

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 356 OF 29

NAME OF THE PARTIES Rakesh Baku 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 17-6-2011

Counter Signed.....

Rechecked  
on 3/2/12  
m

*[Signature]*

Section Officer in charge

*[Signature]*

Signature of the  
Dealing Assistant

(A1)  
24-12-89  
Deputy Registrar

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 352 of 1989

APPLICANT(S) Ran. Babu

RESPONDENT(S) etc.

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

(A2)

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
Are 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) Missing in Annexures	
Nos. _____ pages Nos. _____ ?	
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 ?	N.A.
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. Have the particulars for interim order prayed for indicated with reasons ?	✓
19. Whether all the remedies have been exhausted.	✓

dinushy

57A 352/04 (1) (A)

:: X ::

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
1/1/90	<p>Hon' Mr Justice Kamleshwar Nath, V.C.  <u>Hon' Mr K. Obayya, A.M.</u></p> <p>Shri H.N. Tilhari, learned counsel for the applicant and Dr. Limesh Chandra, learned counsel for the opposite parties are present. The impugned order Annexure-1 dated 15.12.89, cancelling the appointment order of the applicant is based on Annexure-2, the letter dated 7-12-89, of the Director of Postal Services, Lucknow Region. One of the facts stated in Annexure-2 is that the Post Office Pali within whose area the applicant resides, is the Post Office of origin of mails. According to the applicant the Post Office of Jeora, where the applicant has been posted is within the mail delivery area of the main Post Office at Pali. The applicant's learned counsel has referred to para 5 (2) of method of recruitment under the instructions of the Director General of Postal Services to point out that appointment of a person can be made who is a permanent resident of the delivery jurisdiction of the Post Office.</p> <p>Copies of the application meant for Op.Ps. have been delivered to Dr. Diresch Chandra. He requests for and is allowed four weeks time to obtain instructions and the case be listed for <u>admission</u> orders on <u>30-1-90</u> on which date the case may be disposed of finally.</p> <p>In the mean time the operation of the impugned order dated 15.12.89 contained in Annexure-1 shall remain stayed and the applicant will be allowed to continue to work as Extra-Departmental Mail Carrier as in the past. It will be open to the Op.Ps. to apply for modification or revocation of this interim order on filing a proper counter affidavit.</p>	

No reply filed  
 Submitted for

admission  
 29/1/90

A.M.

V.C.


(sns)


356/08(L)

(A5)

12/4/90 Hon. P. S. Habib Mohammad, AM  
Hon. J. P. Sharma JM

On the adjournment application of  
Mr. D. Chandra Counsel for rebels,  
the case is adjourned to 18.4.90  
for admission hearing. Shri H. M. Tilhari  
for the applicant is present.

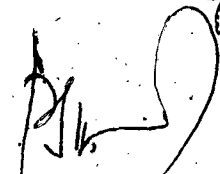
  
J.M.

  
H.M.

18/4/90 Hon. Mr. D. K. Agrawal, J.M.  
Hon. Mr. P. S. Habib Mohammad, A.M.

Shri H. M. Tilhari, for the  
applicant and Shri D. Chandra, for  
the opp. ps. are present.

We heard the learned counsel  
on merits of the case. Judgement reserved.

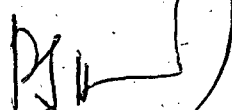
  
A.M.

  
J.M.

19.4.90 Hon. D. K. Agrawal J.M.  
Hon. P. S. Habib Mohammad, A.M.

O.A. has been allowed with  
the liberty to authorities to conduct  
the regular inquiry and take action  
if warranted by law. No order  
as to costs.



  
A.M.

  
J.M.

(A7)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD**

\*\*\*\*\*

**CIRCUIT BENCH LUCKNOW**

OA  
DA. NO. 356 198

DATE OF DECISION 4.9.0

R. L. Baboo PETITIONER

Sri H. M. Tilhari Advocate for the  
Petitioner (s)

**VERSUS**

Superintendent of Post Offices RESPONDENT  
& others

Mr. D. Chandra Advocate for the  
Respondent (s)

**CORAM :**

The Hon'ble Mr. D. K. Agrawal, Jm

The Hon'ble Mr. P. S. Habib Mohammad, Jm

1. Whether Reporters of local papers may be allowed ✓  
to see the Judgement ?
2. To be referred to the Reporter or not ? X
3. Whether their Lordships wish to see the fair Y  
copy of the Judgement ?
4. Whether to be circulated to other Benches ? Y

\*\*\*\*\*

D. K. Agrawal

AS

Registration O.A.No. 356 of 1989 (L)

Vs.

• • •

( By Hon. D.K.Agrawal, JM)

2. Briefly, the facts giving rise to this Application are that in May 1988, a selection was held for appointment to the post of Extra Departmental Mail Career (for short EDMC). The Applicant was selected and appointed by an order dated 23.5.1988 as EDMC and since then he had been working. It appears that some complaints were made to the Post Master General. The Director, Postal Services held an enquiry and thereafter he directed the appointing authority to cancel his selection and appointment. In pursuance of that direction, the Superintendent of Post Offices, Hardoi Division, Hardoi by his order dated 15.12.1989 cancelled the order of appointment dated 23.5.88 of the Applicant and thereby relieved the Applicant of his duty immediately.

Dragonair

3. Learned counsel for the Applicant urged that the result of cancellation of appointment order was that the Applicant's services stood terminated without giving him any opportunity of hearing. We find considerable force in the contention. In the Counter Affidavit filed on behalf of the Respondents, it has been alleged that the Applicant's appointment has been cancelled on account of irregularities found in the selection. The Applicant has, however, asserted that he has not been given any opportunity of hearing at any stage- either during the course of inquiry or before issuance of the order. Since the Applicant had been appointed after his selection and had already worked for more than 18 months, he acquired a right to continue in service unless the same was terminated in accordance with rules. If there was any irregularity committed in the selection and the authorities proposed to cancel the selection, the Applicant should have been given an opportunity of hearing. Since no opportunity has been given to the Applicant, the principle of natural justice stand violated and order passed in breach of principles of natural justice is rendered null and void and it is not necessary to demonstrate any prejudice (See S.L.Kapoor Vs. Jag Mohan -A.I.R. 1981 S.C. 136).

4. Learned counsel for the Respondents urged that since the Applicant was appointed in temporary capacity his services were terminated without assigning any reason and as such, order of termination is valid. We find no substance in this plea. The impugned order dated 15.12.1989 indicates that the Applicant's services were not terminated in accordance with the terms and condition of his service. The impugned order clearly mentions that

*Dr. Aggarwal*



A10

.3.

the appointment order was cancelled in pursuance of direction issued by Director, Postal Services. Consequently it is clear that the Applicant's services have not been terminated in accordance with the terms and conditions applicable to temporary Govt. servants, instead his appointment order has been cancelled and he has been put off duty under the orders of Director Postal Services as a result of an inquiry. In this view of the matter, in our opinion, the impugned order cannot be sustained in law.

5. In the result we allow this Application, quash the impugned order dated 15.12.1989. However, we may make it clear that the authorities will be at liberty to conduct the regular inquiry and take action, if warranted by law. There will be no order as to costs.

MEMBER (A)

15/4/1990

Dated:  
kkb

April, 1990

MEMBER (J)

19.4.90.

28-12-89

In the Central Administrative Tribunal (Allahabad Bench)  
Sitting at Lucknow.

Case No. 356 of 1990 (L)

Application u/s 19 of Central Administrative  
Tribunal's Act, 1985.

Rajesh Baboo:

-----Applicant

Versus

Superintendent of Post Offices,  
Hardoi Division, Hardoi and others. -----Respondents.

I N D E X.

S.No.	Description of papers.	
1.	Applications u/s 19 of the Act.	1 to 2
2.	Order dated 15.12.89 passed by Superintendent P.O. Hardoi. (Annexure No. A-1).	13-
3.	Letter/order dated 7.12.89 from Office of D.P.S. Lucknow Range (Annexure No. A-2).	14-15
4.	Order of petitioner's appointment as E.D.M.C. Jeora dated 23.5.88. (Annexure No. A-3)	16
5.	Postal Order No. dated 28.12.89 issued by Post Office - Ammabad Park Lucknow.	
6.	Vakalatnama in favour of Sri H.N. Tilhari, Advocate with Sri Sanjai Verma, Advocate, for applicant.	

