCS (Conduct) Rules or temporary rules whose casual engagement is subject to good work, good behaviour and good health and they are paid wages at daily-rated for the days they are engaged.

R-100
10/3/90

(c) That the office of the deponent is a very big office employing about 800 officials in the different buildings in Lucknow. We require Daily rated Mazdoors for work of casual nature ie. for lifting of bags, removal of furniture etc. It will not be out of way to mention here that on many occasions depending upon the exigencies of the work, as many as 15 to 20 & daily rated mazdoor on a particular day are engaged. The daily rated Mazdoors are engaged on daily basis depending upon the requirements Shri Prem Shanker, the applicant as and when he was readily available and there was work for him he was engaged as daily rated Mazdoor.

Sh. Ds
(d) The applicant was found to be habitual of being absent when an exigency of work arose while working in NSC section at 19 Way Road, Lucknow. It happened so that one Shri DDS Chauhan, regular Chowkidar was on leave with effect from 30.6.88 and the work of chaukidar was managed by Daily rated mazdoor. The applicant was absent on 11.7.88 and onward without any information/permission of the office. The work of the Chaukidar is



such that it can not be pulled on without employing a substitute in absence of anyone working there. So another daily rated mazdoor was got engaged against the applicant with effect from 11.7.88.

(f) That the work and behaviour of the applicant was not found upto the mark. The applicant did not behave properly with his supervisors while working in the office as Daily Rated Mazdoor, nor he carried in his work with full devotion and loyalty for which he was warned verbally by his supervisors but of no use. The Applicant entrusted to guard the building has allowed unauthorised persons to enter the premises of the office which has caused nuisance in the office and disrupted the work. This has been confirmed by the applicant in writing on 28.4.88.

Sh. M. J.
(R.B.)
B/12

(f) That the applicant has made the application with the Hon'ble CAT since he was a daily rated mazdoor and the prescribed rules namely the CCS(Conduct) Rules and the CCS(CCA) Rules are not applicable to him. No disciplinary action can be taken against a daily-rated mazdoor unlike a regular appointed Govt servant. He had been paid wages for the number of days he worked. No leave etc. was granted to him and no wages for Sundays and holidays were paid to him. The daily rated mazdoor is not a Government servant as such the Hon'ble CAT has no jurisdiction to admit the

instant application.

(g) That the appointment of regular Group-D officials is made from amongst the Daily-Rated Mazdoor who have got good record of performance. The appointment is made after holding a DPC. The DPC recommends those cases in which the daily rated Mazdoors are upto the mark and loyal to their work. Accordingly case of persons like the applicant can not be recommended by the DPC in future also, as the person has been totally found unfit for the Government job, and he does not fulfill the conditions by remaining absent from work since 11.7.88.

4. That in reply to the contents of para 1 to 3 of the application for formal and informatory and as such need no comments.

5. That in reply to the contents of para 4.1 of the application it is submitted that the applicant was engaged for the day there was work on the basis of daily-rates-mazdoor who are not governed by any service rules namely - CCS(CCA) Rules or CCS(Conduct) Rules. As the applicant absented himself with effect from 11.7.88 and the work could not be managed without engaging a substitute, so a daily rated-mazdoor was engaged.

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for the day there was work on the basis of daily rated mazdoor who are not covered by any service rules namely CCS(CCA) Rules or CCS (Conduct) Rules. As the applicant absented himself with effect from 11.7.88 and the work could not be managed without engaging a substitute, so a daily-rated-mazdoor was engaged. The applicant who was not governed by any service rule was not supposed to be informed in writing when he, by absenting himself, without any information/permission, again turned up for work on 18.7.88, the Caretaker had correctly informed him with the facts.

6. That in reply to the contents of para 4.2 of the application it is submitted that no qualifications are required for daily rated mazdoor.
7. That the contents of para 4.3 of the application needs no comments and in reply it is submitted that the applicant confirmed that he was engaged as daily rated mazdoor in his application.
8. That the contents of para 4.4. of the application are incorrect, hence denied and in reply it is submitted that the applicant a daily rated mazdoor whose name was sponsored by the local Employment Exchange in Dec. 1983 with effect from 20.12.83 and to say that he joined service in Dec. 1983 is not correct as the applicant was not engaged on regular basis as he was engaged as daily-rated-mazdoor for doing work of casual nature. Thus he was not governed by any service rules but to be paid

wages on the basis of rates prescribed for the daily-rated-mazdoor for the day he was engaged.

