

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. No. of 1989Name of the parties Inayat Ulla Applicant;

Versus.

Union of India Respondents.

Part A.B.C.

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extra one for state Judgment copy

no
Certified that further action is required to take
& that the case is fit for assignment to the
respective rooms decided.

P. Tr

Checked

28/6/2011

Prakash
7/5/92

27/12/

(A1)

17/4/89

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Revision

Registration No. 80 of 1989(A)

APPLICANT(S)

Imayat Ulla

RESPONDENT(S)

UOI & others

Particulars to be examined

Endorsement as to result of examination

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

yes

yes

yes

Two sets

No representation made

yes

yes B.D. 827964 dt. 10.4.89
(50/-)

yes

yes

yes

yes

yes

NA.

No

(A2)

Particulars to be Examined

Endorsement as to result of examination

11. 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) Wanting 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 ?
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.

yes

No.

—

—

—

No.

yes

yes

NA.

yes

yes

yes

yes

yes

yes

No representation made at all.

dinesh/

May be listed before
Court on 17-4-89.

Submitted

11/4/89

S.O. (T)

11/4

DR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT COURT AT LOS ANGELES

O.A./T.A. No. 00

1989 Jul

1. Ulla

Applicant(s)

Versus

003

Respondent(s)

Sr. No.	Date	Orders
1714		<p>Hon. Justice K. Nath, V.C. Hon. Mr. D.S. Mishra, A.M.</p> <p>Issue notice to the O.P. to show cause why the petition may not be admitted and why the interim relief asked for be not granted. The applicant may perne O.P. No 3. out of court and notice to the rest be issued within twenty four hours & list for administrative order on 1-5-89</p> <p>AM. V.C.</p>
1914		<p>OR</p> <p>Notices issued to respondents ab. 1, 2 & 4 through regd. post.</p> <p>The applicant takes notice on behalf of respondent no-3 to serve the O.P. No-3.</p>
1-5-89.		<p>Hon. Justice K. Nath, V.C. Hon. Mr. D.S. Mishra, A.M.</p> <p>Shri C.B. Pandey holdship brief for Shri V.K. Dhanwan for the opposite parties requests for and is allowed one week time to file reply. List for orders on 10-5-89 on which date the applicant may file rejoinder. List for order on interim relief application.</p> <p>AM. V.C.</p>

h
1914

OR
Notices were issued & service report has been received & replaced in record

h
2114

OR
In compliance of the Court's orders dt 17-4-89, applicant has served the notice on respondent no 3 and files acknowledgment thereof supported with an affidavit.

Notices to the rest of respondents have been issued under regd. post.

Neither any notice nor any reply has so far been received in the office.

Submitted for order on Interim Prayer. (under)

Hon' Mr. D.S. Misra, A.M.

6/6/89

I have heard the learned Counsel Shri S.C. Misra for the applicant and Shri U.K. Dhavan, learned counsel for the respondents on the question of Interim relief. In the reply filed on behalf of the respondents, it has been stated that the order already has been effected and the applicant is already working on the lower reverted post. ^{by Jr.} ~~of Book~~ On the other hand it is pointed out by the learned counsel for the applicant that the applicant is still working on the post of ~~Newsroom Officer~~ ^{Jr. Booker} on the post previously held by him. He contents that this assertion is supported by the order dated 2-5-89 (copy Annexure 7) filed with the rejoinder).

I have considered the matter. On going through the order dated 2-5-89, relied upon by the learned counsel for the applicant, it is noticed that the applicant has been merely asked to look after the work of the post of Jr. Booker because the Jr. Booker Shri S.K. Sharma is on leave. In the circumstances, I am satisfied that the reversion order has already taken effect. The applicant can be suitably compensated financially, if he succeeds in establishing his claim and therefore, there is no justification for grant of interim relief. The prayer for interim relief is rejected.

The application is admitted for hearing.

In this case, the counter and rejoinder have been exchanged and ^{The Case is} ripe for hearing. List this case for final hearing on 6th July, 1989.

Shm
A.M.

(sns)

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

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

6/7/89

Learned counsel for the respondents refers to Annexure-VI which contains the direction of reversion of the applicant and says that the annexure is only a communication of order of reversion. It is pointed out that according to the annexure, the reversion order has been passed by the competent authority. The learned counsel for the respondents would like to file the order passed by the competent authority. The learned counsel for the applicant opposes the prayer, but we think it is fair to have on record the order passed by the competent authority. The Opp Ps. may file supplementary counter with the copy of the order and list this case for final hearing on 13-7-89.

(sns)

A.M.

V.C.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
2/1/90	<p>Hon' Mr Justice Kamleshwar Nath, V.C. <u>Hon' Mr K. Obayya, A.M.</u></p> <p>On the request of learned counsel for the applicant, list this case for final <u>hearing</u> on <u>27-2-90</u>. Shri U.K. Dhawan counsel for the opposite parties requests for and is allowed three weeks time to file supplementary counter to which the applicant may file supplementary rejoinder within two weeks thereafter.</p> <p style="text-align: center;">A.M. V.C.</p> <p>(sns)</p>	<p>OR</p> <p>No Supplement filed</p> <p>entry</p> <p>S</p> <p>L</p> <p>26/2</p>
27.2.90	<p>Hon Justice K. Nath. VC <u>Hon Mr. K. J. Ramon AM</u></p> <p>On the request of both the parties the case is adjourned to 3.5.90 for hearing</p> <p style="text-align: center;">A.M. VC</p>	<p>OR</p> <p>No Supplement filed</p> <p>CA filed</p> <p>S.F.H</p> <p>L</p> <p>25/2/90</p>
3-5-90	<p>Hon. Justice Mr. K. Nath. V.C. <u>Hon. Mr. K. Obayya. A.M.</u></p> <p>On the request of both the parties, case is adjourned to 14.8.90.</p> <p style="text-align: center;">A.M. VC</p>	<p>OR</p> <p>The L/c for the applicant was filed on 364/90 (4) for stay duty on the date. Date is already</p> <p>direct for 14.8.90</p> <p>Submitted for order</p> <p>L</p> <p>24/5/90</p>

Dinesh/

29.7.90



Honble Mr. Justice K. Nath V.C.
Honble Mr. K. Obayya A.M.

(A9)

80/89

Received copy
of order
J.M.L.
25.7.90

We have heard the learned counsel for the applicant and have gone through the C.A. filed on behalf of respondents 1 to 4. We direct that till the disposal of this case the post of Junior Booker shall not be filled up in a regular manner.

CA/RA have been exchanged. Fix for final hearing on 20.8.90.

(A.M.)

(V.C.)

OR CA & RA have not
been filed on the main
petition on behalf of O.P.M.S.
Submitted for
hearing

20/8

20.8.90

Honble D.K. Agrawal J.M.
Honble K. Obayya A.M.

The applicant in person, H.S. Tewari, UDC in the office of Branch Manager, Films Div. Lucknow. Applicant prays that the case be listed day after tomorrow. The case ~~is~~ accordingly be listed day after tomorrow for hearing.

(A.M.)

(J.M.)

Recd order copy of.

J.M.L.

1-10-90

(A10)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

....

Registration O.A. No. 80 of 1989(L)
Inayat Ulla Applicant
vs

Union of India and others ... Respondents

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

Hon' K. Chayya, A.M.

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

This application under section 19 of the Administrative Tribunals' Act, 1985, was filed on 11-4-1989 with the prayer that the order of reversion dated 27-3-1989 contained in Annexure-6, be quashed and the applicant be declared promoted as Junior Booker in the Office of Branch Manager, Films Division, Lucknow.

2. Briefly, the facts are that the applicant was appointed as Film Checker on 1-12-1967, promoted in due course on the post of Film Shipper and confirmed as such. The next promotion post was that of Junior Booker.

3. According to the Recruitment Rules the post of Junior Booker is required to be filled 50% by direct recruits and 50% by promotion from among Film Shippers who has put in 5 years regular service on the post. During the year 1984, a panel for filling up regular vacancies of Junior Booker falling under promotion quota

was drawn. Before drawing up the panel, the option from eligible candidates, regarding station of posting was obtained. The applicant gave option for his posting at Lucknow. The panel was drawn on December 4, 1984, wherein the name of the applicant also found place. However, since the applicant opted only for Lucknow, he was not promoted because at that time, 8 vacancies on the post of Junior Booker existed at Stations other than Lucknow, like, New Delhi, Bangalore, Vijayawada, Madurai, Bombay, Nagpur, Hyderabad and Trivandrum. The applicant was offered the promotion post at Hyderabad, but he declined to accept the same as his option was for posting at Lucknow, resulting in loss of seniority. However, the applicant continued to be posted on the post of Junior Booker on ad-hoc basis. Subsequently, Ministry of Personnel, Public Grievance and Pension (Department of Personnel and Training) issued instructions vide Office Memorandum No. 28036/8/87-Estt (D) dated March 30, 1988, which inter-alia laid-down that all the ad-hoc appointments should be reviewed and in any case no ad-hoc appointment should be continued beyond one year from the date of issue of Office Memorandum. Consequently, all ad-hoc appointments including that of the applicant were reviewed. The Ministry of Information and Broadcasting advised the Department to terminate all ad-hoc appointments by March 30, 1989. As a result thereof the impugned order dated 27-3-1989 was issued, whereby the person holding the ad-hoc

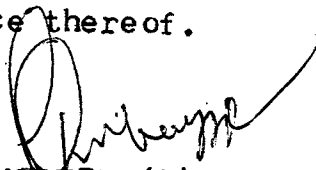
appointment as Salesman was reverted to the post of Senior Booker, the person holding ad-hoc post as Senior Booker was reverted to the post of Junior Booker and the applicant holding the ad-hoc appointment on the post of Junior Booker was reverted to the post of Film Shipper.

4. The subsequent development may also be stated to appreciate the controversy in question. One Radhey Shyam holding the post of Junior Booker at Vijayawada Branch Office was transferred on the post of Junior Booker in the Branch Office at Lucknow, vide order dated 15-5-1990. The applicant has raised his grievance in respect thereof. His contention is that although he has been made to loose his seniority only because he had opted his posting at Lucknow on the post of Junior Booker, but when the post of Junior Booker at Lucknow fell vacant, it has been offered to a junior person and the applicant has not been accomodated.

5. In the background of the facts stated above, it is clear that the applicant despite his empanelment for the post of Junior Booker could not be offered promotion on the post of Junior Booker for the last 3 years or so only because he exercised his option to remain at Lucknow. The only reason given out by the opposite party authority for the posting of Radhey Shyam at Lucknow ~~is~~ on the post of Junior Booker is that

he required medical treatment. We fail to understand, as to how the medical facilities were not available at Stations like, New Delhi, Bangalore, Madurai, Bombay, Nagpur, Hyderabad and Trivandrum etc. We are not at all satisfied with the explanation offered by the competent authority. It does not appear equitable to deny the seniority to the applicant, as well as, deny him the posting at Lucknow, when such a vacancy occurred at Lucknow. Fairness requires that the applicant should have been posted at Lucknow on the post of Junior Booker in the vacancy which occurred in May, 1990 or occurs hereinafter. We consider it proper to direct opposite parties to seriously consider the applicant for posting at Lucknow. We do expect opposite parties to act as a model employer and exhibit all fairness to its employees.

6. In view of the prayer clause contained in claim petition, as mentioned above in para no.(1), we cannot grant any relief to the applicant, because the reversion order dated 27-3-89 contained in Annexure-6 cannot be held to be illegal or bad in law. Therefore, this claim petition is to be dismissed, but we are dismissing it in the light of our observation made above in para 5 of the judgment and direct the respondents to make compliance thereof.


 MEMBER (A)


 MEMBER (J)

(sns)

September 28th, 1990,
Allahabad.

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In the Central Administrative Tribunal Additional
Bench, Lucknow.

Petition No. 80 of 1989. (4)

Inayat Ulla

--- Petitioner.

Versus

Assistant Administrative Officer
Film Division, Ministry of
Broadcasting and Information
Government of India, 24 Dr. G.Deshmukh
Marg, Bombay and others

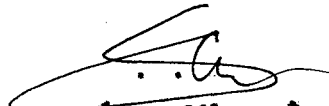
----- Respondents

I N D E X

Sl. No.	Particulars	Page.
1.	Petition	1-18
2.	Affidavit	19-20
3.	VAKALATNAMA	21
(4)	Impugned order dated 27/3/89 Annexure 406	

Lucknow.

Dt. 10.4.1989.


(S. J. J. J.)
Advocate.
Counsel for Applicant.

A-15

Date of filing	11.4.89
Registration No.	
Signature of	List before Court on 17.4.89
Registrar	

In the Central Administrative Tribunal Additional
Bench, Lucknow .

MA 80/0964

Inayat Ulla aged about 44 years son of Late
Sri Inam Ulla Junior Booklet Films Division
Government of India, Ministry of Information
and Broad Casting, 94 Durga Bhawan , Kapoor
Lane , Mahatama Gandhi Marg, Lucknow.

--- Applicant

Versus

1. Assistant Administrative Officer Films
Division , Ministry of Broad Casting
and Information Government of India ,
24 Dr. G. Deshmukh Marg, Bombay 400026.
2. Administrative Officer Films Division

filed today
noted for 11/4/89
AG
11/4/89

(A16)

- 2 -

Ministry of Broad Casting and Information
Government of India 24 Dr. G. Deshmukh
Marg Bombay 400026.

3. Branch Manager Films Division Lucknow
94 Durga Bhawan Kapoor Lane Mahatama
Gandhi Marg, Lucknow.

4. Union of India through its Secretary,
Ministry of Information and Broad

Casting, Shastri Bhawan, New Delhi.

5. Sri Radhey Shyam J.V. Booker Film Division (Govt. of India)
Gandhi Nagar Nagarkurnool, Pantul Road
Vijaywada (A.P.) --- Respondents.