Signature of applicant.

Noted for 1-1-1990  
Sapayam  
(AD)

Hari Nath Mohilal Tilhari  
Advocate

Signature of Counsels  
for applicant.

Filed today  
29/12/89

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Deputy Registrar(I)

In the Central Administrative Tribunal (Allahabad Bench)  
Sitting at Lucknow.

Case No. 356 of 1989

Application u/s 19 of the Administrative Tribunals  
Act, 1985.

Rakesh Baboo, aged about 24 years,  
son of Sri Nankau Singh, resident of  
Mohalla Saif Sarai, Pali (T.A.),  
P.O. Pali, District Hardoi.

-----Applicant

Versus

1. Superintendent of Post Offices,  
Hardoi Division, Hardoi.
2. S.D.I. (P) North Sub-Division,  
Hardoi.
3. Post Master, Hardoi.
4. E.D.Branch Post Master Jeora,  
Hardoi.
5. Director of Postal Services,  
Lucknow Region, Lucknow.
6. Union of India through the Secretary,  
Ministry of Communication,  
Post & Telegraph, Government of India,  
New Delhi.

-----Respondents.

1. Particulars of Applicant :

- i) Rakesh Baboo, aged about 24 years, son of i.e.
- ii) (Father's name) Sri Nankau Singh Pandey.

21/1/09

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-2-

iii) E.D. Agent i.e. Extra Departmental  
Mail Carrier Jeora E.D.O. in account  
with Palli S.O. District Hardoi under  
Post Master Hardoi.

iv) Address: Rakesh Baboo, son of Sri Nankau Singh,  
Mohalla Saif Sarai, P.O. Pali,  
District Hardoi.

## 2. Particulars of Respondents :

The particulars of all the six respondents  
~~xxxxxx~~ have been noted above in the title  
of the petition and being repeated hereinafter:-

- i) Superintendent of Post Offices,  
Hardoi (D.N.Ø), Hardoi.
- ii) S.D.I. (P) North Sub-Division, Hardoi.
- iii) Post Master, Hardoi.
- iv) E.D.Branch Post Master Deora, Hardoi.
- v) Director of Postal Services,  
Lucknow Region, Lucknow.
- vi) Union of India through Secretary,  
Ministry of Tele-Communication,  
Post & Telegraph, New Delhi.

## 3. Particulars of order against which this application is being made :

This petition is directed against the  
following order :-

21/4/52

A14

-3-

Order contained in Memo No.H/P Jeora -  
Hardoi, dated 15.12.1989, passed by  
Superintendent of Post Offices, Hardoi Division,  
Hardoi-241001, cancelling the order of  
appointment of applicant-petitioner Rajesh  
Baboo on the post E.D.A. (Extra Departmental  
Mail Carrier) i.e. E.D.M.C. Jeora E.D.P.O.  
in account with Pali S.O. Memo No.A/Jeora  
dated 23.5.1988. The true photostat copy of  
Superintendent Post Offices, Hardoi is  
Annexure A-1 and the letter and order dated  
7.12.1989 issued from Office of D.P.S.  
referred to in Annexure No.A-1 is annexed as  
Annexure No.A-2.

4. Jurisdiction of the Tribunal :

The applicant declares that the subject  
matter of the order against which the redress  
and relief is being sought is within the  
jurisdiction of this Tribunal.

5. Limitation :

The applicant further declares that this  
application is being filed and moved within  
the period of limitation as prescribed under  
Section 21 of the Administrative Tribunals  
Act, 1985, from the date of Order of Superintend  
P.O.Hardoi, passed on 15.12.1989, cancelling  
applicant's appointment.

21/01/2019

A15

-4-

6. Facts of the case:

The facts of the case are stated hereinafter :-

- (a) That vide order of appointment dated 23.5.1988 (Memo No.A/Jeora- Hardoi- 23.5.88, the applicant-petitioner was appointed E.D.A. (Extra Departmental) Mail Carrier E.D.M.C.Jeora. The order of appointment had been issued under the signatures of Sub-Divisional Inspector (P), North Sub-Division, Hardoi. The true photostat copy of letter/order of appointment is being annexed herewith as Annexure No.A-3 to this petition.
- (b) That since after the petitioner's appointment as E.D.M.C. Jeora vide order dated 23.5.1988, the applicant is and has been working as such E.D.M.C.Jeora in relation to Sub-Post Office, Pali, Hardoi.
- ✓(c) That it may be stated that the applicant is and has been permanent resident of Pali as stated above wherefrom the mails originates for 'Jeora' i.e. Delivery Jurisdiction of Sub-Post Office Pali, Hardoi.
- (d) That applicant having come to know from reliable sources that the Superintendent Offices, Hardoi, opposite party no.1 vide order dated 15.12.1989 has cancelled the

21m 2/4/92

A-16

-5-

applicant's appointment from the Post of E.D.M.C. Jeora in pursuance of certain orders of D.P. Services, Lucknow. The applicant received a copy of the order of the Superintendent of Post Offices dated 15.12.1989 from S.D.O. Office at Hardoi, the photostat/true copy of which is Annexure No. A-1 to this petition.

- (e) That the petitioner inspite of best efforts could not get the copy of the Director of Postal Services Order referred to in the Order of Superintendent's Annexure No. A-1 but could only get a true copy of the letter No. R.D.L./S.T.A./C-34/88/3 dated 7.12.1989 issued from the Office of Director of Postal Services, Lucknow Region, Lucknow to Superintendent of Post Offices, Hardoi (D.N.) Hardoi. The true copy of the same is being annexed herewith as Annexure No. A-2.
- (f) That in Section II under Head Method of Recruitment under para 5(ii) bearing residence, it has been provided "E.D. Mail Carriers, runners and Mail peons should reside in the Station of Main Post Office or Station wherefrom mails originate/terminate i.e. they should be permanent residents of the delivery jurisdiction of the post".

21/12/1989

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-6-

- (g) That the petitioner\* is as well as has been permanent resident of Mohalla Safi Sarai, Village Pali, Hardoi, where Sub-Post Office Pali from the Mails originate for distribution and delivery in Jeora - Hardoi since his birth and has been otherwise qualified as well;
- (h) That the petitioner as has been advised to state believing the advice to be correct submits that Extra Departmental Agent is not the Casual worker but he holds the Civil Post under the control of the State i.e. Union of India in view of law laid down by the Hon'ble Supreme Court of India in the case of Superintendent Post Offices. Vs. P.K.Raj Jamuna, reported in A.I.R. 1977 S.C. 1677.
- (i) That the petitioner has been advised to state that the opposite parties no.1 or 5 had no authority to review, re-consider and cancel or to set-aside the order of appointment dated 23.5.1988 contained in Annexure No.A-3 in view well settled principles of law to the effect the once a person has been appointed and he has taken over charge and worked for good many days, the appointing authority is not entitled to cancel the order of appointment.
- (j) That ~~the~~petitioner orders contained in Annexure

27th 21/11/88



A102

-7-

No. A-1 or A-2 are illegal and not covered by Rule 6 E.D. Rules and opposite party no. 1 or 5 had no right to pass order of cancellation of appointment as the said order is illegal, null and void as when a power to be given to a specified authority none else can exercise the same so none except appointing authority can exercise the power referred to in Rule 6.