9. That in reply to the contents of para 4.5 of the application it is submitted that the daily wages paid to daily rated mazdoors was Rs.7.95 per day at the time of engagement of the applicant and Rs.28.55 per day in the year 1988 in his case.

10. That the contents of para 4.6 of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was engaged as daily rated mazdoor on the availability of work.

11. ^{& 4.8} That the contents of para 4.7 of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant absented as daily-rated mazdoor on the availability of service and he himself absented himself without information. He was habitual absentee.

12. That the contents of para 4.9 of the application needs no comments in view of the comments given against para 4.1 of the application as above.

13. That the contents of para 4.10 of the application are incorrect as stated, hence denied and in reply it is submitted that the opposite party no.3 on account of his caste feelings engaged

another person in his place but it was due to exigencies of work which necessitated the engagement of another substitute immediately.

Allegations are baseless and imaginary.

14. That in reply to the contents of para 4.11 of the application it is submitted that the representation so received was examined and rejected as the action taken in this regard by the office of the deponent was found justified and all concerned were informed suitably.

15. That in reply to the contents of para 4.13 of the application it is submitted that the allegations made in this para are baseless and false, having imaginary thoughts only.

16. That the contents of para 4.14 of the application are irrelevant, hence needs no comments.

17. That in reply to the contents of para 4.15 of the application it is submitted that no such representation appears to have been received ~~at~~ in the office of the answering Opp. party. Applicant himself confirmed that he was daily rated mazdoor for whom question of termination of service does not arise. He simply absented himself and subsequently not engaged for want of work.

BB/3

18. That in reply to the contents of para 4.16 of the application it is submitted that the representation appears to have been received as stated in this para was examined and found not justified. The same was rejected.

19. That in reply to the contents of para 4.18 of the application it is submitted that the applicant being a daily rated mazdoor and not governed under any service rules is not entitled to be heard through Hon'ble CAT.

20. That in reply to the contents of para 4.18 of the application it is submitted that the appointment of regular Group-D official in the office of the deponent is not made only from amongst the daily rated mazdoors but also made through direct recruitment from employment exchange who have got good record of their duty while working in the office are also considered. The appointment is made by the administration by holding a DPC. The DPC recommends those cases in which the daily rated mazdoors are found upto the ~~mark~~ mark and loyal to their work. Wheever any engagement of casual worker is made, they are never assured that they will be regularised against Group-D posts and there exists no term and condition letter of offer of office to casual worker to the effect that

(S)

the casual worker engaged so will be regularised as Group -D after putting any length of service. Moreover cases of persons like Shri Prem Shanker do not fall within the purview of recommendations by the DPC in future also as the person has been totally found unfit for the Government work due to his deriliction of work assigned to him.

21. That in reply to the contents of para 4.19 of the application it is submitted that the deserving candidates working as DRM when found fit after requisite day of work as DRM they have performed, are considered for Group-D posts on the basis of good conduct and devotion to work and loyalty by convening of DPC. As regards the regularisation of the DRMs named herein as Group-D employees, it was done in normal course having these cases deserving for regularisation, whereas the case of the applicant not come in such category of DRMs, due to his poor performance.

22. That in reply to the contents of para 4.20 of the application it is submitted that these DRMs mentioned in this para belong to the same list of candidates for ~~management~~ as DRM received from employment exchange.

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23.

That the contents of para 4.21 of the application are incorrect as stated ~~and the exact fax~~ hence denied and in reply it is submitted that no type of harrassing attitude as complained by the applicant, has been adopted against the applicant. Rather he himself gave poor performance.

24.

That in reply to the contents of para 4.22 of the application it is submitted that the applicant is not entitled to any leave or casual leave while working as daily rated mazdoor on the basis of wages on the daily work done.

25.

That the contents of para 4.23 of the application are incorrect as stated, hence denied and in reply it is submitted that he was only a daily rated mazdoor and was paid for the period he was engaged.

26.

That in reply to the contents of para 4.24 of the application it is submitted that there is no sub provision. Industrial Act is not applicable in the instant case.

27.

That in reply to the contents of para 4.25 of the application it is submitted that the applicant has been warned for his poor work several times by his superiors but of no result. He had been several time found indulged in activities termed as

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indiscipline and disloyalty. He has accepted in writing his failure in carrying out his work.