Impleaded
Vide order
dated 25.5.90
J.M.H.
28.5.90

1. Particulars of Applicant :-

- (i) Name of Applicant :- Inayat Ulla
- (ii) Name of Father :- Late Inam Ulla.
- (iii) Designation and office in which employed. :- In the office of Branch Manager Films Division Lucknow as Junior Booker.
- (iv) Office address :- 94 Durga Bhawan Kapoor Lane, Mahatama Gandhi Marg, Lucknow.
- (v) Address for service of notice. :- Inayat Ulla Films Division Govt. of India Ministry of In-

877

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formation as Broad Casting ,
94 Durga Bhawan , Kapoor Lane
Mahatama Gandhi Marg, Lucknow.

2. Particulars of Respondents :-

(i) Name and designation of Respondents. :- 1. Assistant
Administrative
Officer Films
Division Ministry
of Broad Casting
and information
Govt. of India

(xx)

2. Administrative
Officer Films
Division, Ministry
of Broad casting
and Information
Govt. of India.

3. Branch Manager
Films Division
Lucknow.

4. Secretary Ministry
of Information and
Broad Casting.

5. Sri Radhey Shyam Sr
Gandhi Nagar
Nagpur Road - Pantul Road, Vijaywada (A.P.)

(ii) Office address of Respondents. :- 1. Assistant Adminis-
trative Officer
Ministry of Broad
Casting and In-
formation Govt.

AD

- 4 -

of India , 24 Dr. G.Deshmukh
Marg, Bombay 400026.

2. Administrative Officer Films
Division Ministry of Broad
Casting and Information Govt.
of India 24 Dr. G.Deshmukh Marg
Bombay 400026.
3. Branch Manager , Films Division
94 Purga Bhawan, Kapoor Lane
Mahatama Gandhi Marg, Lucknow
4. Union of India through its
Secretary , Ministry of
information and Broad Casting
Shastri Bhawan New Delhi.

- (iii) Address :-
1. Assistant Administrative
for ser- Officer Films Division
vice of Ministry of Broad Casting
Applica - and Information Government
tion. of India 24 Dr.G.Deshmukh
Marg, Bombay 400025.
 2. Administrative Officer
Films Division Ministry
of Broad Casting and infor-
mation Government of India
24 Dr. G.Deshmukh Marg ,
Bombay 400026.

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3. Branch Manager Films

Division 94 Durga Bhawan,
Kapoor Lane , Manatama Gandhi
Marg, Lucknow.

4. Union of India through Secretary
Ministry of Information and

Broad Casting , Shastri
Bhawan, New Delhi.

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

The order dated 27.3.1989 passed by
the Assistant Administrative Officer reverting
the applicant from the post of Junior Booker
to the post of Film Shipper.

Application is against the following orders.

- (i) Order No. A-12011/2/85-RC dated
27.3.1989 passed by the Assistant
Administrative Officer.

(ii) Subject in brief :-

Order reverting the applicant from
the post of Junior Booker to the post
of Films Shipper.

4. Jurisdiction of the Tribunal :-

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

5. Limitation :-

The applicant further declares that as the order is dated 27.3.1989 , as such is within the limitation of Prescribed under Section 21 of the Administrative Tribunal Act.

6. Facts of the case. : -

- (1) That the applicant was appointed as a Film Checker on 22.11.1967 and in pursuance of the aforesaid Appointment letter he joined on that post with effect from 1.12.1967.
- (2) That as the petitioner's work was satisfactory and was appreciated by all the superior officers , therefore taking into consideration the hard work of the petitioner he was promoted to the post of Film Shipper on adhoc basis on 30.12.1970. Subsequently when a regular Shipper became available he was reverted to his substantive post of Film Checker on 21.9.1971. He was subsequently promoted to the post of Film Shipper on 22.2.1972 and was confirmed on that post by order dt. 28.4.75. A photo copy of the aforesaid order confirming the applicant with effect from 1.7.74 is being annexed herewith as

Annexure No. 1 to this application.

Although the petitioner was confirmed on that post. However, subsequently ⁱⁿ ~~by~~ treating him to be on adhoc basis, he was reverted back again on the post of Film Checker on 3.12.1976. He was again promoted as a Film Shipper on 9.11.1977.

- (3) That on 12.7.1978 an Interview letter was issued for the post of Film Shipper. In pursuance of the aforesaid inter-view letter the petitioner appeared in the aforesaid interview on 26.7.1978 and he became successful in the said interview and as such promotion orders were passed promoting him to the post of Film Shipper in a regular vacancy by order dated 8.7.1978 with effect from 27.11.1977. A photo copy of the aforesaid letter is being annexed herewith as Annexure No. 2 to this application.

- (4) That it will not be out of place to state here that the opposite parties 1 and 2 had made an offer to the petitioner for promoting him to the post of Junior Booker and for that purpose they had sought petitioner's consent as to whether he wants promotion although he may be transferred to some other station. However, the petitioner refused to be promoted and placed outside Lucknow. However he gave his consent for promotion to the post of

Junior Booker at Lucknow . It will not be out of place to state here that in accordance with the services rules the person who sought the consent of the petitioner for the purposes of Promotion and also in accordance with the C.C.A. Rules it is provided that if an offer is made for promotion and the applicant refused then no promotion could be made within one year, ^{but} ~~thereafter~~, thereafter promotions ^{but} ~~could~~ be made. In this view of the matter the petitioner was again offered promotion for outside Lucknow, ^{but} ~~however~~ the applicant did not give his consent.

- (5) That thereafter several offers were made for promotion of the petitioners . However ~~as~~ the applicant was not willing to go outside Lucknow and therefore, he refused them. In this connection it will not be out of place to state here that even after his refusal a promotion letter was issued on 11.10.1985 promoting and transferring him to ^{Hy} ~~Hy~~derabad on the post of Junior Booker. A photo copy of the aforesaid letter is being annexed herewith as Annexure No. 3 to this petition. The aforesaid facts clearly reveal ^{that} that the work and conduct of the petitioner was appreciable and there was nothing adverse

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in his Character Roll whatsoever or else he may not have been made repeated offers of promotion.

(6) That subsequently on 31.3.1986 the applicant was promoted on the post of Junior Booker. A photo copy of this promotion order is being annexed herewith as Annexure No. 4 to this application. It will not be out of place to state here that when the consent for promotion was taken by the circular issued on 6.4.1984 in that Circular Lucknow Branch was also included and inspite of the fact that the applicant had given his consent for giving him promotion at Lucknow, no promotion was given to him till the passing of Annexure no. 4. A photo copy of the aforesaid Circular dated 6.4.1984 is being Annexed herewith as Annexure No. 5 to this application.

(7) That it will not be out of place to state here that a perusal of Annexure No. 4 would reveal that the said order has been passed by the Administrative officer and has been signed on behalf of him by the Assistant Administrative officer. As a matter of fact the appointing authority as well as the promoting authority of the applicant is Administrative officer and not the

Assistant Administrative Officer.

(8) That while the petitioner was performing his duties satisfactorily he was shocked to receive a letter dated 27.3.1989 on 30.3.1989 & that ^{to} at the end of the day^{at} at 5.30 P.M. reverting him ~~to~~ from the post of Junior Booker of the Films Division and that too without assigning any rhyme or reason. It will not be out of place to state here that no regular person has ~~also~~ been posted in place of the applicant. Only arrangement at the place of applicant has been made by reverting two other persons also and by these three reversions the result was that top post of Salesman became vacant and the same is still lying vacant. A copy of the above order dt. 27-3-89 is being enclosed as annexure No. 6.

(9) That a perusal of the aforesaid letter would reveals that the decision for reverting the applicant was not that of the opposite parties 1 and 2 but this decision has been taken by the Government of India in the Ministry of Personal Grievance and Functions and department of personal training. It is respectfully submitted that so far as the aforesaid department is concerned that is an in-

dependent department and the petitioner has nothing to do with that department. It will not be out of place to state here that the Manager of Public Relations and Personnel Department etc. has imposed its decision on the appointing authority and as such the O.P. i.e. the appointing authority has not exercised their own discretion & judgment and therefore the aforesaid order is absolutely illegal and without any authority.

- (10) That it will also not be out of place to state here that although the letter speaks for some review of the cases. However, no review whatsoever has been taken place and even if it is assumed that some sort of review has taken place the applicant has not been informed about that and has not been allowed to participate in that, although the decision for reversion was being taken against him and even then he has not been given any opportunity to put up his case and every thing has been unilaterally decided on the instructions of the Ministry in the Personnel and Public Grievance department.
- (11) That the impugned order refers to two office memorandums of the Govt. of India Dt. 30.3.88 and 7.3.89 and it is stated in the impugned order that the same is being passed in pursuance to the directions given in the said orders. However till date the petitioner has not been supplied the copy of the above said Govt. orders thereby making the impugned order totally a non speaking and without reason.
- (12) That when the post and work on which the petitioner and the other adhoc employees are working is still continuing and existing there is no justification for the Govt. to issue any such general directions of terminating and reverting the Adhoc employees after one year. Even otherwise since the petitioner has worked for about 3 years i.e. much more than one year the above said Government orders are not applicable in his case and he could not have been reverted in pursuance to the above said Govt. orders.

7. RELIEFS :-

In view of the facts stated herein above particularly in paragraph 6 of the application.

it is most respectfully prayed that the order dated 27.3.1989 be quashed and the applicant be declared to be regularly and permanently promoted as Junior Booker with effect from 1984 when the last offer was made to the applicant.

- (ii) That the opposite parties be directed to pay the salary to the petitioner regularly as and when it falls due each and every month for the post of Junior Booker.
- (iii) That the cost of the Petition be awarded in the favour of applicant and against the opposite parties.

GROUND

That the aforesaid reliefs are sought on the basis of inter alia on the following grounds.

- A. BECAUSE the impugned order of reversion is without any authority in as much as, ~~xxx~~ ~~not~~ the appointing authority of the applicant is Administrative Officer and it was the Administrative officer who has made the promotion. The Assistant Administrative officer who has passed the reversion order is ^{not} ~~neither~~ the appointing

authority of the petitioner and is also below the Administrative officer and as such he could not exercise the powers of reversion.

- B. BECAUSE the powers of Administrative officer have not been delegated in the service matters and therefore the impugned order is without any authority.
- C. BECAUSE the impugned order is not the own decision of the appointing authority but the said decision has been imposed by the Ministry of Personnel Public and Pension Department of Personnel and Training and in view of those directions the petitioner has been ^{blindly} reverted. In this view of the matter the reversion order is without authority.
- D. BECAUSE the impugned order although speaks of Review but no such review has taken place.
- E. BECAUSE even though it may be assumed ^{then} that some review has taken place ^{the} said review has taken place behind the back of the applicant and he has not been joined in the said review and the decision has been ^{imposed} ~~imposed~~ upon him and as such the impugned

A28

- 14 -

order passed on the said review , including the review itself is absolutely illegal and against the provisions of natural justice and fair play.

F. BECAUSE the applicant could not have been reverted ~~only~~ until and unless a regular incumbent would have been available for taking his place. There was no subh incumbent ^{du} ~~was~~ available ^{in fact} and the reversion of the petitioner has resulted in reversion of the other persons who were above him and it would not be held at any stretch of imagination that the work and conduct of all the persons was not good or review was against them. As a matter of fact the directions issued by the Ministry has resulted ^{du} ~~in~~ in ^a chain reversion of the officers in the Branch. This is not only illegal , but uncalled for and arbitrary.

G. BECAUSE there is no reason whatsoever why the applicant has been not found suitable in review although offers have been made to him promote him not once but several times looking into his work and conduct etc. and it was the applicant who had refused several times to be promoted only for the reason that he was being posted outside Lucknow and he

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- 15 -

would have not been able to maintain his family at two places.

- H. BECAUSE IN view of the facts stated above it is apparent on the face of the record that the reversion order has been passed without application of mind whatsoever without looking into the service records in a mechanical manner which amounts to illegal exercise of authority.
- I. BECAUSE the impugned order refers to two office memorandum of the Government of India dated 30.3.1988 and 7.3.1989 and it is stated in the impugned order that the same is being passed in pursuance to the directions given in the said order. However till date the petitioner has not been supplied the copy of the above said Government orders thereby making the impugned order totally a non speaking and without reason.
- J. BECAUSE when the post and work on which the petitioner and the other adhoc employees are working is still continuing and existing there is no justification for the Government to issue any such general directions of terminating and reverting the Adhoc employees after one year. Even otherwise since the petitioner has worked for about 3 years that is much more than one year the above said Government orders are not appli-

A30

- 16 -

cable in his case and he could not have been reverted in pursuance to the above said Govt. orders.

8. INTERIM ORDER :

The applicant for the facts and reasons stated herein above prays that the Hon'ble Tribunal be kindly pleased to stay the implementation of the the operation of the impugned order dated 27.3.1989 contained in Annexure No. 6 passed by the opposite - party no. 1 to the petition, till the pendency and final disposal of the application and an ad interim order to the same effect be also passed.

9. DETAILS OF REMEDY EXHAUSTED :-

That no equally , efficacious and alternative remedy or departmental remedy is available to the applicant therefore, he has not applied for any of other authorities.

10. The applicant further declares that the matter regarding the reversion of the applicant contained in this application is not the subject matter of any application pending or decided before in any court of law or other authority or any other branch of the Tribunal.

11. Particulars of the Bank Drafts/ Postal order

(A2)

In respect of the application fee :-

(i) Name of the
Bank on which
drawn.

(ii) Demand Draft No.
or

1. Particulars of
Indina Postal
Orders.

DD/4 827964

2. Name of the
issuing Post
Office.

Seigh Court HKO

3. date of issue
of the Postal
order.

10.4.89

4. Post office
at which pay-
able.

Seigh Court HKO

12. List of Enclosures :- 6 Enclosures

Lucknow

Dt. 11 4.1989

S. M. S.
Applicant.

132

- 18 -

Verification

I, the applicant Inayat Ulla aged about 41 years son of Late Sri Inam Ulla Junior Booker Films Division Government of India Ministry of Information and Broad Casting 94 Durga Bhawan, Kapoor Lane, Mahatama Gandhi Marg, Lucknow do hereby solemnly affirm and state on oath as under.