- (k) That it has been the well settled and laid down by the Supreme Court as well as the High Court of Uttar Pradesh in the cases reported in 1964 S.C. 806, and 1984 (2) L.C.D. 243 Govind Saran Vs. Union of India, that if an Extra Departmental Agent has been appointed after selection and he has worked for long period (as in the present case of about eighteen months) the person acquires a right to continue in service unless the same was terminated in accordance with Service Rules and material directions issued by the D.G.P.T. and competent authorities under those rules, on the grounds physical, or mental unsuitability or unfitness or unsatisfactory work or the like or an abolition of post and no alternative post being available and his appointment is not liable to be cancelled as sweat will and arbitrarily or the fault irregularity of authorities themselves and the E.D.A. could

21/11/2019

(B-19)

-8-

not thus be put off duty the petitioner has been advised to state and believing the advice to be correct the petitioner does so state. The petitioner further state orders contained in Annexures No. A-1 and A-2 to be illegal, null and void and liable to be quashed being prejudicial to petitioner as well as on account of their tendency to cause substantial injury to the petitioner.

7. Details of remedies if exhausted or available :

The petitioner further declares on the basis of legal advice which petitioner believes to be correct, that no remedy is or has been available to petitioner against order contained in Annexure No. <sup>A-</sup>1 or Annexure A-2 under E.D.A. Conduct and Services Rule, 1964 as the orders impugned are not covered by any of the 'Rules' contained in E.D. Service Rules and as such no appeal or revision did ~~pay~~ to any authority from order of cancellation of order of appointment passed after the E.D.A. had taken over charge of the post on the basis of order of appointment and worked for good long period.

8. Matters not previously filed or pending :

That no proceeding has been taken nor any application, suit or writ petition had been

21<sup>st</sup> Aug 2012

previously instituted or filed by the petitioner/applicant before any court or Bench of Tribunal or authority, regarding the subject matter in respect of which this petition/application is being made before this Hon'ble Bench of the Central Administrative Tribunal.

9. Relief sought :

That in view of the allegations, facts mentioned in para 6 of this application/petition, the applicant/petitioner prays for the following reliefs :-

- (a) That this Hon'ble Tribunal may kindly be pleased to hold and declare orders dated 15.12.1989 Annexure No.A-1 passed by Supdt. Post Offices, Hardoi, cancelling the order of applicant's appointment as E.D.M.C. dated 23.5.1988) as well letter/order dated 7.12.1989 of Office D.P.S.Lucknow, Annexure No.A-2 to be illegal and void and inoperative on account of its being without jurisdiction and the same being arbitrary and the result of violation of Principles of Natural Justice as explained in para 6 (h)(i) (j) (k) and being hit by Article 14 and 16 of the Constitution.

- (b) To set aside and quash order Annexure No.A-1

21/9/21/91/92

and Annexure No.A-2 as the same <sup>have</sup> ~~been~~ without jurisdiction on ground and principles referred to in para 6(h), 6(i), 6(j) and 6(k) of this application..

- (c) to issue the order and direction to opposite parties in the nature of Mandamus or mandatory injunction directing them to allow the petitioner to continue to work as E.D.M.C. Jeora, Hardoi and not to cause any illegal interference or obstruction with the petitioner/applicant's working as such-(Ground)-as the orders impugned are illegal, null and void and are not covered by any of the provisions of E.D.Service Rules, 1964 and petitioner has got a right to work and act as E.D.A.-M.C. under appointment order Annexure No.A-3 to the application.
- (d) to allow the petition with costs.
- (e) to issue such further and other order as this Hon'ble Tribunal deems just, fit and proper under the Act.

10. Interim relief prayed for :

That the charge of post E.D.A. M.C. is yet with the applicant and it is prayed that this Hon'ble Tribunal be pleased to issue

21/01/21/01/02

an interim order of stay and injunction, staying the implementation of Superintendent's of Post Offices, Hardoi's order dated 15.12.1989 as well as direct the opposite parties not to interfere in any manner with applicant's functioning as E.D. Agent Mail Carrier, Jeora, Hardoi, pending the final decision of this claim petition by this Hon'ble Tribunal otherwise the applicant will be subjected to irreparable loss and injury.

11. This petition is being presented and filed by applicant through his counsel whose power i.e. Vakalatnama is being enclosed herewith separately with this petition and who will appear and argue the matter at admission and final hearing stage if and when required to urge.
12. That application fee of Rs.50/- is being paid by Bank Draft/Postal Order, the particulars of which are as under :- 8 02 00  
(a) No. of Postal order : 02 41 2908  
(b) Name of Issuing Post Office: - Post office Ammattar Park 26  
(c) Date of issue of Postal Order: 28.12.1989  
(d) Post Office at which payable:
13. List of Enclosures:
  - (1) Annexure No.A-1 i.e. Copy of Supdt. of Post Office-Hardoi D.N.Hardoi, dated 15.12.89.
  - (2) Annexure No.A-2 i.e. copy of letter dated 7.12.89 issued by D.P.C.Lucknow Range, Lucknow to

27/12/89

Superintendent Post Offices, Hardoi.

- (3) Annexure No. A-3 i.e. copy of letter/order dated 23.5.88 of appointment of applicant as E.D.D.A./ M.C. Jeora, Hardoi.
- (4) Postal Order for Rs.50/- issued by Post Office.

Verification.

I, Rajesh Baboo, aged about 24 years, son of Sri Nankau Singh, working as E.D.M.C. Jeora, Hardoi, resident of Mohalla Safai Sarai, Pali, Sub-P.O. Pali, Distt. Hardoi, do hereby verify the contents of paras 1, 2, 3, 6(a), (b), (c), (d), (e), (f), 8, 9, 10, 11, 12 and 13 of this application to be true to my personal knowledge and those of paras 4, 5, 6(h), (i), (j), (k) and 7 of this application are believed by me to be true on the basis of legal advise and that I have not suppressed nor concealed any material or relevant fact to the best of my knowledge and belief.

Dated: 28.12.89

*21/12/89*  
A P P L I C A N T.

Place: Lucknow.

*Han Nath Silhasi*

Advocate.  
Counsel for the applicant.

(A23)

Government of India  
Department of Posts

O/O Supdt. of Post offices Hardoi Dn. Hardoi-241001

Memo No.H/P-Jeora

Dated at Hardoi, the 15.12.89

In compliance to order contained in DPS Lucknow Region Lucknow letter no. RDL/STA/C-34/88/3 dated 7.12.89 appointment of Shri Rakesh Baboo S/O Shri Nankoo Singh r/o village & PO-Pali(Hardoi) on the post of EDDA/EIMC Jeora EDBO in account with Pali S.O.as ordered vide SDI(P) North Sub Dn. Hardoi memo no.A/Jeora dated.23.5.88 is hereby cancelled, with immediate effect under Rule.6 of P&T DA (Conduct & Service) Rules of 1964. ✓ 15/12

Supdt. of Post Offices  
Hardoi Dn. Hardoi-241001

Copy to:-

1.SDI(P) North (Hardoi). He will please get Shri Rakesh Baboo relieved from the <sup>change of</sup> EDDA/EIMC Jeora immediately by engaging some suitable persons purely as a temporary measure in staff-gap arrangement vice him on the responsibility of any deptl. official on the clear understanding that the person so engaged temporarily will have no claim for his regular absorption in the department. In that his services can be terminated at any time without any prior notice. Written undertaking to this effect from the person temporarily so engaged as EDDA/EIMC Jeora alongwith letter of responsibility from any deptl. official for him along with char. reports of relief of Shri Rakesh Baboo & <sup>photo of</sup> engaging any person temporarily all duly attested by you be sent to this office with your <sup>report</sup> within three days positively. Orders for regular appointment on this post will be issued in due course.

✓ 2. Shri Rakesh Baboo S/O Shri Nankoo Singh.

3. EDBPM Jeora.

4. P.M. Hardoi.

5-6. O/C & Spare.

\*P.R.YADAV\*/09

Rakesh Baboo

Applicant

vs.

Supt. of Post office and on

ANNEXURE No. I

Opp parties

Government of India  
Department of Posts

O/O Supt. of Post offices Hardoi Dn. Hardoi-241001

Memo No.H/P-Jeora

Dated at Hardoi, the 15.12.89

In compliance to order contained in DPS Lucknow Region Lucknow letter no. RDL/STA/C-34/88/3 dated 7.12.89 appointment of Shri Rakesh Baboo S/O Shri Nankoo Singh r/o village & PO-Pali(Hardoi) on the post of EDDA/EDMC Jeora KDBO in account with Pali S.O. as ordered vide SDI(P) North Sub Dn. Hardoi memo no.A/Jeora dated.23.5.88 is hereby cancelled, with immediate effect under Rule.6 of P&T EDA (Conduct & Service) Rules of 1964.