He did not prevent the people from ~~disguise~~ misusing the office premises on several occasions and suspected to be in league with mischievous elements. He had repeatedly been habitual of making indisciplines and disloyalty to his work.

He has committed in writing his mistakes and had prayed for forgiveness. But actually he did not mend himself.

28. That in reply to the contents of para 4.26 of the application it is submitted that there is no question of over-stayal of leave in this case as no leave etc. were granted to the applicant. It was decided by the competent authority not to engage him for further work as he deserted his work as per his will by leaving Govt. property unguarded. It required no any other course of action except to not allow him to be engaged on work further.

29. That in reply to the contents of para 4.27 of the application, it is submitted that the applicant was engaged at the rate of Rs.750/- plus DA per month the applicant was engaged on the basis of daily wages rates at the rate of Rs.750 plus DA admissible divided by number of days of the month in which he has worked per day but not Rs.750 plus DA per month rates as paid.

Question of termination does not arise in his case being a daily rated mazdoor.

30. That the contents of para 5 of the application needs no comments.

31. That the contents of para 6 ⁴² 7 of the application needs no comments.

32. That in reply to the contents of para 7(a) to (c) of the application it is submitted that the applicant has ~~sought~~ sought for relief to allow him to continue on the work of the LVth Class which is uncancelled for in view of the comments given above. He was neither engaged against any post regularly nor he has acquired any len on any post of Group-D cadre by recommendations of the DPCs and as such no employment can further be given to him even in the capacity of daily rated mazdoor as the work and conduct of the applicant is far from satisfactory.

33. That in reply to the contents of para 8(i) of the application are wrong in the light of what has been stated in the aforesaid paras. ⁴²

34. That the contents of para 8(ii) of the application are incorrect as stated, hence denied and it is submitted that the applicant was habitual of

absenting himself from work frequently. The applicant could not complete his work even for a year continuously due to his absence from work or intermittent nature of work provided in cases with DRM workers.

35. That the contents of para 8(iii) of the application are incorrect as stated hence denied and reply it is stated that applicant was terminated on the ground of over stayal of duty as to what he has required to say by saying like this is not understood. In the case with applicant who was not engaged further as worker on DRM basis due to non-availability of work for him there has not been vilation of any clause of the constitution because any employer can not employ anyone, even on the dailyrated mazdoor basis, without having satisfaction of the work and conduct of the employee.

36. That in reply to the contents of para 8(iv) of the application it is submitted that the applicant does not come within the purview of a regular Government servant subject to these rules.

37. That in reply to the contents of para 8(v) of the application it is submitted that the casual workers engaged so are not entitled for any type of leave instead they are given one day rest after six days continuous duty, therefore, there was no question of deducting anything from the dues of

casual worker as he had absented from duty without any information/permission and he was not entitled for any leave. His conduct and ~~and~~ devotion to work was not found upto the ~~mark~~ mark to engage him further.

38. That in reply to the contents of para 8(vi) of the application it is submitted that the applicant is not subject to be governed under CCS(CCA) Rules, hence no comments.

39. That in reply to the contents of para 8(vii) of the application it is submitted ~~the~~ that instead of one year continuous service, there are certain other conditions for regularisation of the service and the applicant did not fulfil these conditions and so not considered, as this issue has repeatedly been disclosed in aforesaid paras.

40. That the contents of para 8(viii) of the application need no comments.

41. That ~~the~~ in reply to the contents of para 8(ix) of the application it is submitted that no violation of any clause of constitution has been done in this case, as already disclosed in aforesaid paras.

42. That the contents of para 8(x) of the application are incorrect as stated hence denied.

43. That the contents of para 8(xi) of the application are incorrect as stated, hence denied.

44. That the contents of para 9.10.11 & 12
of the application needs no comments.

45. That in view of the facts and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs against the applicant.

SR. DE ponent.

Lucknow.

Dated: 10/3/98

Verification.

I, the above named deponent do hereby verify that the contents of para 1 & 2 of the affidavit are true to my personal knowledge and those of para 3 to 44 of this affidavit believed by me to be true on the basis of the information gathered and official records and those of contents of para 45 are also to be true on the basis of legal advice.

Dated:

Deponent,

7-106

I identify the deponent who
has signed before me is the same person,
who is personally known to me. -1

V. (C) Charles A. S.

(VK Chaudhari)

(VK Chaudhary)

Addl Standing Counsel for Central Govt
(Counsel for the Opp. parties)