1. That the contents of paras 1 to 13 of this application are true to my personal knowledge, and belief and that I have not suppressed any material facts.

Lucknow

Dt. 10 4.1989

J. Ullah

Applicant.

(A33)

19

In the Central Administrative Tribunal Additional
Bench, Lucknow.

Petition No. of 1989.

Inayat Ulla --- Applicant.

Versus

Assistant Administrative Officer
Films Division Ministry of Broad-
casting and Information Govt. of
India Bombay and others --- Respondents.

A F F I D A V I T

I, the deponent Inayat Ulla aged about 44
years son of & Late Inam Ulla , Junior Booker Films
Division Government of India Ministry of Information
and Broad Casting , # 94 Durga Bhawan Kapoor Lane
Mahatama Gandhi Marg, Lucknow do hereby solemnly
affirm and state on oath as under.

1. That the deponent is applicant in the above
noted petition and as such he is well conversant with
the facts and circumstances of the case.
2. That the contents of paras 1 to of
the accompanying application are true to my own
knowledge, and those of paras to

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(A94)

- 2 -

are based on legal advice and paras to
are based on record.

3. That the deponent verifies that Annexures
1 to of the petition are true/
photo copies of original duly compared.

Lucknow

Dt. 10 4.1989

Deponent.

Verification

I, the deponent above named do hereby verify
that the contents of paras 1 to 3 of this affidavit
are true to my own knowledge.

No part of it is false and nothing material
has been concealed so help me God.

Lucknow

Dt. 10 4.1989

Deponent.

I identify the deponent
who has signed before me.

Advocate.

A35

In the Central Administrative Tribunal Additional
Bench, Lucknow.

Petition No. of 1989.

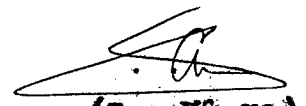
Inayat Ulla ----- Petitioner.

Versus

Assistant Administrative Officer
Film Division, Ministry of
Broadcasting and Information
Government of India, 24 Dr. G. Deshmukh
Marg, Bombay and others. ----- Respondents.

I N D E X

Sl. No.	Particulars	Page.
1.	Annexure No.1. Photo copy of the order dt. 28.4.1975.	1
2.	Annexure No.2. Photo copy of the letter dated 12.7.1978.	2
3.	Annexure No.3. Photo copy of the promotion letter Dt. 11.10.1985.	3
4.	Annexure No.4. Photo copy of the promotion order dt. 31.3.1986.	4
5.	Annexure No.5. Photo copy of the circular Dt. 6.4.1984.	5
6.	Annexure No.6. Photo copy of Reversion order dt. 27.3.1989.	6


(S. M. Nigra)
Advocate.

Lucknow.

Dt. 10 4. 1989.

counsel for Applicant.

A36

No.26/2/68-Est.II
Films Division
Ministry of Information & Broadcasting
Government of India

24-Peddar Road, Bombay-26,
Dated the 28th April, 1975

ORDER

The undermentioned Film Checkers have been appointed substantively against the permanent posts of Film Checker in this Division with effect from the dates shown against them:-

- (1) Shri P.S. Gopalakrishnan
- (2) Shri P.S. Satyanarayana
- (3) Shri S.H. Sarwate
- (4) Shri Innayut Ullah

16th October, 1969
3rd November, 1969
8th November, 1969
1st April, 1974

(M. N. Jain)

Asstt. Administrative Officer
for Administrative Officer

Copy to:-

Registered A/E

- (1) All the officials mentioned above. (Shri Innayut Ullah)
- (2) The Branch Manager, Films Division, Madras with the request to hand over one of the three enclosed orders to Shri P.S. Gopalakrishnan.
- (3) The Branch Manager, Films Division, Hyderabad with the request to hand over one of the three enclosed orders to Shri P.S. Satyanarayana.
- (4) The Branch Manager, Films Division, Nagpur with the request to hand over one of the three enclosed orders to Shri S.H. Sarwate.
- (5) The Branch Manager, Films Division, Lucknow with the request to hand over one of the enclosed three orders to Shri Innayut Ullah.
- (6) The Accountant General (Central) Maharashtra, Bombay. The officials have been confirmed against the posts indicated below:-
 - (a) Shri P.S. Satyanarayana Vice Shri M.B. Jere,
Permanent Film Checker
died on 25-3-1968.

Recd
A/c

(A37)

2

No.A-12021/24/77-Est.II
Films Division
Ministry of Information and Broadcasting
Government of India

24-Peddar Road, Bombay-26.
Dated the 12th July, 1978

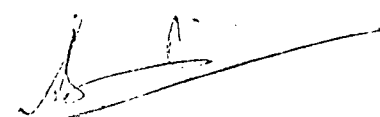
MEMORANDUM

As requested by Shri/ Inayat Ullah, Offg. Film Shipper his case for appointment as Film Shipper is being considered. He is required to appear for interview for this purpose on 26-7-1978 at 11.00 A.M. in this office at the address given above. Shri Inayat Ullah may appear for the interview at the time and date specified above alongwith all original certificates regarding, age, sub-caste (in case of S/C or S/T.) qualifications and previous experience.

2. It may please be noted that he will not be entitled to the payment of any travelling allowance or out of pocket expenses. There is also no guarantee that he will be appointed to the post.

By Reg. A.D.

Shri Inayat Ullah,
Film Shipper,
Films Division,
Lucknow Branch.


Assistant Administrative Officer
for Administrative Officer

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In c. 10/1

Ans
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No. A-32016/4/81-Est. II (RC)
Films Division
Ministry of Information and Broadcasting
Government of India

24-Dr. G. Deshmukh Marg, Bombay-26.
Dated the 11th October, 1985.

O R D E R

On the recommendations of the Departmental Promotion Committee the competent authority hereby appoints Shri Inayat Ullah, Permanent Film Shipper in the Distribution Branch office of the Films Division at Lucknow to officiate as Junior Booker in Films Division Branch office at Hyderabad in the scale of pay of Rs. 330-10-380-EB-12-500-15-560 with effect from the date he takes over charge in the post.

2. Shri Inayat Ullah will be on probation for a period of two years from the date of his appointment, which may be extended at the discretion of the competent authority.

3. Transfer of Shri Inayat Ullah from Lucknow to Hyderabad is in the public interest. Sanction is also accorded to the drawal of advance of transfer TA, pay, etc. by him as admissible under the rules.

(R. P. Parmar)
Assistant Administrative Officer

Shri Inayat Ullah,
Permanent Film Shipper,
Films Division,
Branch office,
L U C K N O W.

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No. A-12021/99/81-Est. II (RC)
Films Division
Ministry of Information and Broadcasting
Government of India

21-Dr. B. Deshmukh Marg, Bombay-26,
Dated the 31st March, 1966.

O R D E R

The Administrative Officer, Films Division, Bombay, on the recommendation of the Officer-in-Charge of Distribution, hereby orders the following appointments in Lucknow Branch to take effect immediately :-

- 1) Shri Inayat Ullah, Offg. Film Shipper to officiate as Junior Ecker in the scale of pay of Rs. 330-10-330-31-12-500-ES-15-560.
- 2) Shri Mohan Lall, Quasi-Fmt. Film Checker to officiate as Film Shipper in the scale of pay of Rs. 260-6-326-B-3-350 vice Shri Inayat Ullah.

2. The appointments of the above mentioned officials are purely on ad-hoc basis without prejudice to the claims of others and do not confer any right on them for regular appointment to the posts.

(R. P. Parmar)
Assistant Administrative Officer
for Administrative Officer

- ✓
- 1) Shri Inayat Ullah,
Offg. Film Shipper,
Films Division,
Lucknow.
 - 2) Shri Mohan Lall,
Quasi-Fmt. Film Checker,
Films Division,
Lucknow.

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No. 4 32016/4/81-Est-II (Rc)
 FILMS DIVISION
 MINISTRY OF INFORMATION & BROADCASTING
 GOVERNMENT OF INDIA

24-Dr. G. D. Deshmukh Marg, Bombay-26
 Dated the 6-4-1954

- M E M O R A N D U M -

Appointments to posts in different cadres (Group 'C' and 'D'), which are required to be filled by promotion in accordance with the Recruitment Rules prescribed for each post in this Division, are made on the basis of seniority-cum-fitness or by selection. Common All-India seniority in various cadres is being maintained in this Division. This necessitates appointments of persons on select lists for various posts by promotion with posting at places where vacancies exist. Experience has shown that in number of cases persons, who are issued appointment orders on promotion, refuse such promotions. This results in number of posts remaining unfilled for long durations and, in consequence, work in office and production of films etc. suffer.

2. According to the Government orders, where a Government employee does not want to accept the promotion, which is offered to him, he may make a written request that he may not be promoted and such requests would be considered by the appointing authority taking into consideration relevant aspects. If the reasons for refusal of promotion are acceptable to the appointing authority, then next person in the select list is to be promoted. The person refusing promotion stands debarred from promotion for a period of one year from the date of refusal of such promotion. In the event of junior person on the select list accepting the promotion, he would become senior to the person or persons who refuse such a promotion. Keeping in view these instructions and the difficulties experienced in filling of vacant posts, it has been decided, with the approval of the Ministry, to ascertain from all eligible candidates their willingness to accept promotion for the post of Junior Beoker for which the vacancies exist at following places/stations. Only such of the eligible persons, who express their willingness to accept promotion with posting to places/stations where vacancies exist, will be included in the zone of consideration for drawing up of select lists for higher posts to be filled by promotion in each cadre. Those who express their unwillingness will, thereby stand debarred for one year even for consideration for promotion to a higher post from the date of their written unwillingness.

Sr.No.

Place

In all the Distribution Branch

Offices 3 Film Division and New Delhi.

inclosed
 An

(24)

No.A-12011/2/85-RC
Films Division
Ministry of Information and Broadcasting
Government of India

24-Dr.C.Deshmukh Marg, Bombay-400026.
Dated the 27th March, 1989.

O R D E R

Govt.of India, Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training, vide their Office Memo.No.28036/8/
87-ESTT(D) dated the 30th March, 1988 had laid down that all ad-hoc
appointments should be reviewed and those appointments should not be
continued beyond one year from the date of their Office Memorandum i.e.
30-3-1988. This decision has recently been reiterated by the Ministry
of I&B vide their telex No.A-42020/15/89-F(A) dated 7-3-1989.

2. In view of the instructions cited above, the cases of ad-hoc
appointments existing in the Films Division have been reviewed. As a
result of the review, the competent authority has decided that the
following ad-hoc appointees in the Distribution Branch Office at Lucknow
will stand reverted to their regular posts w.e.f. the afternoon of
29-3-1989 and continued in the same station :-

Sr. Name & Post held on ad-hoc basis.	Regular post to which he will be reverted on 29-3-1989 (AN).
No.
1. Shri K.K. Chawla, Salesman	Senior Booker
2. Shri S.K. Sharma, Sr.Booker	Junior Booker
3. Shri Inayat Ullah, Jr.Booker	Film Shipper

Assistant Administrative Officer:

1. The Officials concerned, H. & M.
2. The Branch Manager, Films Division, Lucknow. Necessary orders regarding fixation of pay of these officials may please be issued under intimation to this office.
3. Est.II Section
4. Distribution Wing
5. Review file
6. Costing Section
7. Vigilance Section
8. Office Order Book

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(A42)

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

COUNTER-AFFIDAVIT ON BEHALF
OF RESPONDENTS.

In re

O.A. NO. 80 OF 89 (L)

Inayat Ullah. Applicant.

V E R S U S

Assistant Administrative Officer

Film Division and others. Respondents.

I, M. Selvan, aged about 34 years, son of Shri C. Marimuthu, Branch Manager, Film Division, Lucknow, do hereby solemnly affirm and state on oath as under :

1. That the deponent is respondent no. 3 and pairokar of respondents no. 1, 2 and 4 in the instant petition. The contents of the petition have been read over and explained to the deponent who has understood the same and its para-wise reply is as under.
2. That with respect to the contents of para 6(1) of the petition it is submitted that the applicant was appointed as Film checker in Film Division with effect from December 1, 1967 and was posted at Distribution ~~Branch~~ Branch Office at Lucknow.
3. That the contents of para 6(2) of the petition as stated are not correct. It is further submitted that the applicant was appointed to the post of Film Shipper purely on ad-hoc basis with effect

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-2-

December 30, 1970 in the leave vacancy as he happened to be senior-most locally available at Lucknow and not on the basis of merit. He was reverted to his regular ~~post~~ post on August 31, 1971 (After-Moon) and not on September 21, 1971 as contended by the applicant. He was again appointed to the post of Film Shipper purely on ad-hoc basis with effect from November 15, 1971 and not on February 22, 1972 as contended by the applicant, pending filling up of the post by direct recruitment on regular basis and the applicant continued to work on the same post till January 6, 1977. It is not correct to say that he was confirmed on the post of Film Shipper with effect from July 1, 1974 vide order dated April 28, 1975. According to the orders dated April 28, 1975, the applicant was appointed substantively and confirmed in the post of Film Checker with effect from April 1, 1974. On his informing that he was educationally qualified to the post by passing H.S.C. Examination in 1975, initially, he was appointed to the post of Film Shipper purely on ad-hoc basis with effect from November 23, 1977 and not on November 9, 1977 as contended by the applicant against a vacancy which was to be filled by direct recruitment vide Order No. A-12021/33/77-Est. II, dated November 19, 1977 and Branch Manager's letter dated November 24, 1977. The photo-stat copies of the orders dated September 21, 1971, February 22, 1972, December 3, 1976, January 7, 1977, November 19, 1977 and November 24, 1977 are filed herewith as Annexures No. C-I, C-II, C-III, C-IV, C-V and C-VI

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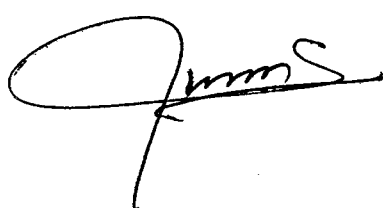
respectively to the counter-affidavit.