Supt. of Post Offices

Hardoi Dn. Hardoi-241001

Copy to:-

1. SDI(P) North (Hardoi). He will please get Shri Rakesh Baboo relieved from the <sup>change of</sup> EDDA/EDMC Jeora immediately by engaging some suitable persons purely as a temporary measure in staff gap arrangement vice him on the responsibility of any deptl. official on the clear understanding that the person so engaged temporarily will have no claim for his regular absorption in the department. In that his services can be terminated at any time without any prior notice. Written undertaking to this effect from the person temporarily so engaged as EDDA/EDMC Jeora alongwith letter of responsibility from any deptl. official for him along with charge reports of relief of Shri Rakesh Baboo & <sup>report</sup> engaging any person temporarily all duly attested by you be sent to this office with you within three days positively. Orders for regular appointment on this post will be issued in due course.

2. Shri Rakesh Baboo S/O Shri Nankoo Singh.

3. EDDPM Jeora.

4. P.M. Hardoi.

5-6. O/C &amp; Sp. Insp.

\*P.R. YAMV/09

True Copy

Sajay Kumar

2 Ten 2 Ten



825

इन दि सैन्दल एडमिनिस्ट्रेटिव दिव्युनल, इलाहाबाद बेन्द  
सिटिंग स्ट लखनऊ

क्लैम पिटीशन नं०

आफ 1989-90

श्रीराकेश बाबू -

--

पिटीशनर

बनाम

सुपरिन्टेण्डेंट आफ पोस्ट आफिस हरदोई --

अपोपार्टी

अनेक्जर नं० ५

सेवा में,

अधीक्षक, डाकघर,  
हरदोई मण्डल,  
हरदोई ।

पत्रांक- आरडीएल/एसटीए/सी-34/88/3 दिनांक 7-12-1989

विषय

ई०डी०डी०ए० ज्युरा की नियुक्ति का मामला

संदर्भ- आपका पत्रांक एच०/पी-ज्युरा/89, दिनांक 24-4-1989

ई०डी०डी०ए० ज्युरा हरदोई पद पर नियुक्ति सम्बन्धी पत्रावली जांच करने पर पाया गया कि निरीक्षक ने ई०डी०एम०पी० ज्युरा की नियुक्ति हेतु सेवायोजन कार्यालय को जो पत्र 16-3-1988 को लिखा था उसमें यही उद्धृत था कि अभ्यर्थी ज्युरा ग्राम का ज्युरा डाकघर में सम्मिलित होने वाले ग्रामों का ही निवासी हो । इस प्रकार से पाली ग्राम (लेखा कार्यालय) के निवासियों का प्रार्थना पत्र न तो सेवायोजन कार्यालय को भेजना चाहिए था और यदि प्राप्त हुआ भी तो उस पर निरीक्षक को विचार करने का कोई औचित्य नहीं था यदि निरीक्षक को पाली निवासी की नियुक्ति ही करना था तो सेवायोजन कार्यालय के लिखे पत्र दिनांक 16-3-1988 में यह स्पष्ट रूप से लिखना चाहिए था कि पाली ( लेखा कार्यालय ) या ज्युरा एवं ज्युरा ग्राम में सम्मिलित ग्रामों का निवासी हो तथा पाली के निवासी को वरीयता दी जायगी क्योंकि डाक घर उदगम स्थान पाली ही है । ऐसा न करने के कारण शिकायत में लाये गये आरोप में सत्यता की आभास होता है ।

क्रमशः - 2 पर

श्री 21/4/92

उपरोक्त तथ्यों के अज्ञान में रहते हुए निदेशक महोदय ने निरीष्ठाक द्वारा की गयी नियुक्ति को निरस्त करने का आदेश पारित किया है और आपको निर्देशित किया जाता है कि अन्य अभ्यर्थियों में से सबसे सुयोग्य अभ्यर्थी की नियुक्ति करने पर विचार करें और परिणाम से इस कार्यालय को भी अवगत कराएं। आपके संदर्भित पत्र द्वारा भेजी गयी नियुक्ति पत्रावली ज्यों की त्यों वापस लौटायी जाती है। कृपया पावती स्वीकार करें।

संलग्नक-(उक्त)

(सील) H0-अस्पष्ट,  
कृते निदेशक डाक,  
सेवाएं लखनऊ दौत्र, लखनऊ

सत्य प्रतिलिपि

True Copy  
Sanjay Kumar  
(42)

Rakesh Bahu

Applicant

Vs.

Supdt of Post office and on

opp parties

ANNEXURE No. II.

## ORDER of Appointment

No. A/Teara.....Dated at Hardwar 23/5/88

Shri Rakesh Bahoo Son of Nankoo Singh is hereby  
 appoint as ED TA CMM with effect from immediate  
 forenoon/afternoon. He shall be paid such allowance as are  
 admissible from time to time.

2. Shri Rakesh Bahoo should clearly understand that  
 his employment as ED TA CMM shall be in the nature of a  
 contract liable to be terminated by him or by the undersigned  
 by notifying the other in writing and that he shall also be  
 governed by the Post and Telegraphs Extra-Departmental Agent  
 (Conduct and Service) Rules, 1964, as amended from time to  
 time. His appointment is subject to

3. If these conditions are acceptable to him, he should  
 communicate his acceptance in the enclosed pro forma.

(Appointing Authority)

No. 1. Shri Rakesh Bahoo  
 S/o. Son Nankoo Singh  
 R/o Moh. Sarai Saf  
 Distt Hardwar

2. Postmaster Hardwar

3. Mail o/s Shahabad. He will  
 pl. get the charge ltr to  
 Sd/- Rakesh Bahoo after observing  
 all the formalities of appointment  
 i.e. descriptive particulars, F band  
 health certificate etc.

4. o/c 2 spare

\*P.R. Yadav\*/220488

True Copy  
 Supd. Hardwar  
 (2)

21/5/2017

# वकालतनामा

माननीय उच्च न्यायालय उत्तर प्रदेश  
इलाहाबाद-लखनऊ



या

न्यायालय श्रीमान् माननीय केन्द्रीय प्रशासनिक तथा प्राधिकरण (C.A.T.)

प्रथम/द्वितीय अपील, रिट/वाचिका/रिजिस्ट्रेशन

(इलाहाबाद बेंच)  
सरकि बेंच लखनऊ

निवेदन/आवेदन पत्र/निष्पत्ति/प्रकीर्ण

संख्या

सन १९

रजिस्ट्रार वाक्

वादो/प्राथी/अपीलार्थी

सुप्रीम कोर्ट ऑफ इंडिया एटर्नल सेक्रेटरी जनरल उच्च न्यायालय

उपर्युक्त बाद में, मैं/हम अपनी ओर से श्री हरीनाथ मोतीलाल तिलहरी एडवोकेट  
१६२/४२, अस्तबल चारबाग लखनऊ

तथा श्री राजेश अग्रवाल एडवोकेट,

को अपना अधिवक्ता नियुक्त करके प्रतिबन्ध करता हूँ/करते हैं कि आपको अधिकार है कि आप उपर्युक्त मुकदमे में हमारी ओर से स्वयम् अथवा अन्य वकील द्वारा पेरवी व प्रश्नोत्तर व जवाब व घस करें, सर्व प्रकार के बाद पत्र, अर्जी दावा व लिखित उत्तर सर्व प्रकार के प्राथना पत्र, निष्पादन पत्र व अन्य प्रकार की पत्रावली, दस्तावेज व अन्त लेख व दस्तावेज व कागज अपने हस्ताक्षर से हमारी ओर से प्रस्तुत करें व वापस लेवें, पंच नियुक्त करें व पचनामा व पंच निर्णय के विरोध में कारण उपस्थित करें। अपने या हमारे हस्ताक्षरों से हमारी ओर से सुलहनामा स्वीकृति पत्र उपस्थित करें एवं दावा स्वीकार करें या उठावें, डिग्री हो जाने पर उसे कार्य रूप में परिणित करावें व डिग्री का रुपया व तत्सम्बन्धी व्यय या अन्य कोई धन जो मुझे/हमें प्राप्त होने को हो अपने हस्ताक्षरों से हमारी ओर से प्राप्त करें, हमारी ओर से रु० जमा करें मेरे/हमारे या विपक्षी द्वारा जमा किया रु० अपने या हमारे हस्ताक्षरयुक्त रसीद लेवें। कोर्टफीस, स्टाम्प लालबाना व अन्य खर्च दाखिल करें व वापस लेवें व रसीद देवें और नकल लेवें मुकदमें की पत्रावली का निरीक्षण करें, मुकदमा पुनरीक्षण स्थगित करावें। रिट, अपील, बाद, चुनाव याचिका या अन्य कोई भी प्राथना पत्र स्वहस्ताक्षरों से किसी भी न्यायालय, दीवानी, फौजदारी, माल उच्च न्यायालय, ट्रिब्युनल, प्राधिकारी (इनकम टैक्स, सेल टैक्स व सर्व प्रकार के अन्य) आदि हमारी ओर से प्रस्तुत करें व तसदीक करें। आय व्यय का रिटर्न प्रस्तुत करें व शपथ पत्र उपस्थित करें या मेरा/हमारी ओर से मौखिक बयाब दें। मुकदमें में गवाह तलब करावें, अपनी ओर से कोई अन्य वकील नियुक्त करके मुकदमें की सब कार्यवाही करावें व उक्त मुकदमा सम्बन्धी जो अन्य आवश्यक कार्य हो करें।

मैं/हम उक्त वकील साहब को उनका शुल्क निश्चित करने के पश्चात उपरोक्त अधिकार देते हुए अपना वकील नियुक्त करता हूँ/करते हैं और इकरार करता हूँ/करते हैं कि जो कुछ भी कार्यवाही अधिवक्ता महोदय इस मुकदमें के सम्बन्ध में करेंगे मुझे/हमें स्वीकार है और होगी और वह मेरा/हमारा किया हुआ समझा जावेगा मैं/हम यह भी प्रतिबन्ध करता हूँ/करते हैं कि मुकदमें के रौरान जो भी परिव्यय मुकदमें को स्थगित कराने या बाद पत्र अथवा लिखित उत्तर में संशोधन करवाने के कारण या अन्य किसी कारण से न्यायालय, प्राधिकारी, ट्रिब्युनल आदि द्वारा मेरे विपक्षी को, मुझे/हमें देने की, आज्ञा दी जायगी वह सब परिव्यय आय अधिवक्ता महोदय पाने व स्वयं रखने के अधिकारी होंगे। यदि मेरी/हमारी अथवा मेरे/हमारे वकील की गैर मौजूदगी में कोई हुक्म मेरे/हमारे विरुद्ध हो जाय तो उसकी कोई जिम्मेदारी अधिवक्ता पर नहीं होगी। यदि मैं/हम अधिवक्ता महोदय का निश्चित शुल्क न देवें तो उन्हें पूर्ण अधिकार है कि वे हमारे मुकदमें की पेरवी न करें और उनके द्वारा ऐसा करने पर वह किसी भी प्रकार के हर्जा खर्चा के जिम्मेदार नहीं होंगे।

हस्ताक्षर: राजेश अग्रवाल

दिनांक.....

साक्षी.....

accepted

Sanjay Kumar  
(Advocate)

Hari Nath Motilal Tilhari  
Advocate

(हरीनाथ मोतीलाल तिलहरी)

एडवोकेट

(A29)

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

COUNTER AFFIDAVIT ON BEHALF OF ALL THE RESPONDENTS :

In.

Case No. O.A. 356 of 1989 (L)

Rajesh Babu ..... Applicant.

Versus.

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

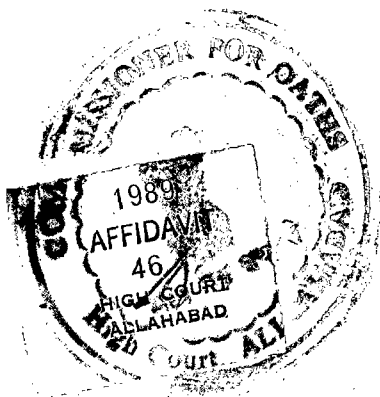
I, R.S. Khusro, aged about 58 years, son of  
S. Ram Chandra, supdt. of Post Offices, Hardoi,  
do hereby solemnly affirm and state as under :-

1. That the deponent is competent to swear this affidavit on behalf of all the respondents.
2. That the deponent has read the application filed by Shri Rajesh Babu and has understood the contents thereof.
3. That the deponent is well conversant with the facts of the case deposed hereinafter.
4. That it will be worthwhile to give a brief history of the case to enable the Hon'ble Tribunal to appreciate the submissions made in reply to the paras of the application.

BRIEF HISTORY OF THE CASE

consequent upon the creation of the posts of extra Departmental Delivery Agent cum-extra Departmental Mail Carrier ( hereinafter referred to as EDDA cum- EDMC) in newly sanctioned extra Departmental

contd. .... 2....



2/11/90

(480)

Branch post Office, Jeora, a requisition was sent to employment exchange, Hardoi by the sub Divisional Inspector of post offices (North) Hardoi ~~to sponsor~~ vide his letter No. A/Jeora dated 16.3.1988 to obtain applications ~~for~~ suitable candidates of village Jeora or the villages served by the ED Branch post office, Jeora for appointment to the said post. A photostat copy of the letter to the employment exchange is being filed as Annexure R-1. It may, however, be clarified that in this letter applications from candidates who were residents of village pali were not invited.

Five applications were received from the employment exchange Hardoi vide letter No. PG 803/88 dated 20.4.1988, out of which four applications were from the candidates who were residents of village and post office Jeora ~~on~~ who were residents of villages situated under the delivery zone of Jeora Branch post office and one application was from the applicant who was the resident of Village & post office pali.

The applicant was appointed as EDDA/EDMC in Jeora ED Branch post Office on 23.5.88 (Annexure-III) of the application). The appointment of the applicant was reviewed by the Director postal services, Lucknow and the same was set aside by him with the direction to appoint the most suitable candidate from amongst the candidates sponsored by the employment exchange other than the applicant. The Director Postal services had also observed that the employment exchange should not have forwarded the application of the candidate belonging to Village pali and if such an application was forwarded, the same should not have been considered for appointment.

In compliance to the above orders, the appoint-

contd. .... 3...



(A31)


-ment of the applicant was cancelled by the deponent vide memo dated 15.12.1989 but the same could not be served upon the applicant as he had proceeded on leave without prior permission.

In this connection it is pertinent to point out that pali post office has its own delivery jurisdiction and the Jeora Branch post Office does not fall under the delivery jurisdiction of pali post Office. Jeora post office has its own & separate delivery jurisdiction consisting of villages attached to it for postal delivery purposes.

PRELIMINARY OBJECTION

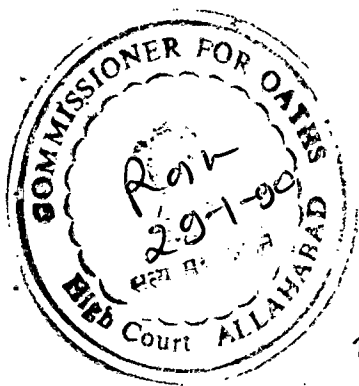
The applicant has not exhausted the departmental remedies available to him before coming to this Hon'ble Tribunal for relief. As such, this petition is liable to be dismissed under Sec. 20(i) of the Central Administrative Tribunal Act, of 1985.