That

4. With respect to the contents of para 6(3) of the petition only this much is admitted that Annexure No. 2 referred to in this para was issued to the applicant, rest of the contents of this para as stated are denied. It is further submitted that as per the Recruitment Rules which were in vogue in 1977/1978 the post of Film Shipper was to be filled 100% by direct ~~recruitment~~ recruitment. As the applicant was fulfilling the requirements prescribed for direct recruitment, he was selected for appointment to the post of Film Shipper on July 26, 1978 and was appointed on regular basis to the said post with retrospective effect from November 23, 1977 vide Order No. A-12021/24/77-Est. II, dated September 8, 1978. The dates mentioned by the applicant are not correct. A photo-stat copy of the letter dated September 8, 1978 is filed herewith as Annexure No. J-VII to the counter-affidavit.

5. That the contents of para 6(4) of the petition need no comments.

6. That with respect to the contents of para 6(5) of the petition only this much is admitted that Annexure No. 3 was issued, rest of the contents of this para as stated are denied. It is further submitted that according to the Recruitment Rules for the post of Junior Booker in the Film Division the post is required to be filled 50% by direct recruitment and 50% by promotion from amongst

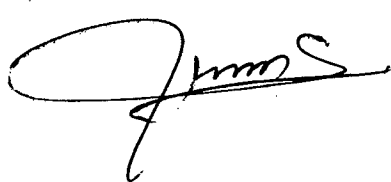


Annex

-4-

Film Shippers who have put in 5 years regular service in the post. During the year 1984, a panel for filling up some regular vacancies of Junior Booker falling under promotion quota was drawn. Before drawing up the panel the options from the eligible Film Shippers for being considered for promotion and choice of their posting were obtained. The applicant gave option for consideration of his name for promotion and gave preference of posting at Lucknow. The panel drawn on December 4, 1984 ~~included~~ included 8 vacancies at New Delhi, Bangalore, Vijayawada, Madurai, Bombay, Nagpur, Hyderabad and Trivandrum. The name of the applicant was placed on the panel and he was accordingly offered the post of Junior Booker at Hyderabad where a vacancy existed. The applicant declined the offer and expressed his desire to continue in Lucknow as Film Shipper. The photo-stat copy of the letter dated October 22, 1985 of the applicant is filed herewith as Annexure No. C-VIII to the counter-affidavit.

7. That with respect to the contents of para 6(6) of the petition only the Annexures No. 4 and 5 are admitted, rest of the contents of this para as stated are denied. It is further submitted that the applicant was promoted to the post of Junior Booker with effect from March 31, 1986 purely on ad-hoc basis without prejudice to the claims of others and do not confer any right on it for regular appointment. As already stated in para 6 above, the panel drawn on December 4,



A 416

1984 included vacancies at New Delhi, Bangalore, Vijayawada, Madurai, Bombay, Nagpur, Hyderabad and Trivandrum. There was no clear vacancy of Junior Booker in Lucknow Branch. Though in the Cyclostyled memorandum issued to all eligible Film Shippers including the applicant on April 6, 1984 it was inadvertently indicated that in all the Distribution Branch Offices of the Films Division and New Delhi the vacancies existed, yet no vacancy of Junior Booker was available at Lucknow.

8. That the contents of para 6(7) of the petition as stated are denied. It is further submitted that the order ~~stated~~ of reversion has been passed by the appointing authority but the order has been communicated by the Assistant Administrative Offi
9. That with respect to the contents of para 6(8) of the petition only this much is admitted that an order dated March 27, 1989 was served upon the applicant, rest of the contents of this para as stated are denied. It is further submitted that the applicant was holding the post of Junior Booker purely on ad-hoc basis against the chain vacancy caused by promotion of one Senior Booker to the post of Salesman on ad-hoc basis. The post of Salesman could not be filled on regular basis as the eligible officials in the feeder cadre did not satisfy the requirement of qualifying service. Though necessary action has been taken by the Department to get the relaxation in respect of the officials in the post of Senior Booker with regard to their qualifying service, the appointment to the post of Salesman could not be made so far on regular basis. Normally the

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persons working on the post of Salesman, Senior Booker, Junior Booker (applicant) would have been allowed to continue on ad-hoc basis till a regular incumbent is available for the post of Salesman. However, it became necessary to revert the applicant as the persons working in the chain vacancy of Salesman and Senior Booker were reverted to their regular posts of Senior Booker and Junior Booker respectively, in view of the instructions contained in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Office Memorandum No. 28036/8/87-Estt (D) dated March 30, 1988 which inter-alia laid down that all the ad-hoc appointments should be reviewed and in any case no ad-hoc appointment should be continued beyond the period of one year from the date of issue of Office Memorandum. As laid down in the Department of Personnel's Office Memorandum cited above, all ad-hoc appointments including that of the applicant were reviewed. The administrative Ministry viz the Ministry of Information and Broadcasting was also consulted in the matter. The Ministry of Information and Broadcasting advised the Department to terminate all ad-hoc appointments by March 30, 1989, if possible, by making regular appointments. As the applicant was holding the post of Junior Booker purely on ad-hoc basis against the chain vacancy caused by promotion of one Senior Booker to the post of Salesman on ad-hoc basis and as the incumbent of the post of Salesman was reverted to his regular



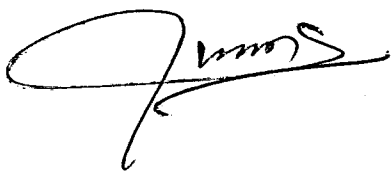
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post of Salesman and there is no vacancy of Junior Booker at present, the only course left was to revert the applicant to his regular post of Film Shipper. The photo-stat copies of the Office Memorandum dated March 30, 1988 and the Telex message dated March 7, 1989 are filed herewith as Annexures No. C-IX and C-X respectively, to the counter-affidavit.

10. That the contents of para 6(9) of the petition as stated are denied. It is further submitted that the applicant was not appointed to the post of Junior Booker on regular basis. He was appointed ~~was~~ purely on ad-hoc basis which would not bestow on him any right for regular appointment. Since the Department of Personnel and Training is the Authority empowered to regulate the service conditions of all Central Government servants, the Appointing Authority, in compliance with the orders issued by the Department of Personnel and Training issued orders for the reversion of the applicant. Incidentally, it may be mentioned that while taking this decision the Appointing Authority had also consulted the Administrative Ministry viz. the Ministry of Information and Broadcasting.

11. That the contents of para 6(10) of the petition as stated are denied. It is further submitted that as indicated in the reversion order dated March 27, 1989, the cases of ad-hoc appointments



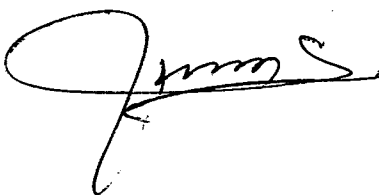
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in the Films Division were reviewed and as a result of the review the ad-hoc appointees including the applicant were reverted to their regular posts. The question of consulting the applicant in this regard does not arise.

12. That with respect to the contents of para 6(11) of the petition only this much is admitted that the order dated March 27, 1989 contained in Annexure no. 6 to the petition was passed on the basis of the Ministry's letter dated March 30, 1988 and the Telex message dated March 7, 1989, rest of the contents of this para are denied. It is further submitted that it is not the practice of Government Departments to supply each and every copy of the orders issued by the Government from time to time to each of its employees. As these Government Orders purely pertain to Administrative matters, those were not circulated amongst all employees except to administrative staff.

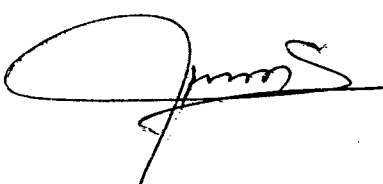
13. That with respect to the contents of para 6(12) of the petition only this much is admitted that the posts on which the applicant and other ad-hoc employees were working are still continuing and are still in existence, rest of the contents of this para as stated are denied. It is further submitted that the applicant was holding the post of Junior Booker purely on ad-hoc basis against the chain vacancy caused by promotion of one Senior Booker to the post of Salesman on ad-hoc basis. As the persons working in the chain



vacancies of Salesman and Senior Booker respectively, there was no other vacancy of Junior Booker available against which the applicant ~~could~~ could be adjusted. He was, therefore, reverted to his regular post of Film Shipper, as he was working as Junior Booker only on ad-hoc basis.

14. That with respect to the contents of para 7 of the petition it is submitted that the applicant is not entitled for any relief. The order dated March 27, 1989 was served upon the applicant on March 30, 1989 and it has been given effect to and since then the applicant is working on the post of film shipper. The pay of the applicant for the post of Film Shipper has been re-fixed in pursuance of the order dated March 27, 1989 and the applicant was served with the order dated April 3, 1989 by which the pay of the applicant was re-fixed by the deponent. The photo-stat copy of the order dated April 3, 1989 is filed herewith as Annexure No. C-XI to the counter-affidavit.

15. That the grounds taken in the petition are untenable. The petition has no force and deserves to be dismissed with costs.




16. That with respect to the contents of para 3 of the petition it is submitted that as the applicant has already been reverted to his regular post and the order dated March 27, 1989 has already been implemented and since then the

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the applicant is working as Film Shipper, (he is not entitled for any relief from this Hon'ble Tribunal).

Lucknow dated
May 8, 1989.


Deponent.

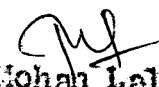
VERIFICATION

I, the above-named depoment do hereby verify that the contents of paras 1 to 14 and 16 except portion within brackets in para 16 of this counter-affidavit are true to my own knowledge based on perusal of relevant records and documents and the contents of para 15 and portion within brackets in para 16 of this counter-affidavit are believed by me to be true on the legal advice tendered and no part of it is false and nothing material has been concealed, so help me God.

Signed and verified this 8th day of
May, 1989 in the court compound at Lucknow.


Deponent.

I identify the depoment who is personally known to me and who has signed in my presence.


(Mohan Lal)
Clerk to Shri U.K. Dhaon
ADDITIONAL STANDING COUNSEL,
CENTRAL GOVERNMENT.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH: GANDHI BHAWAN
LUCKNOW.

O.A.No. 80 of 1989(L)

Inayat Ullah

..

Applicant

Versus

Asstt. Administrative
Officer, Film Division & Ors.

Respondents.

ANNEXURE No. C-I

No:3/40/70-Est.II
FILMS DIVISION
Ministry of Information and Broadcasting
Government of India

24-Beddar Road, Bombay-26.
Dated the 21st Sept., 1971

ORDER

The following appointments and reversions in the Branch Office, Lucknow are hereby ordered:-

1. Shri P.V.Kapoor, offg. Jr.Booker was appointed to officiate as Jr.Booker on ad-hoc basis on a pay of Rs.200/- p.m. in the scale of Rs.200-10-250 w.e.f. the forenoon of 30-12-1970 until 31-8-1971 (AN) and reverted as Jr.Booker. On reversion he will draw a pay of Rs.174/- p.m. in the scale of Rs.150-5-160-8-216. (FN)
2. Shri K.V.Chowla, O.Pmt.Film Shipper was appointed to officiate as Jr.Booker on ad-hoc basis on a pay of Rs.150/- p.m. in the scale of Rs.150-5-160-8-216 w.e.f. the forenoon of 30-12-1970 until the afternoon of 31-8-1971 and reverted as Film Shipper. On reversion he will draw a pay of Rs.131/- p.m. in the scale of Rs.110-3-131. (FN)
3. Shri Inayat Ullah, offg. Film Checker was appointed to officiate as Film Shipper on ad-hoc basis on a pay of Rs.110/- p.m. in the scale of Rs.110-3-131 w.e.f. the forenoon of 30-12-1970 until the afternoon of 31-8-1971 and reverted as Film Checker. On reversion he will draw a pay of Rs.104/- p.m. in the scale of Rs.95-3-110. (FN)

Sd/

(S.K. Ray)

Asstt. Administrative Officer
for Administrative Officer

1. Shri P.V.Kapoor,
Offg. Jr.Booker,
Films Division,
Lucknow.
2. Shri K.V.Chawla,
O.Pmt.Film Shipper,
Films Division,
Lucknow.
3. Shri Inayat Ullah,
Offg.Film Checker,
Films Division,
Lucknow.

P.T.O.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH: GANDHI BHAWAN
L U C K N O W.

O.A.No. 80 of 1989(L)

Inayat Ullah

..

Applicant

Versus

Asstt. Administrative
Officer, Film Division & Ors.

Respondents.

EXHIBIT II

ANNEXURE No. C-H

No. 3/42/70-11
FILM DIVISION
Ministry of Information & Broadcasting
Government of India

24 Peddar Road, Bombay 26
Dated the 22nd Feb., 1972

O. A. No.

The following appointments on ad-hoc basis in the
Branch Office at Lucknow are hereby ordered:-

- 1) Shri P.K. Kapoor, Offg. Jr. Booker to officiate
as Sr. Booker on a pay of Rs. 210/- p.m. in the
scale of Rs. 200-10-250 with effect from 15.11.1971
until further orders.
- 2) Shri A.K. Chawla, Quasi Permanent Film Shipper to
officiate as Jr. Booker on a pay of Rs. 160/- p.m.
in the scale of Rs. 150-5-160-5-216 with effect from
15.11.1971 until further orders vice Shri P.K. Kapoor
appointed as Sr. Booker.
- 3) Shri Inayat Ullah, Offg. Film Checker to officiate
as Film Shipper on a pay of Rs. 110/- p.m. in the
scale of Rs. 110-3-121 with effect from 15.11.1971
until further orders vice Shri A.K. Chawla appointed
as Jr. Booker.

2. The above appointments are purely on ad-hoc basis and
without prejudice to the claims of other eligible persons
and will not confer on them any right to regular appointment.