PARA - WISE COMMENTS

- 
5. That the contents of paras 1 to 5 need no comments.
  6. That the contents of para 6 (a) are admitted.
  7. That in reply to the contents of para 6 (b) it is submitted that the applicant was appointed as EDDA cum-~~xxx~~ EDMC. He was not only functioning as ED Mail Carrier but he was also performing the duties of E.D. Delivery Agent of the delivery jurisdiction of Jeora post office.
  8. That in reply to the contents of para 6 (c) it is submitted that Jeora does not fall within the delivery jurisdiction of pali post office.

432

9. That the contents of para 6 (d) are admitted to the extent that the appointment of the applicant was set aside by the Director postal services, Lucknow and in pursuance of thereof the appointment of the applicant was cancelled by the Deponent. Rest of the contents need no comments.
10. That the contents of para 6 (e) need no comments.
11. That in reply to the content of para 6 (f) and 6 (g) it is submitted that to be eligible for appointment to the post of EDMC, the candidate should ~~xxxx~~ be permanent resident of the delivery jurisdiction of the concerned post office and for an ED Agent in this categories he should, as far as possible, reside in or near the place of their work. In the present case, the applicant is not the resident of Village Jeora or of any other village under the delivery jurisdiction of Jeora post office. It was mentioned in the letter addressed to the employment exchange calling for applications for the appointment to the post of EDDA-Cum-EDMC that the candidates shall be resident of Village Jeora or of the villages falling under the delivery jurisdiction of Jeora post office.
12. That the contents of para 6 (h) need no comments.
13. That in reply to para 6 (i) to 6 (k) it is submitted that the employment of the applicant was in the nature of a contract and it was ~~xxxx~~ clearly indicated that "he shall also be governed by the posts and Telegraphs extra Departmental Agent (conduct and service) Rules, 1964". Under the said rules the Director postal services, Lucknow is empowered to review the appointment cases and set aside any appointment which has been made in <sup>violation</sup> ~~motivations~~ of the rules





and departmental instructions. In the present case the appointment of the applicant has been cancelled under Rules 6 of the P & T EDA (Conduct and Service) Rules 1964 on grounds un-connected with his conduct.

14. That in reply to para 7 of the application it is submitted that the applicant has not exhausted all the departmental remedies available to him to ventilate his grievance before filing the case before this Hon'ble Tribunal. As such this petition is liable to be dismissed under Sec. 20(i) of the Central Administrative Tribunal Act of 1985.
15. That the contents of para 8 need no comments.
16. That in reply to the contents of paras 9 and 10 it is submitted that in view of the submissions made in the above paragraphs, the relief sought in para 9 and interim relief prayed for in para 10 of the application are not tenable in facts and law and the same are liable to be rejected. The petition is, therefore, liable to be dismissed with costs.
17. That the contents of para 11 to 13 need no comments.

Lucknow ;

Dated : 29/1/90

*R. S. Khusró*  
(R. S. KHUSRO)  
Deponent.

Verification

I, the above named deponent do hereby verify that the contents of paras 1-3 of this Counter Affidavit are true to the best of my knowledge and those of paras 4 & 14 are believed by me to be true based on records and as per legal advice of my counsel. 15/1/90

A34

-: 6 :-

That no part of it is false and nothing material facts have been concealed, so help me God.

signed and verified this the 29 day of January 1990 within the court compound at Lucknow.

Lucknow :

Dated : 29/1/90

*R. S. Khusro*  
(R. S. KHUSRO)  
Deponent.

I identify the deponent who has signed before me. *R. S. Khusro*

*D. Chandra*  
Advocate.

solemnly affirmed by the deponent on 29-1-90 at 1-30 p.m. who has been identified by *D. D. N. Chandra*, Advocate, High Court of Lucknow Bench.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read over and explained to him by me.



*Ravi*  
Ravi Kumar Mishra  
JATH COMMISSIONER  
High Court, Allahabad  
Lucknow Bench

No. 46175  
Date 29-1-90

In the Central Administrative Tribunal at Ranchi  
Circular Bench Under

Case No. 356 of 1984 (2)

भारतीय डाक-तार विभाग  
INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Rajesh Bala v. Union of India & others

ANNEXURE - R1

From

उत्तर देते समय कृपया  
निम्न संदर्भ दें  
In reply  
Please quote

सेवा में  
To The Employment Office,  
Harden - 241001

कम संख्या  
No. A/Train

दिनांक  
Dated at Harden 20/4/88

विषय  
SUBJECT

Appointment of the post of Extra  
B.D. Jeara (Pali) Distt Harden

Dear Sir,

64  
You are hereby requested  
kindly to obtain applications  
from suitable candidates of village  
Jeara (Pali) or the villages served  
by B.D. Jeara in account with Pali  
S.D. Distt Harden for the appointment  
of Extra Departmental Delivery Agents  
cum Extra Departmental Mail Carriers  
for the newly sanctioned B.D. Jeara  
and forward them to this office  
latest by 15-4-88. The conditions  
for eligibility of the candidates and  
the list of the villages to be  
served by the B.D. are given in  
the enclosed annexure.

Applications may also be  
obtained from eligible candidates  
of suitable villages and forward  
the same to this office  
for consideration.  
Yours faithfully,  
Rajesh Bala

Raj  
20/4/88  
Rajesh Bala

830

List of the villages to be  
served by Jearal Do in  
account with Palo So

NC

1. Jeara
2. Jhara
3. Behla
4. Behli
5. Umrapur
6. Khannraha
7. Gazianpur
8. Admapur
9. Akohra
10. Lankaha

Mail Arrangement

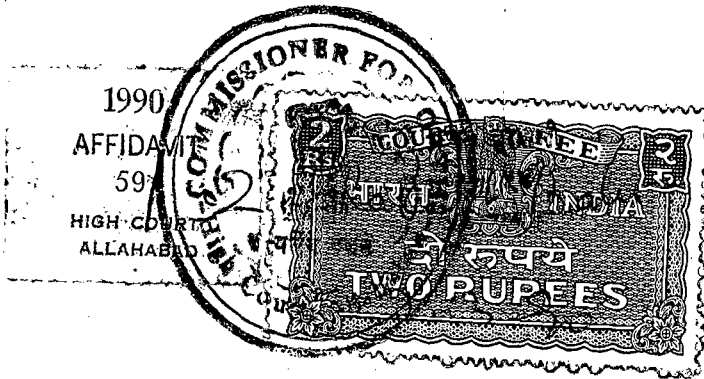
to King. a. l. l.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH. LUCKNOW.

Case No. O.A. 356 of 1989 (L).



Rakesh Babu

Applicant.

Versus.

Union of India and others.

Respondent.

Rejoinder Affidavit.

I, Rakesh Babu aged about 24 years resident of village and Post Office Pali Mohalla Saif Sarai district Hardoi, do hereby solemnly affirm and state as under:-

1. That the deponent has read over the Counter affidavit and has got the same explained and has understood the contents thereof.

2. That the allegations of paras 1 to 3 of the counter affidavit need no comments.

3(a). That the allegations of Para 4 of the counter affidavit are not admitted as correct.

(b).



21/12/89

(A30)

-2-

Pali and ~~personal~~ <sup>of</sup> personal of Annexure No. R-I to the Counter Affidavit it self indicate. It is further stated that Annexure no. R-I further disclose that in it is stated " you are hereby requested to obtain applitions from Jeora, Pali or the village served by B B.O. Jeora in the account of Pali Sub District Hardoi", and this persee indicatiers that the delivery jurisdiction of Main post office Pali Sub Division in includes Jeora and pali both as ~~to~~ <sup>1</sup> ~~all~~ well as the vill-  
age in mentioned in the list of B.O. Jeora working in account of Sub Post Office Pali Distt. Hardoi and as such it is false and in correct allegation to say condidates ~~resident~~ <sup>1</sup> of Pali were not invited.

(c). It is further asserted the Jeora and pali the delivery area in delivery jurisdiction of ~~Sub~~ Sub Post Office Pali Hardoi,

(d). It is further submitted as advised that ~~of~~ director of postal services Lucknow acted in excess of jurisdeiction in reviewing the appointment of deponent cancelling the same as has been stated earlier as well it is further stated that order dated 15.1289 has been illegal and void and without jurisdiction and in violat-  
ion of Priciples of natural justice. It may also s be stated that Jeora is not the main post office but a branch office.