(Sd/-) for Administrative Officer

- 1) Shri P.K. Kapoor,
Offg. Sr. Booker,
Film Division,
Lucknow.
- 2) Shri A.K. Chawla,
Offg. Jr. Booker,
Film Division,
Lucknow.
- 3) Shri Inayat Ullah,
Offg. Film Shipper,
Film Division,
Lucknow.

S No. 2931

ANNEXURE III

10-11-1973-101.11

Films Division

Ministry of Information and Broadcasting
Government of India

Order No. C-11

24 Reddy Road, Bombay-2.
Dated the 3rd Dec. 1973ORDER

Following transfer, reversion and appointment are hereby ordered with effect from the dates mentioned in each case:-

- 1) Shri T.S. Kasturi, Offg. Film Shipper in the Branch Office at Bangalore is transferred to the Branch Office of this Division at 3 Kotwali, Hazratganj, Lucknow with effect from the date this order is served on him. It is certified that the transfer is in public interest and he is entitled to minimum joining time, joining time pay, Transfer T.A. etc. as per rules. Sanction of the competent authority for which is also accorded.
 - 2) Shri Inayat Ullah, Offg. Film Shipper on ad hoc basis in the Branch Office of this Division at Lucknow is reverted to his substantive post of Film Checker with effect from the date Shri T.S. Kasturi reports for duty as Film Shipper in that office. Shri Inayat Ullah on reversion to the post of Film Checker is allowed to continue in the Lucknow Branch.
 - 3) Shri S.B. Sarvate, Offg. Film Shipper on ad hoc basis, in the Branch Office at Laggur is reverted to the post of Film Checker and allowed to continue in the same Branch with effect from the date a Film Shipper is appointed in his place.
 - 4) Shri S.J. Hardas, Ad hoc Film Checker in the Branch Office at Laggur is appointed to officiate as Film Shipper, in the Branch Office of this Division at New Mission Compound Bldg., Bangalore-27 with effect from the date he reports for duty at Bangalore.
- ii) He will be on trial for a period of 2 years which may be extended at the discretion of the appointing authority.
- iii) His appointment is subject to his being found medically fit, by the competent medical authority to whom a letter of introduction is enclosed for medical examination. He should ascertain his fitness from the Branch Manager, Laggur before proceeding to Bangalore.
- iv) As he is selected through all India advertisement and is holding only a temporary post of Film Checker on ad hoc basis he is not entitled to joining time, transfer T.A. etc.

(V.L. Acharya)
for Administrative Officer

All the concerned Officials
through the respective Branch Manager.

Copy to

(1) The Branch Manager, Films Division, Bangalore. The enclosed copy of the order intended for Shri T.S. Kasturi may please be handed over to him and his acknowledgement obtained. Shri Kasturi should be relieved immediately and arrangements made for expeditious payment of TADA etc. to him.

P.T.O.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH: GANDHI BHAWAN
L U C K N O W.

O.A.No. 80 of 1989(L)

Inayat Ullah

..

Applicant

Versus

Asstt. Administrative
Officer, Film Division & Ors.

Respondents.

ANNEXURE No. C-IV

U.P.C.
REGISTERED
ANNEXURE IV

No. Est 72/76/L
FILMS DIVISION
MINISTRY OF INFORMATION & BROADCASTING
GOVERNMENT OF INDIA

Hazratganj, Lucknow.
Dated the 7th January '77.

To

The Administrative Officer,
Films Division, Govt. of India,
24-Pedder Road,
Bombay-26.

Subject:- Transfer of Shri T.P.Kasthuri, -
Film Shipper from Bangalore.

Sir,

Kindly refer to your Order No.
A.12021/23/75-Est.II, dated 3-12-1976.

Shri T.P.Kasthuri, Officiating
Film Shipper has joined his duties in this
Branch with effect from 7-1-1977 (fore-noon)
in place of Shri Inayat Ullah who stood reverted
as Film Checker.

This is for your information.

Yours faithfully,

(G.K.L. NAG)
BRANCH MANAGER

KSA.
19.77

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH: GANDHI BHAWAN
L U C K N O W.

O.A.No. 8) of 1989(L)

Inayat Ullah

Applicant

Versus

Asstt. Administrative
Officer, Film Division & Ors.

Respondents.

ANNEXURE No. C-V

SN 11(D)

No. 12421/83/77-Sub-II

Film Division

Ministry of Information & Broadcasting
Government of India

ANNEXURE V

24-Peddar Road, Bombay - 26.
Dated the 19th November, 1977.

O R D E R

Shri Inayat Ullah, permanent Film Checker in the Branch Office of this Division at Lucknow is appointed to officiate as Film Shipper in that branch office on ad-hoc basis with effect from the date he takes over charge of the post until further order on a pay of Rs. 290/- p.m. in the scale of Rs. 260-6-326-8-350.

ref
23.11.77 vide
P-12

2. Since his appointment is purely on ad-hoc basis it does not confer on him any right to regular appointment.

(M. Chandran Nair)
Asstt. Administrative Officer.
For Administrative Officer.

20/11/77
19/11/77

Shri Inayat Ullah,
Prat. Film Checker,
Film Division,
Lucknow.

Copy to:- i) The Branch Manager, F.D. Lucknow.
ii) Personal File of Shri Inayat Ullah.
iii) D.H.O.
iv) Office Order Book.

19/11/77

*11.

(M. Chandran Nair)
Asstt. Administrative Officer.

20/11/77
19/11/77

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH: GANDHI BHAWAN
LUCKNOW.

G.A.No. 80 of 1989(L)

Inayat Ullah

Applicant

Versus

Asstt. Administrative
Officer, Film Division & Ors.

Respondents.

ANNEXURE No. C - VI

NO. Est-48/77/L
FILMS DIVISION
CENTRAL BUREAU OF INFORMATION & BROADCASTING
B-400 026. GOVERNMENT OF INDIA

26 NOV 1977

Hazratganj, Lucknow.
Dated the 24th Nov '1977.

Copy No.

The Administrative Officer,
Films Division, Govt. of India,
24-Pedder Road,
Bombay-26.

Subject:-Appointment of Shri Inayat Ullah
as Film Shipper.

Sir,

With reference to your Order No.

A-12021/33/77-Est.II, dated 19-11-1977, I am
to inform you that Shri Inayat Ullah has taken
over as Film Shipper with effect from the
Fore-noon of 23-11-1977.

Formal orders of his appointment as
Film Shipper from 23-11-77 may kindly be issued,
if necessary.

Yours faithfully,

(R.P. SHARMA)
BRANCH MANAGER

Est-II
R.P.
26/11

KSA
26/11
7381
28/11

[Signature]

O.A.No. 80 of 1989(L)

Inayat Ullah

Applicant

Versus

Asstt. Administrative
Officer, Film Division & Ors.

Respondents.

ANNEXURE No.

C-III

ANNEXURE III

No.A-12021/24/77-Est.II
Films Division
Ministry of Information and Broadcasting
Government of India

24-Peddar Road, Bombay-26.
Dated the 8th Sept., 1978.

ORDER

The following Film Shippers who were appointed on ad-hoc basis are hereby appointed on regular basis with effect from the dates shown against them until further orders :-

<u>Sr.No.</u>	<u>Name of the official</u>	<u>Date of appointment</u>	<u>Posted at</u>
1.	Shri H.S.Chavan	9-11-1977	Bombay
2.	Shri Inayat Ullah	23-11-1977	Lucknow
3.	Shri S.H. Sarwate	9-5-1977	Nagpur

2. The following officials have/also been appointed as Film Shipper on regular basis with effect from the date they assume charge of the post until further orders on a pay of Rs.260/- per month in the scale of Rs.260-6-326-BB-8-350 and posted/transferred to the Branch Office indicated against each :-

<u>Sr.No.</u>	<u>Name of the official</u>	<u>Present designation</u>	<u>Transferred from</u>	<u>Posted at</u>
1.	Shri D.M.Tembhurne	Mazdoor	Nagpur	Madras
2.	Shri A.G.Sawant	Mazdoor	-	Bombay
3.	Shri R.G.Ramesh	Packer	-	Hyderabad

3. Shri L.K. Jadhav, Ad-hoc Film Shipper in the Distribution Head Office, Bombay is appointed on regular basis and transferred to the Branch Office at Calcutta and he is allowed to continue on regular basis on a pay of Rs.260/- per month in the scale of Rs.260-6-326-BB-8-350 until further orders.

4. All the seven officials referred to in paras 1 to 3 above will be on trial for a period of two years from the date of appointment or the date on which they assume charge at the new station of posting. The trial period may be extended at the discretion of the appointing authority.

5. It is certified that transfer of S/Shri D.M.Tembhurne and L.K. Jadhav is in public interest and they are entitled to transfer TA, joining time and joining time pay sanction for which is also hereby accorded.


...2.

To,

The Administrative Officer,
Films Division,
Ministry of Information & Broadcasting,
Government of India,
24 Dr. G. Doshmukh Marg,
BOMBAY-400026.

RECEIVED
F
31/10
Daily No. 4494

Annex No C-VIII

A59

ANNEXURE CH

20

(THROUGH PROPER CHANNEL)

Sub: Humble request to promote me as Jr. Booker in Lucknow Branch Office instead of Hyderabad.

Sir,

I am highly thankful to your good-self on receipt of order No-A-32016/4/81-EST II (RC) dated 11th October 1985 promoting me to the post of Jr. Booker in the office of Films Division at Hyderabad.

I would like to draw your kind attention towards your Memorandum No.A-32016/4/81-EST II dated 7th September 1983 where you have asked the willingness to accept promotion for the post of Jr. Booker at Bombay, Delhi, Bangalore, Madurai, or Vijaynada. In response to the above I have informed your good-self that I shall prefer promotion at Lucknow only and later I submitted a representation to your good-self on 24th/26th September 1983 explaining the family circumstances due to which I felt unable to accept the promotion of Jr. Booker at any outstation Branch Office.

Again a memorandum was served upon to me bearing No.A-32016/4/81-EST (RC) dated 8th April 1984 asking the willingness to accept the promotion for the post of Jr. Booker in the office of Films Division, Delhi. In response to that I have informed your goodself on 12th April 1984 that I shall prefer posting at Lucknow only and expressed my unwillingness to accept promotion if offered outside Lucknow.

I am rather surprised on receipt of the order No.A-32016/4/81-EST II (RC) dated 11th October 1985 having promoted as Jr. Booker in the Films Division Branch Office at Hyderabad. If, you go through the records referred above in the representation, you will find that I have every time declined the offer of my promotion outside of Lucknow due to my family circumstances.

I, therefore, once again decline the present promotion at Hyderabad as a Jr. Booker.

I shall be highly obliged to your good-self if the promotion of Jr. Booker is awarded at Lucknow only, by taking the above reasons into consideration, for which act of kindness towards me, I will be ever grateful to you.

Thanking you,

Yours faithfully,

(INAYAT ULLAH)
Film Shipper
Films Division

Ministry of Information & Broadcasting
Govt. of India, Hazratganj, Lucknow.

Regd. Dated: 22.10.1985

Advance copy forwarded to:

1. The Administrative Officer, Films Division, Ministry of I&B, Government of India, 24 Dr. G. Doshmukh Marg, Bombay-400026.

2. The Officer In-charge of Distribution, Films Division, Ministry of Information & Broadcasting, Govt. of India, 24 Dr. G. Doshmukh Marg BOMBAY-400026.

(INAYAT ULLAH)

O.A.No. 80 of 1989(L)

Inayat Ullah

Applicant

Versus

Asstt. Administrative
Officer, Film Division & Ors.

Respondents.

ANNEXURE No. C-IX

No.28036/8/87-ESTT.(D)

GOVERNMENT OF INDIA

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
DEPARTMENT OF PERSONNEL & TRAINING

!!!!!!

New Delhi, the 30th March, 1988

OFFICE MEMORANDUM

Sub:- Ad-hoc appointment - Revision of instructions on.

The undersigned is directed to say that instructions have been issued from time to time by the Department of Personnel & Training requesting all Ministries/Departments to fill all posts only in accordance with the prescribed procedure and Recruitment Rules on a regular basis. Consequently, Ministries/Departments are required to ensure that all appointments made on an ad-hoc basis are limited to posts which cannot be kept vacant until regular candidates become available. However, it has been noted that appointments continue to be made on an ad-hoc basis and proposals are being received in this Department for regularisation of these appointments on the grounds that the persons concerned have been working against these posts for a long time. This has led to instances where Courts and Tribunals have directed the Government to fix seniority after taking into consideration the period of service rendered on an adhoc basis. This unintended benefit of adhoc service has, therefore, been bestowed to a number of persons whose adhoc promotions have been made on the basis of seniority-cum-fitness, even though the Recruitment Rules for the post may have prescribed promotion by selection.

2. In view of the position explained above, it has been decided that the Ministries/Departments may not make any appointment on an adhoc basis including appointments by direct recruitment, promotion, transfer on deputation etc. The procedure to be followed in circumstances when adhoc appointments are presently frequently being resorted to, is explained below:-

(i) ABSENCE OF RECRUITMENT RULES:!

Adhoc appointments are frequently resorted to on the grounds that Recruitment Rules for the post are in the process of being framed. In this Department's O.M.No. 39021/5/83-Estt.(B) dated 9th July, 1985, all Ministries/Departments have been advised that if there are overriding compulsions for filling any Group A or Group B post in the absence of Recruitment Rules, then they may make a reference to the Union Public Service Commission (UPSC) for deciding the mode of recruitment to that post. Further action to fill the post may be taken according to the advice tendered by the UPSC. All such appointments will be treated as regular appointments. In the case of Group C and C posts which are outside the purview of UPSC, powers to frame Recruitments Rules without consulting the Department of Personnel and Training,

Contd..2/-

the total number of vacancies taking into consideration the likely vacancies during the period beginning from the date of announcement of the examination in question upto the date of announcement of the subsequent examination so that the total number of posts to be kept vacant may be very few.

Inspite of this, if some vacancies still remain unfilled, the following measures may be adopted:-

- (a) Wherever feasible, the posts may be allowed to remain vacant until qualified candidates become available at the next examination.
- (b) Wherever the Recruitment Rules for the posts provide alternative methods of recruitment i.e. not only by the direct method but also by transfer on deputation, efforts may be made to fill those vacancies which cannot be held over (until candidates of the next examination become available), by the alternative methods i.e. by transfer on deputation etc.
- (c) However, in cases where direct recruitment is the only method provided in the Recruitment Rules, Ministries/Departments have been advised vide O.M.No.14017/8/84-Estt.(RR) dated 19th June, 1986, that the Rules may be amended to provide for transfer on deputation as an alternative method to fill short-term vacancies in the direct recruitment quota. In case the rules have not been amended the Ministries/Departments may take steps to do so immediately so that the shortage of qualified candidates against the DR quota, may be met by filling the vacancies through transfer on deputation for short periods.
- (v) Whenever short-term vacancies are caused by the regular incumbents proceeding on leave for 45 days or more, study leave, deputation etc. of less than one year duration, they may be filled by officers available on an approved panel. Such a panel may be maintained taking into account not only the actual but also the vacancies anticipated over a period of 12 months in accordance with the existing instructions of holding DPCs. Wherever an officer is not available on an approved panel the post may be kept vacant, as far as possible.

3. If the prescribed instructions and procedures are strictly adhered to, it may be seen that there will be very few cases where appointments need to be made on an adhoc basis. Such circumstances may be:-

- (i) where there is an injunction by a Court/Tribunal directing that the post may not be filled on a regular basis and if the final judgement of the Court/Tribunal is not expected early and the post also cannot be kept vacant.
- (ii) where the DR quota has not been filled and the RRs also do not provide for filling it up on transfer or deputation temporarily and the post cannot also be kept vacant.
- (iii) In short term vacancies due to regular incumbents being on leave/deputation etc., and where the posts cannot be filled as per para 2(v), and cannot also be kept vacant.



Contd..4/-

AG2

25

-5-

5. Adhoc promotions with respect to officers whose cases are kept in a sealed cover in accordance with O.M.No.22011/2/86-Estt.(A), dated 12.1.1988, will however, continue to be governed by these special instructions. Similarly, adhoc promotions of officers belonging to the Central Secretariat Service (CSS) to posts of Under Secretary/Deputy Secretary under the Central Staffing Scheme, will continue to be regulated by special instructions contained in O.M.No.31/16/82-EO(MM) dated 28.9.1983.
6. All adhoc appointments including adhoc promotions shall be reviewed on the basis of the above guidelines. In exceptional circumstances, wherever such appointments are required to be continued beyond the present term, the decision thereon may be taken by the authority prescribed in para (4)(v). However, it may be noted that the continuance of such adhoc appointments including adhoc promotions will be subject to the overall restriction of one year from the date of issue of these instructions.
7. All Ministries/Departments are requested to take action in accordance with the above mentioned instructions in respect of both Secretariat as well as non-Secretariat offices under them.
8. The receipt of this O.M.may kindly be acknowledged.

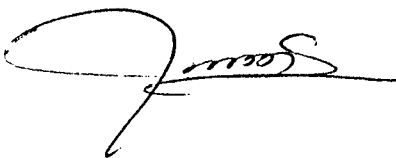
Sd/-xxx

(S.K. PARTHASARATHY)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA.

To

→ All the Ministries/Departments of Government of India.



V 10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH: GANDHI BHAWAN
LUCKNOW.

Q.A.No. 80 of 1989(L)

Inayat Ullah

..

Applicant

Versus

Asstt. Administrative
Officer, Film Division &Ors.

Respondents.

ANNEXURE No. C-X

JRC XIV

S. GOPALARATHNAM
ASSTT. ADM. OFFICER
FILM DIVISION
BOMBAY

RE: YOUR TEL MESSAGE DATED 23RD FEBRUARY
REGARDING AD-HOC APPOINTMENTS IN FILMS DIVISION (.)
IT HAS BEEN DECIDED THAT FILMS DIVISION MAY ACT UPON
THE INSTRUCTIONS CONTAINED IN DEPTT. OF PERSONNEL
AND TRAINING'S CL DATED 30.3.88 AND TERMINATE ALL
AD-HOC APPOINTMENTS BY 30.3.89, IF POSSIBLE BY MAKING
REGULAR APPOINTMENTS (.) THIS HAS THE APPROVAL OF
JD(FILMS)

HIMANSHU
INFORMATION

N.T.T.

No.A-42020/15/89-F(A)
Government of India
Ministry of Information & Broadcasting

....

New Delhi, the 7.3.89

(S.L.S. HIMANSHU)
Desk Officer
Tel:386769

Copy by post in confirmation to Shri S.Gopalarathnam,
Asstt. Administrative Officer, Films Division, 24-Peddar
Road, Bombay-400 026.

(S.L.S. HIMANSHU)
Desk Officer

REGD	24/3/89
FILED	24/3/89
CH	
10/3/89	
3.0.	

27 (Abv)

Annex No C-XI

No.Est-48/89/L
Film Division
Ministry of Information & Broadcasting
Government of India

94-Durga Bhawan, Kapoor Lane,
Habitua Ganahi Marg, Lucknow.
Dated the 3rd April 1989.

O R D E R

Consequent upon his reversion as
as Film Shipper with effect from 29-3-1989 (A.N.),
vide Order No.A-12011/2/85-RG, dated 27-3-1989,
the Pay of Shri Inayat Ullah, Film Shipper, has
been fixed at Rs.1275.00 p.m. in the Scale of
Rs.950-20-1150-EB-25-1400. The date of next
increment will be 1-11-1989.

Sd./=

(M. SELVAM)

Branch Manager

Film Division

Government of India

94 Durga Bhawan, Kapoor Lane

M. G. Marg LUCKNOW.

Shri Inayat Ullah,
Film Shipper,
Film Division,
Lucknow.

Copy to the Asstt. Administrative Officer,
Film Division, Govt. of India, 24-Pedder Road,
Bombay-26 for information with reference to Order
No.A-12011/2/85-RG, dated 27-3-1989.

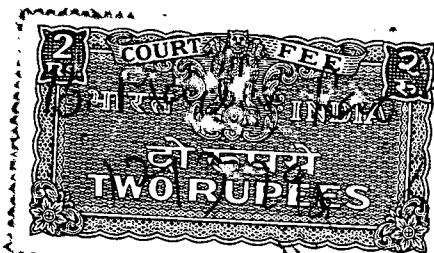
2. Copy to Account Section.

BRANCH MANAGER

3/4/89
3/4/89

465

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH LUCKNOW



1990
AFFIDAVIT
30 IN
DIST. COURT
U. P.

12-7-90

SUPPLEMENTARY COUNTER AFFIDAVIT ON BEHALF OF RESPONDANTS
TO THE SUPPLEMENTARY AFFIDAVIT FILED BY APPLICANT

IN RE

O.A. NO.80 of 1989(L)

Inayatulla

...

...

APPLICANT.

VERSUS

Assistant Administrative Officer

Film Division and others

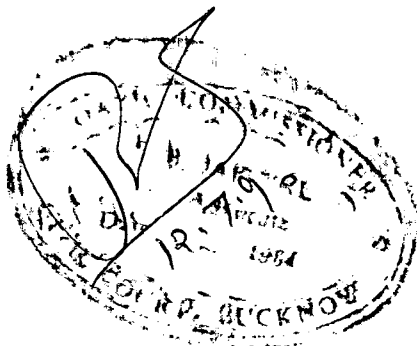
...

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RESPONDANTS.

I, ^f B. Madhava Rao^f, aged about 38 years,
son of ^f B. Polarah^f, Branch Manager Film
Division Lucknow do hereby solemnly affirm and state
on oath as under :-

1. That the deponent is the respondent no.3 and
parokar of respondent no.2 and 4 in the instant
petition. The contents of supplementary affidavit
have been read over and explained to the deponent
and its parawise replies are as follows :-
2. That the contents of paras 1, 2 and 3 of the
supplementary affidavit need no comments.



.../2.

B. Madhava Rao

866

-: 2 :-

3. That with respect to the contents of paras 4 and 5 of the supplementary affidavit it is submitted that at the time when orders were issued reverting the applicant and others in the Lucknow Branch, the post of Salesman was filled on adhoc basis because the incumbent of the post of Salesmen did not possess the qualifying service for promotion to the post of salesmen as per the prescribed Recruitment Rules for the post. It is not only in the case of the incumbent of the post of Salesman in Lucknow Branch but also other incumbents of the post of Salesman working in some other Branches were similarly placed. Since the post of Salesman is filled 100% by promotion from amongst Sr. Bookers with 5 years regular service and none of the Senior Bookers in Films Division at that time had the requisite years of qualifying service, the matter was taken up with the Govt. for relaxation of the Recruitment Rules in respect of Senior Bookers for promotion to the post of salesman in various Distribution Branch Offices. The matter was considered by the Govt. and the approval of the Govt. was received on 7.4.1989 giving relaxation of the Recruitment Rules for the post of Salesman in respect of the requirement of the qualifying service for the following Senior Bookers for promotion to the post of Salesman :-

1. Shri K.S. Mandhre
2. Shri S.M. Balkrishnan
3. Sri E.C. Yatta
4. Shri K.K. Chawla
5. Shri J.C. Biswas,
6. Shri J.L. Chunekar

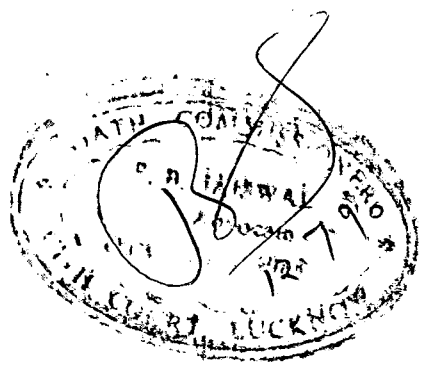
12-7-90

M. Padmanabhaiah

7. Shri M.S. Ratnakaran.

After the requisite relaxation was given a panel for filling up the post of Salesman was drawn. Orders for certain officials placed in the panel have been issued appointing them to the post of Salesman. The incumbent of the post of Senior Booker in Lucknow Branch who was reverted along with the applicant was one of the officials who has been appointed to the post of Salesman. The panel has not yet been exhausted and one more person is yet to be appointed. In the meanwhile action has been initiated for drawing up the panel for the vacancies in the post of Senior Booker which had fallen vacant due to promotion of officials as Salesman. After this panel is prepared and persons are appointed, it will be possible for the organisation to earmark the vacancies falling under promotion and under direct recruitment quota in the post of Junior Booker. A panel for the vacancies which will occur under promotion quota will be drawn thereafter. In this connection it is relevant to mention that the post of Junior Booker is filled 50% by direct recruitment and 50% by promotion from amongst Film Shippers in Films Division who have put to five years regular service in the grade. It is too early to predict as to whether vacancy in the post of Junior Bookers may occur in the Lucknow Branch which may fall under promotion quota.

M. Ratnakaran



4. That with respect to the contents of para 6 of the supplementary affidavit it is submitted that in view of the position explained in para 3 it is incorrect to say that the respondents for some malafide intention to deprive the petitioner of his claim for working on the post of Junior Booker as alleged. It can not be said at this stage whether a regular vacancy on the post of Junior Bokker may occur for Lucknow Branch which may have to filled by promotion.
5. That in reply to the contents of para 7 of the supplementary affidavit it is submitted that the appointment of applicant to the post of Junior Booker was purely on ad-hoc basis and applicant had no right to continue on regular basis.
6. That in reply to the contents of para 8 of the supplementary affidavit it is submitted that the applicant may be considered for promotion to the post of Junior Booker^{as per} and ~~in~~ when the vacancy occur.

Lucknow.

Dated: ^{P P} ~~May 2/97~~, 1990.
P 12.7.97 P

M. Adnan
Deponent.

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 6 of this supplementary counter affidavit are true to my knowledge based on the records maintained in the office. No part of it is false and nothing material has been concealed, so

.../5.

A-69

-: 5 :-

help me God.

Lucknow.

Dated: ~~May 3/84~~ 1990.

12-7-90

[Signature]
Deponent.

I identify the deponent who is personally known to me and who has signed in my presence.

[Signature]
(Mohan Lal)
Clerk to Shri U.K. Dhaon
Advocate.

Solemnly affirmed before me on 12-7-90
at 11:30 a.m./p.m. by Sri B. Madhava Rao
the deponent who is identified by Sri
Mohan Lal, Clerk to Shri U.K. Dhaon, Advocate
High Court, Allahabad.

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

C-N-30IM

[Signature] B. Madhava Rao
Mohan Lal
U.K. Dhaon

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

[Signature]
Prasanna K. Jaiswal
Advocate

Rs. One

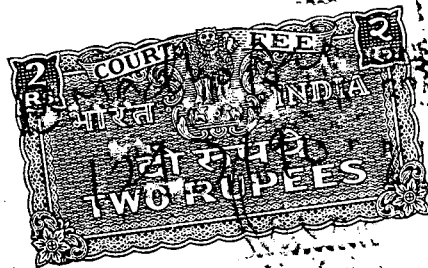
211-50 only

Oath Commissioner

12-7-1990 Civil Court, Lucknow

(A70)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
BENCH
CIRCUIT / ~~REVENUE~~ AT LUCKNOW.



1990
AFFIDAVIT
31 IM
DISTT. COURT
U. P.

12.7.90

In re :-

O.A. NO. 80 OF 1989. (L).

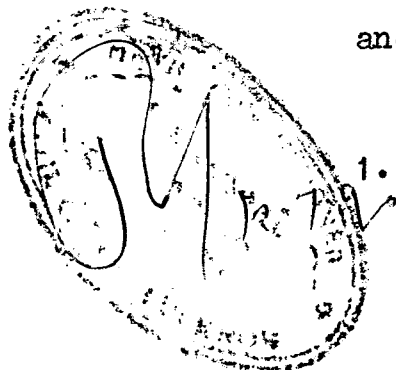
Inayat Ullah, ... Applicant.