(e). The deponent as advised by his counsel ~~and~~

21/12/1989

denied the ~~the~~ of bar on the ground of any alternative remedy. The deponent states that to the best of deponent's knowledge and information based on legal advice there is no alternative remedy available.

4. That the allegations of para 5 and 6 need no reply.

5. That in view of Annexure no. 3 to claim petition the appointment letter dated 23.5.88 it is stated that deponent of appointed E.D.D.A. cum E.D.M.C. anything to the contrary is not admitted.

6. That allegation of para 8 of the counter affidavit are denied. It may be stated that Jeora Branch Office falls in account of pali Sub Division Post Office.

7. That allegation of para 9, need no comment except that it may be stated as advised that the order of cancellation of deponent's appointment passed by O. P. no. 1, as well as director of postal services is illegal null and void and is in violation of natural justice.

8. That the allegation of para 10 of Counter Affidavit need no reply.

9. That the allegation of para 11 are denied as drafted, It may be stated the Jeora falls in account and delivery jurisdiction of Main Post office i.e. Sub Post Office <sup>at</sup> pali from where the mail for Jeora



21/02/2012

(Buo)

-4-

and as such pali is in territorial jurisdiction  
of main Post Office, Pali.

10. That allegations of para 12 of counter affidavit need no reply.

11. That the allegation of para 13 are denied.

12. That the allegation of paras 14 and 16 of counter affidavit are denied. The allegation of para 14 are vague.

13. That the allegations of paras 15 and 17 need no reply.

Lucknow dated:-

March 2, 1990.

राजेश्वर

Deponent.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are true to the best of my knowledge and those of paras 2, 3 (d), 4, 7, 8, 10, 13 are believed by me to be true based records and as per legal advice of my counsel. That no part of it is false and nothing material facts have been concealed, so help me God.

Signed and verified this the 2 day  
of March 1990 within the court compound at Lucknow.

Lucknow dated:-

March 2, 1990.

राजेश्वर  
Deponent.





(44)

-5-

I, identify the deponent who has ~~been~~  
signed before me.

OM Bakash  
Advocate.  
Sri Hari Nath Tilhari  
Adv.



Solemnly affirmed by the deponent on 2-3-80  
at 10.55 a.m./p.m. who has been identified  
by OM Bakash Clerk of Sri Hari Nath Tilhari,  
Advocate, High Court of Lucknow Bench.

I have satisfied myself by examining the deponent that  
he understands the contents of this affidavit which  
have been read over and explained to him by me.

Harikesh Sharma  
OATH COMMISSIONER  
High Court, Allahabad  
Lucknow Bench

No. 59/02  
Date 2-3-80

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE Rev. 337 OF 90

NAME OF THE PARTIES Rakesh Babu Applicant

Versus

Union of India Respondent

Part A.

Sl.No.	Description of documents	Page
1	Order sheet	1
2	Final Order sheet <u>03-12-90</u>	2
3	Rev Petition	A3 to 12
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5		
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8		
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10		
11		
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16		
17		
18		

CERTIFICATE

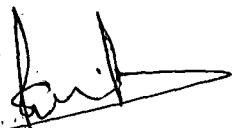
Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Dated 17-6-11

Counter Signed.....

Rechecked  
on 3/2/12  
am

Section Officer/In charge

  
Signature of the  
Dealing Assistant

C. M. Review Am. No. ~~336~~ 337/90 (L)  
O. A. No. 356/89 (L)  
2

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
	A1	<p><u>OR</u></p> <p>C. M. (Review) Am. No. 337/90 (L) has been filed in O. A. No. 356/89 (L) on 17-5-90.</p> <p>This case was decided by the Bench of Hon. D. K. Agarwal, S. M. &amp; Hon. P. S. Habib Mohammad, A. M. on 19.4.90.</p> <p>The Author of Judgment is Hon. D. K. Agarwal, S. M.</p> <p>Submitted to Order</p> <p>17/5</p>

Dinosh

A2

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.  
CIRCUIT BENCH AT LUCKNOW.

-----  
Review Application No. 337 of 1990 (L)

On behalf of

Union of India & others

....

Applicants

In

Registration (O.A.) No. 356 of 1989 (L).

Rakesh Baboo

....

Applicants.

Versus

Superintendent of Post Offices,  
Hardoi Division, Hardoi & others

....

Respondents.

-----  
Hon'ble D.K. Agrawal, J.M.  
Hon'ble P.S. Habeeb Mohammad, A.M.

(By Hon. D.K. Agrawal, J.M.)

This review applicaton, filed under Section 22(3)(f) of the Administrative Tribunals Act, 1985, is against the judgment and order dated 19.4.1990 passed in O.A. No. 356 of 1989 (L), Rakesh Baboo v. Superintendent of Post Offices, Hardoi Division, Hardoi & others, and has come before us for decision on circulation.

2. We have gone through the review application. By means of this application the review-applicants have urged that this Tribunal has erred and the order dated 19.4.1990 passed in O.A. No. 356 of 1989 (L) be reviewed and recalled.

3. A review of an order can only be made for correction of a patent error of fact or law which stares one in the face without any elaborate arguments being needed for establishing it. Thus the scope for reviewing an order is limited.

4. Since there is no patent error of fact or law in the order passed on 19.4.1990, the review application, in our opinion, is liable to be rejected and is accordingly rejected.

MEMBER (A).

MEMBER (J).

Dated: December 3<sup>rd</sup>, 1990.

PG.

A3

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

Misc. (Review) Application No 337 of 1990 (L)

*Union of India*  
~~Supra of Past Cases~~ & Others ..... Applicants.

In

D. A. No. 356 of 1989 (L)

Rakesh Babu ..... Applicant

Versus.

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

REVIEW APPLICATION UNDER SECTION 22 (3) (f) OF ADMINISTRATIVE TRIBUNAL  
ACT, 1985 READ WITH RULE 17 OF CENTRAL ADMINISTRATIVE TRIBUNAL (PROCEDURE)  
RULES, 1987.

Respondent ~~at Serial No. 1~~ most respectfully beg to submit  
as under :-

1. That the respondents had filed the Counter Affidavit<sup>2</sup> in the above case indicating the facts and circumstances which are already on record of this Hon'ble Tribunal.
2. That while delivering judgement in the above case, ~~through~~ this Hon'ble Tribunal ~~the impugned order dated 15.12.89~~, allowed the application and quashed the impugned order dated 15.12.89. It was, however, made clear that the authorities will be at liberty to conduct the regular enquiry and take action if warranted by ~~the~~ Law. The Hon'ble Tribunal also held that the principles of natural justice ~~were~~ violated since no opportunity of hearing was given to the applicant at any stage - either during the course of enquiry or before issuing of orders.

*f.t.  
sup  
17/5/90*

Am

-: 2 :-

3. That ~~the~~ in allowing the petitioner's application some facts & Circumstances of the case indicated in the brief history of the case, para 11, 13 and 14 of the Counter reply have ~~been~~ escaped the notice of this Hon'ble Tribunal; hence this application for review on the following grounds :-

GROUND S

- (1) Because the appointment of the petitioner as ordered vide Memo No. A/Jeora dated 23.5.1988 was cancelled by the Supdt. of Post Offices Hardoi under Rule 6 of the P & T EDA (Conduct & Service) Rules, 1964 on the grounds unconnected with his conduct. The said order was not penal in nature and therefore, no enquiry was called for before issuing the said order. It has been admitted by the petitioner that he is the resident of Village Pali as <sup>stated</sup> ~~admitted~~ by him in para 6 (c) of the application.
- (2) Because the applicant was not eligible for appointment to the post of Extra Departmental Delivery Agent cum-Mail Carrier as he was not the resident of Village Jeora or any of the villages falling under the delivery zone of Jeora <sup>Pali</sup>. To be eligible for the post EDDA-Cum-Mail Carrier, the candidates "should be permanent residents of the delivery Zone of the post office." In the instant case, the applicant was not the resident of Jeora or of any villages falling under the delivery zone of Jeora Post Office.
- (3) Because in the letter of appointment dated 23.5.88 it was clearly

..... 3...

AS

-: 3 :-

indicated that the employment of the petitioner "shall be in the nature of a contract liable to be terminated by him or by the appointing authority by notifying the others in writing and that he shall be also governed by the Posts and Telegraph Extra - Departmental Agent (Conduct & Service) Rule, 1964, as amended from time to time." (Annexure A-III) of the petition). The letter of appointment was cancelled under Rule 6 of the P & T EDA (Conduct & Service) Rules 1964,. As the termination of the petitioner was not penal in nature but in accordance with the terms and conditions of his employment no enquiry or any show cause notice was necessary before issuing cancellation of the said appointment letter.

- (4) Because under Rule 16 of the P & T EDA (Conduct & Service) Rules, 1964, the Director Postal Services, Lucknow was empowered to "review any order made under these rules, re-open the case and after making such enquiry as it considers necessary, may :-

(a) Confirm, modify or set aside the order;

OR

(b) Pass such orders as it deems fit.

- (5) Because in accordance with the said rules the Director Postal Services, Lucknow, the appointment of the petitioner was reviewed as a result of which the same was set aside with a direction to appoint some other most suitable candidate from amongst the candidates sponsored by the Employment Exchange.

(6) Because in the present case there has been no denial of natural justice. It has been specifically, not casually, admitted by the petitioner that he is the resident of Village Pali and according to the method of Recruitment for ED Mail Carriers, Runners and Mail Peons, the candidates should reside in the station of the main post office, ~~on~~ stage wherefrom mails originate/terminate. This fact has been explained by introducing the clarification; i.e., they should be permanent residents of the delivery jurisdiction of the post office. The relevant para of Method of Recruitment is reproduced below :-

"4(ii) E. D. Mail Carriers, Runners and Mail Peons should reside in the station of the main post office or stage wherefrom mails originate/terminate i.e. they should be permanent residents of the delivery jurisdiction of the post office.

The main post office in the present case is E.D. Post Office Jeora. It is from Jeora that Mails are taken to Pali and brought from there to Jeora Post office for distribution to the villages falling under the jurisdiction of Jeora Post Office. The applicant is not ~~at~~ the resident of Village Jeora or of any villages falling in the ~~xxxx~~ jurisdiction of Jeora Post Office.

7. Because the facts and circumstances of the case as indicated in the above paragraphs, would show that all fairness has been done in issuing the cancellation ~~order~~ of the <sup>appointment order</sup> ~~xxxxxx~~, dated 23.5.88 of the petitioner's and there has been no breach of natural justice. In this context it will be worthwhile to reproduce the observations of Hon'ble V.R. Krishna Iyer, J. ~~in this regard~~ as under :-



"Natural justice is no unruly horse, no lurking land-mine, nor a judicial cure-all. If fairness is shown by the decision maker to the man proceeded against, the form, features and the fundamentals of each essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating. We can neither be financial nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt - that is the conscience of the matter.

We cannot look at law in the abstract or natural justice as a mere artifact. Nor can we fit into a rigid mould the concept of reasonable opportunity. Every miniscule violation does not spell illegality. If the ~~xxxxxxx~~ totality of circumstances satisfies the court that the party visited with adverse order has not suffered from denial of reasonable opportunity the court will decline to be punctilious or fanatical as if the rules of natural justice were sacred scriptures.

(Chairman Board of Mining Examination and Chief Inspector of Mines V. Ram Jee, 1977 SCC (L. & S.) 226 ).

Wherefore, ~~xxx~~ in the circumstances it is most respectfully  
prayed that this Hon'ble Tribunal be pleased to review the case :-

filed by Shri Rakesh Babu  
(1) to dismiss the petition/with costs.

(2) to issue such other direction or order which the Hon'ble  
Tribunal may deem just & proper.

Lucknow :

Dated : 15-5-69.

*J. C. D.*

Counsel for the Applicant.

Respondents

AF

Reserved

Central Administrative Tribunal, Allahabad.  
CIRCUIT BENCH LUCKNOW.

Registration O.A.No. 356 of 1989 (L)

Rakesh Baboo

...

Applicant

Vs.

Superintendent of Post  
Offices, Hardoi Division  
Hardoi and others

....

Respondents.

Hon. D.K.Agrawal, JM

Hon. P.S. Habib Mohammad, AM

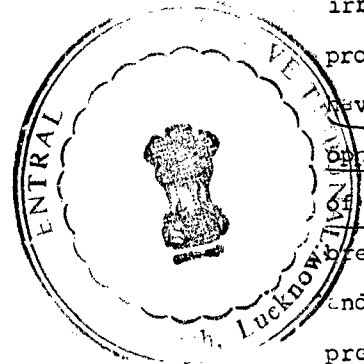
( By Hon. D.K.Agrawal, JM )

By means of this Application u/s.19 of the  
Administrative Tribunals Act XIII of 1985, the Applicant  
has prayed us for issue of writ of certiorari quashing  
the order dated 15.12.1989 passed by Superintendent of  
Post Offices, Hardoi Division, Hardoi.

2. Briefly, the facts giving rise to this Application  
are that in May 1988, a selection was held for appointment  
to the post of Extra Departmental Mail Career (for short  
EDMC). The Applicant was selected and appointed by an  
order dated 23.5.1988 as EDMC and since then he had been  
working. It appears that some complaints were made to the  
Post Master General. The Director, Postal Services held  
an enquiry and thereafter he directed the appointing  
authority to cancel his selection and appointment. In  
pursuance of that direction, the Superintendent of Post  
Offices, Hardoi Division, Hardoi by his order dated  
15.12.1989 cancelled the order of appointment dated 23.5.88  
of the Applicant and thereby relieved the Applicant of his  
duty immediately.



3. Learned counsel for the Applicant urged that the result of cancellation of appointment order was that the Applicant's services stood terminated without giving him any opportunity of hearing. We find considerable force in the contention. In the Counter Affidavit filed on behalf of the Respondents, it has been alleged that the Applicant's appointment has been cancelled on account of irregularities found in the selection. The Applicant has, however, asserted that he has not been given any opportunity of hearing at any stage- either during the course of inquiry or before issuance of the order. Since the Applicant had been appointed after his selection and had already worked for more than 18 months, he acquired a right to continue in service unless the same was terminated in accordance with rules. If there was any irregularity committed in the selection and the authorities proposed to cancel the selection, the Applicant should have been given an opportunity of hearing. Since no opportunity has been given to the Applicant, the principles of natural justice stand violated and order passed in breach of principles of natural justice is rendered null and void and it is not necessary to demonstrate any prejudice (See S.L.Kapoor Vs. Jag Mohan -A.I.R. 1981 S.C. 136).



4. Learned counsel for the Respondents urged that since the Applicant was appointed in temporary capacity his services were terminated without assigning any reason and as such, order of termination is valid. We find no substance in this plea. The impugned order dated 15.12.1989 indicates that the Applicant's services were not terminated in accordance with the terms and conditions of his service. The impugned order clearly mentions that

the appointment order was cancelled in pursuance of direction issued by Director, Postal Services. Consequently it is clear that the Applicant's services have not been terminated in accordance with the terms and conditions applicable to temporary Govt. servants, instead his appointment order has been cancelled and he has been put off duty under the orders of Director Postal Services as a result of an inquiry. In this view of the matter, in our opinion, the impugned order cannot be sustained in law.



5. In the result we allow this Application, quash the impugned order dated 15.12.1989. However, we may make it clear that the authorities will be at liberty to conduct the regular inquiry and take action, if warranted by law. There will be no order as to costs.

MEMBER (A) 19/4/1990

MEMBER (J) 19.4.90.

Dated: April, 1990  
kbb

C.T.C.

*Attested*  
*True copy*  
*M. Anwar*  
Deputy Registrar  
Central Administrative Tribunal  
Lucknow Bench,  
Lucknow