Versus:

Asstt. Administrative Officer & others ... Respondents.

COUNTER-AFFIDAVIT ON BEHALF OF THE RESPONDENTS
TO THE APPLICATION FOR STAY MOVED BY THE APPLICANT.

I, B. Madhav Rao, aged about 38 years, son of Shri B. Polaiiah, Branch Manager, Films Division, Lucknow, here-in-after described as the deponent, do hereby solemnly affirm and state on oath as under :-



1. That the deponent is respondent no. 3, and pairokar of respondents nos. 1, 2, and 4 in the instant - petition. The contents of the stay application have been read over and explained to the deponent,

B. Madhav Rao2...

(ATI)

which he has understood the same, and its parawise reply is given as follows :-

2. That with respect to the contents of paragraph 1 of the stay application, it is wrong averment that the applicant was promoted to the post of Film - Shipper with effect from 22-2-1972 and that he was confirmed on the said post with effect from 1-7-1974. It is further submitted that the applicant was - appointed as Film Checker in Films Division, with effect from 1-12-1967 and was posted to Distribution Branch Office at Lucknow. The applicant was appointed to the post of Film Shipper purely on ad hoc basis with effect from 30-12-1970 in the leave vacancy, as the applicant was the senior most locally available person at Lucknow. He was reverted to his regular - post on 31st. August, 1971, afternoon. The applicant was again appointed to the post of Film Shipper - purely on ad hoc basis with effect from 15-11-1971 and not on 22-2-1972, as alleged by the applicant.

A true copy of the letter dated 22-2-1972 is filed, herewith, Annexure No. C-1 to this counter-affidavit. The petitioner continued on the said post till 6-1-1977.

3. That the contents of paragraph 2 of the stay application as stated are not correct. It is further submitted

Madhava S.

that the applicant informed the respondents that he has passed H.S.C. examination in 1975 and, as such, he was initially appointed to the post of Film Shipper on ad hoc basis with effect from - 23-11-1977.

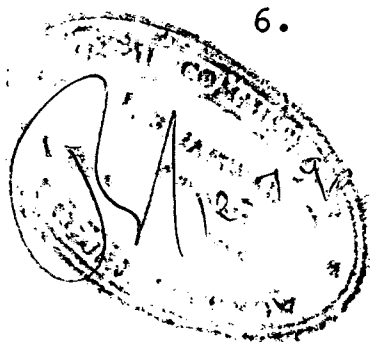
4. That with respect to the contents of paragraph No. 3 of the stay application, it is submitted that - according to the recruitment rules for the post of Junior Booker in the Films Division, the post is required to be filled 50 per cent by direct recruitment, and 50 per cent by promotion from amongst the Film Shippers, who have put in five years regular service on the post. During the Year, 1984 a panel for filling up some regular vacancies of Junior Booker falling under promotion quota and was drawn. Before drawing up the panel option from the eligible Film Shippers for being considered for promotion and choice of their ~~posting~~ ^Pposting were obtained. The applicant gave option for consideration of his name for promotion and gave preference of posting at Lucknow. The panel drawn on 4-12-1984 included eight vacancies at New - Delhi, Bangalore, Vijayawada, Madurai, Bombay, Nagpur, Hyderabad and Trivandrum. The name of the - applicant was placed on the panel and he was accordingly, offered the post of Junior Booker at Hyderabad,

M. L. Adarsh. 4...

where a vacancy existed, the applicant declined the offer and expressed his desire to continue in Lucknow, as Film Shipper.

5. That with respect to the contents of paragraph 4 of the stay application, it is submitted that the applicant was promoted to the post of Junior Booker with effect from 31st. March, 1986 purely on ad hoc basis against ⁸the chain vacancy by promotion of one Senior Booker to the post of Salesman on ad hoc - basis without [✓]prejudice to the claims of others and do not confer any right on it for regular appointment. In view of the instructions dated 30th. March, 1988, all the ad hoc appointments were reviewed, as the applicant was holding the post of Junior Booker - purely on ad hoc basis and is the incumbent of the post of salesman was reverted to his regular post of Sales-Man, and there was no vacancy of the ⁸~~the~~ Junior Booker, the applicant was reverted to his regular post of Film Shipper.

6. That with respect to the contents of paragraph 5 of the stay application, it is ⁸submitted that the application of the applicant for stay of the order dated 27-3-1989 was rejected by this Hon'ble Tribunal on 6-6-1989.



Contd...5...
M. Adarsh

(A74)

7. That with respect to the contents of paragraph no. 6 of the stay application, it is submitted that Shri Radhey Shyam, working as Junior Booker in the - Distribution Branch Office of Films Division at Vijayawada Branch, had been requesting for transfer on health grounds to Lucknow, as he has been suffering from cardiovascular disease and renal hyper-tension since last three years. His right kidney is - contracted and not functioning and treatment for this is not available at Vijayawada. He has been under treatment in Government Hospital and Civil Assistant Surgeon Government Hospital, Vijayawada has advised changed in climate for restoration of his health. Considering his health condition, Shri Radhey Shyam, Junior Booker, working in - Vijayawada Branch has been transferred in the same capacity to Lucknow Branch on humanitarian grounds. He has been adjusted against the vacant post of - Senior Booker.

8. That with respect to the contents of paragraph 7, only this much is admitted that an order contained in Annexure A-6, was passed. Rest of the contents of this para as stated are denied. It is further submitted that the panel for filling up the vacancy

Contd....6....

M. S. S. S. S.

(475)

of Senior Booker in Lucknow Branch has already been drawn and Shri S.K. Sharma, Junior Booker, working in the same branch has been one of the officials considered for appointment against this vacancy. As there is some disciplinary proceeding against him it has become necessary to keep the vacancy unfilled. In the mean while Shri ~~Radhey~~ Radhey Shyam, who has been pleading for his transfer to Lucknow on health grounds, has been transferred to Lucknow Branch as Junior Booker and adjusted against the ^Pvacancy of higher post i.e., Senior Booker on humanitarian grounds. There is however no extra benefit given to the official Sri Radhey - Shyam as contended by the applicant. The contention of the applicant that by transfer of Junior Booker the post of Senior Booker has been filled up and that his claim for the post has been lost is not correct. The action to fill in the post of Senior Booker is already under process and the transfer is only a stop gap arrangement. As already been stated earlier the Senior Booker is 100% promotional post and which when is filled on regular basis. Shri ^PRadhey Shyam will automatically be adjusted against the ^Presultant post.

9. That the contents of paragraph 8 of the stay application as stated are denied. It is further submitted

M. Radhey

(A76)

that the posting of Sri Radhey Shyam, is on humanitarian grounds, and the applicant will not suffer any irreparable loss and injury, if, the order - dated 15-5-1990 is not stayed by this Hon'ble - Tribunal.

10. That for the facts and reasons stated above, the application for stay deserves to be rejected.

Lucknow, Dated:

~~10th July~~ 1990.
P 12.7.90

Bo/adaava ley
DEPONENT.

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraphs ~~8~~ 1 to 10 of this counter-affidavit are true to my own knowledge as well as on the basis of records, and the contents of paragraphs ~~8~~ 1 to 10 are true to my belief as well as on the basis of legal advice.

Signed and verified this 10th day of JULY, 1990 at Lucknow.

Lucknow, Dated:

P 12 ~~10th~~ July, 1990.

Bo/adaava ley
DEPONENT.

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

Moham Lal
C/o Smt U.K. Dhawan

ADVOCATE.

Annex No. C-1

AT

ORDER

The following appointment on ad-hoc basis in the Branch Office at Lucknow are hereby ordered:-

1. Shri P.N.Kapoor, Offg.Jr.Booker to officiate as Sr.Booker on a pay of Rs. 210/-p.m. in the Scale of Rs. 200-10-250 with effect from 15-11-1971
2. Shri K.K.Chawla quasi permanent Film Shipper to officiate as Jr.Booker on a pay of Rs. 160/-p.m. in the scale of Rs. 150-5-200-6-216 with effect from 15.11.1971 untill further orders vice Shri P.N.Kapoor appointed as Sr.Booker.
3. Shri Inayat Ullal, offg.Film Checker to officiate as Film Shipper on a pay of Rs. 110/-p.m. in the scale of Rs. 110-5-131 with effect from 15.11.1971 until further orders vice Shri K.K.Chawla appointed as Jr.Booker.

The above appointments are purely on ad-hoc basis and without prejudice to the claims of other eligible persons and will act confer on they any might be regular appointment.

Sd/-

(S.K.ROY)

For Administrative Officer.

1. Shri P.N.Kapoor,
Offg.Sr.Booker
Films Division,
Lucknow.
2. Shri K.K.Chawla,
Offg.Jr.Booker
Films Division,
Lucknow.
3. Shri Inayat Ullah,
Offg.Film Shipper,
Films Division,
Lucknow.

ATTESTED COPY

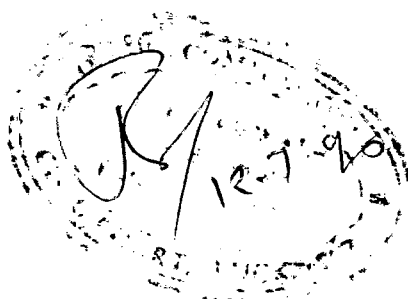
N. Ladaun

С. ПАРЕНАВА ДАД

Branch Manager
Films Division

Government of India

**Dr. Durga Bhawan, Kopoora Lane
M. G. Morg. LUCKNOW.**



Filed today
w
24/8

(878)

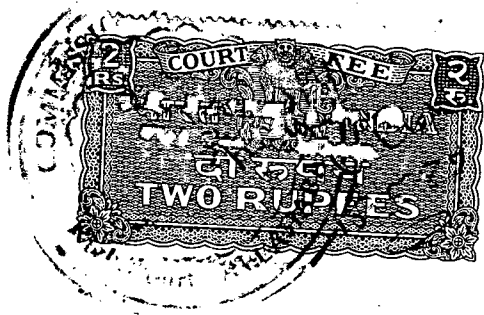
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, Lucknow

Additional Bench, Lucknow.

Rejoinder Affidavit

In Re.

REF No. CAHO -80 of 1989 (L)



Inayat Ullah

Applicant

Versus

Assistant Administrative

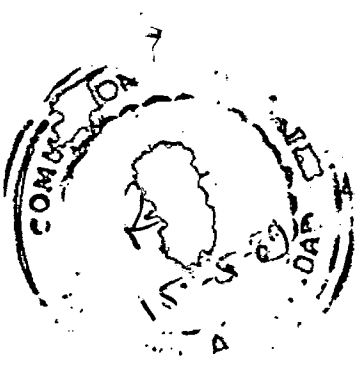
Officer Films Division and

others.

Opposite Parties.

Rejoinder Affidavit to the Counter
Affidavit.

I, the deponent Inayat Ullah aged about
44 years son of Late Sri Inam Ullah Junior
Booker Films Division Government of India,
Ministry of information and Broad Casting, 94
Durga Bhawan, Kapoor Lane, Mahatama Gandhi



Inayat Ullah

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- 2 -

Marg, Lucknow do hereby solemnly affirm and state on oath as under.

1. That the deponent is applicant in the above noted application and as such he is fully conversant with the facts and circumstances of the case. The deponent has gone through the Counter Affidavit filed by the opposite parties and has fully understood the contents of the same which was filed by Sri ^{gill} M. Selvam and is giving ~~xxx~~ parayise reply of the same as hereunder.

2. That the contents of paragraph 1 of the Counter Affidavit needs no comments.

3. That the contents of paragraph 2 of the Counter Affidavit needs no comments. There were certain typographical mistake in the paragraph 6 (2) of the Claim petition which are regretted.

4. That the contents of paragraph 4 and 5 of the Counter Affidavit need no comment.

5. That the contents of paragraph 6 of the Counter Affidavit in reply thereto it is submitted that according to the own admissions



A. Ullah

(400)

of the respondent the applicant was selected in the regular selection on the post of Junior Booker to be filled by way of promotion under 50% quota of promotees. Thus the applicant once having been found fully eligible and even selected in terms of regular basis cannot be reverted back under the garb of the directions contained in the impugned Government order of terminating the services after one year in as much as the said order also provides for appointment on adhoc basis of eligible persons and also provides for continuance of the appointment even for a period of one year when the regular selection being made and the post is vacant. In the present case the said direction was totally ignored and no attempt was made for seeking approval of the continuance of the adhoc appointment which in fact had already continued for a much longer period than one year and in fact it continued for almost three years, but the ministry of information and Broad casting as is appareent from Annexure No.C-10 filed with the Counter Affidavit, acted blindly by issuing blind directions prior to the directions as contained in the Government order filed as Annexure No. C-9 dated 30.3.1988 thereby directing that the adhoc appointment should



J. M. M. S.

(201)

- 4 -

be terminated . However, in the said termination order it was provided that if possible the said adhoc appointments should be terminated after making regular appointment. In the present case even this direction has not been followed as no attempt has been made to make regular appointment. Thus the impugned order has been passed by totally ignoring even the above said Government order. In any case the said Government order could not be made operative from retrospective effect.

6. That the contents of paragraph 7 of the Counter Affidavit are not admitted as stated and in reply to paragraph 6 (6) are reiterated to be correct.

7. That the contents of paragraph 8 of the Counter Affidavit as stated are wrong and incorrect and the same are denied and in reply thereof the facts stated in paragraph 6(7) of the petition are reiterated to be correct. The respondent had not filed any documents to show that the reversion order was passed by the appointing authority.

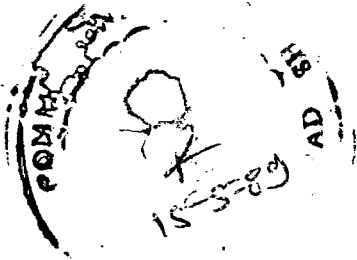
8. That the contents of paragraph 9 of the Counter Affidavit as stated are not admitted and in reply to the same the contents of paragraph 6 (8) of the petition are reiterated



S. M. M. A.

A02

to be correct. Even according to the own admissions of the respondents they have not been able to fill up the regular vacancies and the department has failed to make regular appointment on the post of salesman nor the ^{senior} booker as well as junior booker. The respondents could not on the one hand, deprive the regular promotion and appointment by withholding regular selection because of delays caused by them, on the other hand also denying adhoc promotions and resort to reference of the continued promotion of last three years. The said action is totally arbitrary malafide and is violative of Article 14 and being discriminatory is also violative of Article 16 of the Constitution of India. In the answering paragraph it has further been admitted by the respondent that " normally the persons working on the post of salesman , senior booker and junior booker (applicant) would have been allowed to continue on adhoc basis till a regular incumbent is available for the post of Salesman ". No reason whatsoever has been disclosed in the Counter Affidavit for the above said admission for the necessity of reverting the petitioner except placing reliance of above said Government order dated



29.10.82

ABG

- 6 -

30.3.1988. The impugned order of reversion is therefore is bad and even against the interest of the office work and the Government work . The respondent cannot be permitted on the one hand to keep vacant regular post and deny adhoc promotion also in the mean time.

9. That the contents of paragraph 10 of the Counter Affidavit are fully misconcieved and incorrect and are denied and in reply thereof the facts stated in paragraph 6(11) of the application are reiterated to be correct. The impugned order is wholly illegal and arbitrary.



9.11.88

10. That the contents of paragraph 11 of the Counter Affidavit as stated are wrong and incorrect and the same are denied and in reply thereof the facts stated in paragraph 6(10) of the application are reiterated as correct. It is submitted that the deponent has not worked even for a single day as Film shipper after the passing of the impugned order and has been continuously working and discharging the same duties that is of junior booker which he has been discharging prior to the passing of the impugned order. The deponent is enclosing the copy of the

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- 7 -

order dated 2.5.1989 requiring the applicant to continue to work on the post of junior booker on which he has been working as Annexure No. 7 to the application.

11. That the contents of paragraph 12 of the counter affidavit as stated are wrong and incorrect and the same are denied and in reply thereof the contents of paragraph 6 (ii) of the claim petition are reiterated to be correct. It is right of every employee to be made known any Government order or direction which is being used adversely against him and by not doing so the respondents have violated the principle of natural justice. No prior opportunity was given to the petitioner before passing of the impugned order.

12. That in reply to paragraph 13 of the Counter Affidavit it is submitted that the answering respondent have themselves admitted that the post on which the applicant has been working continues and is still in existence. The reasons disclosed for reversion is totally incorrect and mis-concieved and cannot be sustained.

13. That the contents of paragraph 14 of the Counter Affidavit are absolutely false



S. Ullah

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- 8 -

and incorrect and the same are denied. As already stated earlier the deponent is continuously working on the post of junior booker, even after the passing of the impugned order. No work of shipper has been taken from the applicant ever since then and as such the impugned order has not been given effect thereto.

14. That the contents of paragraph 15 of the counter Affidavit as stated are denied being misconcieved and in reply it is submitted that all the grounds raised in the petition are also tenable in the eye of law.

15. That the contents of paragraph 16 of the Counter Affidavit are vehmentally denied . As already submitted earlier the impugned order or reversion has not given effect thereto and has not been implemented and therefore, the petitioner is fully entitled for the interim relief as claimed. It would be relevant to state here that even though the impugned order of reversion has already been passed and according to the respondent also implemented on paper but the fact is that the petitioner was paid fully salary for the entire month of March 1989 for the post of Junior Booker, but no salary for the month of April 1989 has yet been drawn by the petitioner. ~~It will also~~



J. W. S.

It will be also relevant to mention here-
in that the validity of the impugned order
of Government directing the reversion of all
the adhoc employees blindly has already
been challenged by means of various petitions
before different benches. In one such petition
QA no. 656 of 1989 Smt Vinod Khullar Versus
Union of India Hon'ble ^{principal} ~~member~~ Bench New Delhi
of the Hon'ble Tribunal has granted interim
order. A photo copy of the order dated 17.3.89
passed in QA no. 656 of 1989 is being annexed
herewith as Annexure No. 8 to the application
and the copy of the claim petition of the
above filed by Sri Vinod Khullar is being
annexed herewith as Annexure No. 9 to this Claim
petition.

Lucknow

Dt. ~~15-1-1989~~
15-5-1989

J. Ullah
Deponent

Verification

I, the deponent above named do hereby
verify that the contents of paras 1 to 9, 11 to 14-
of this rejoinder affidavit are true to
my own knowledge. and those of paras
to 2 are based on legal advice.

- 10 -

and those of paras 10, 15 to — are
based on record.

Signed and verified this 15th day of May
1989 at Court's compound Lucknow.

Lucknow

Dt.

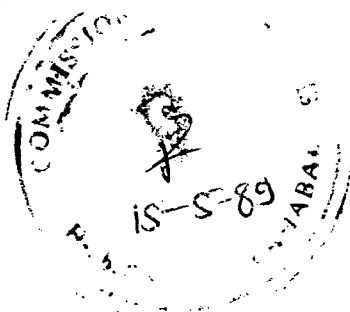
15.1989

15-5-89

J. Ullah
Deponent

I identify the deponent
who has signed before me.

[Signature]
ADVOCATE.



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Booking Note.

Dated 2.5.89

Since Sri S.K. Sharma (Jr. Booker) is on leave, as such Sri Inayat Ullah is advised to look after the work of his seat work till his return.

(107)
K.K. SHAWLA
Sr. Booker.

Sri Inayat Ullah.

Ullah



NOTICE AFTER ADMISSION

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL DINCH, NEW DELHI.

Faridkot House,
Copernicus Marg,
New Delhi.

O A S I I

Issued on the 31st day of March, 1989

Regn. No. OA 656/89

Smt.
..... Smt. Vinod Khullar ***** APPLICANT (S)

V E R S U S

..... Union of India & ors ***** RESPONDENT (S)

TO

Respondents:-

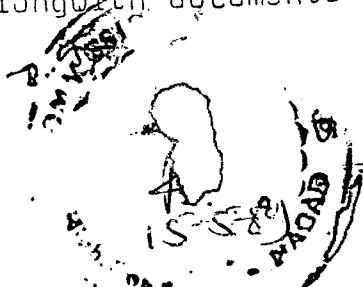
1. Chief Producer,
Films Division, 24-Dr. Dushmukh Road,
Bombay-26
2. Joint Chief Producer,
Films Division,
4, Tolstoy Marg, New Delhi.

Whereas Shri Vinod Khullar, applicant(s) has made an application under Section 19 of the Administrative Tribunal's Act, 1985 to this Tribunal (Copy alongwith relevant annexures enclosed) bearing Regn. No. OA 656/89.

Whereas the Tribunal is of the opinion that a reply to the application is called for:

IT IS HEREBY ORDERED:-

(1) that you, Respondent No. 1 do file three complete sets of duly verified reply to the application alongwith documents in a paper-book form within four weeks



1009

(2) that you should simultaneously endorse a copy of the reply alongwith documents as mentioned at S.No.(1) above to the applicant/counsel.

(3) that you are also directed to produce the records noted below for the perusal of the Hon'ble Bench of the Tribunal on the date fixed for hearing.

- (i)
- (ii)
- (iii)

(4) that the above application has been fixed for hearing on 26/7/89 at 10.30 A.M. However, the application for interim relief has been fixed for hearing on 17/4/89 at 10.30 A.M. Should you wish to argue anything against issue of interim order, you are at liberty to do so on the date fixed or any other date to which the case may be adjourned either in person or through an Advocate appointed by you for the purpose.

31/3/89

(5) A copy of the Order dt: _____ passed by the Central Administrative Tribunal, Principal Bench, New Delhi is forwarded herewith for immediate compliance/information/necessary action.

Also take notice that in default of your appearance on the date fixed the case will be heard/proceeded ex-parte.

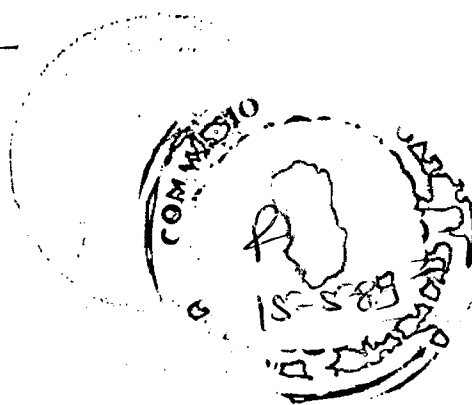
WITNESS the Hon'ble Chairman, Central Administrative Tribunal, Principal Bench at New Delhi, this the _____

day of March in the year, 1989.

31/3/89

DATED: _____

A.S. Rawat
(A.S. RAWAT)
SECTION OFFICER (JUD-11)
FOR REGISTRAR



10/1
At
Adm
6 PM
31/3/89

A90

OA 656/89

31.3.1989

Present: Shri T.C. Aggarwal, Counsel for the applicant.

Heard the learned counsel of the applicant. Admit. Issue notice to the respondents for filing their counter affidavit within 4 weeks with a copy to the learned counsel of the applicant, who may file rejoinder, if any, within 2 weeks thereafter. Parties to appear before Deputy Registrar(J) on 26th July, 1989.

2. As regards interim relief, issue notice to the respondents returnable on 17th April, 1989. In the meanwhile we direct that ^{the} applicant shall not be reverted from ~~this~~ present post, in case they have not ^{already} been reverted.

3. Issue dasti.

(P.K. KARTHA)
VC(J)

(S.N. JAYASINHA)
VC(A)

CEP
Date *31/3/89*
Tribunal
Delhi



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO. of 1989

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985.

IN THE MATTER OF:

SMT. VINOD KHULLAR
VERSUS

APPLICANT

UNION OF INDIA & ANOTHER

RESPONDENTS

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New Delhi

29th March, 1989

(Vinod Khullar)
Applicant



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. of 1989

Dr. Vinod

(1492)

Between:

Smt. Vinod Khullar W/o
Shri R.N. Khullar, aged
38 years, R/O C-31 Dayanand
Colony, Lajpat Nagar-IV,
New Delhi-24.

.....

Applicant

Versus

Union of India

Through

1. Chief Producer,
Films Division,
24-Dr. Deshmukh Road,
Bombay-26.

2. Joint Chief Producer,
Films Division,
4, Tolstoy Marg, New Delhi

Respondents

Details of application:

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

The applicant belong to the regular cadre of Stenographer Grade III of the Films Division and is working against the post of Grade II at New Delhi, under respondent No. 2.

That due to the Deptt of Personnel and Training O.M No. 28036/8/87-Estt(D) dated the 30th March, 1988 (Annexure A-1) the respondent are going to revert her forthwith irrespective of the fact that she is holding regular vacant post and is eligible to hold the same on regular basis as per recruitment rules (Annexure A-2). That in the situation the applicant has no other alternative but to approach the Hon'ble Tribunal for urgent hearing and for interim stay.

2. Jurisdiction of the Tribunal:

The applicant declare that the subject matter of the application against which the applicant want redressal is within the jurisdiction of the Hon'ble Tribunal.



11/9/83

3. Limitation:

The applicant further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act.

4. Facts of the case:

The facts of the case are given below:-

NDST RESPECTFULLY SHOWETH:

4.1) That the applicant is citizen of India and national of India and her rights are protected under the constitution of India. That as civil servant applicant joined the post of Stenographer Grade III in the office of respondent w.e.f. E. 1.6.1970 and by now put in about 19 years of service.

4.2) That the applicant was promoted as Stenographer - Grade II w.e.f. 1st Oct., 1986 against a regular vacancy, vide Films Division Order No. 414/70-DFW dated the 1st Oct., 1986, a copy of which is at Annexure A-3. That this order does not disclose any period upto which the appointment shall be limited. Accordingly, the term 'ad-hoc' has been put erroneously. Further, also under the rules of service juris prudence no ad-hoc appointment can be made beyond one year.

4.3) That as per the Recruitment Rules (Annexure A-2) applicant is eligible for promotion to the post of Grade II and without screening any reversion shall be illegal and against natural justice simply on the basis that ad-hoc appointments are to be dispensed with as per D.P & T order dated the 30th March, 1988.

4.4. Grounds for relief with legal provisions:

4) Because it is the rule of natural justice as also held by the Hon'ble Tribunal is that any reversion from ad-hoc promotion is possible if the regular incumbent reports for duty.



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B. Because the Hon'ble Supreme Court and Hon'ble Tribunal has admitted it as a rule of law that appointment is to be regulated in accordance with Recruitment Rules. Any discrimination in the matter is wholly arbitrary, illegal and violative of Articles 14 and 16 of the Constitution.

C. Because the applicant having held the post of Scenographer Grade II for about 3 years and having discharged the duties efficiently and having eligible for promotion on the basis of Recruitment Rules, it shall be totally arbitrary and against natural justice to revert her without taking any step to fill the vacancy on regular basis and without giving her chance when she is eligible for the same.

D. Because the Hon'ble Supreme Court has decided that it is an obligation to consider every eligible candidate which is implicit in equal opportunity right enshrined in Article 14 and 16 of the Constitution.

E. Because the respondent has no right of mal-administration as held by the Hon'ble Tribunal in case Mrs. Mrs. S. Theelamma V Union of India & Others 1987 (3) SLJ (CAT) 20.

F. Because the R.R notified on 30.4.1987-are not retrospectively applicable.

6. Details of remedies exhausted:

The applicant declare that there is no remedy provided under the rules for 'stay' and as such applicant declare that she has availed of all the remedies available to her under the rules.

7. Matters not previously filed or pending with any other court:-

The applicant further declare that they have not previously filed any application, writ petition or suit regarding the matter in respect of which this application

OMM
15-5-85
HIGH COURT AT AHMEDABAD

495

has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief (s) Sought:-

In view of the facts mentioned in paras 4 and 5 above, the applicant pray for the following relief (s):-

- a.) That the application may be admitted with cost.
- b.) That the applicant may be regularised against the post of Stenographer Grade II in accordance with the provisions of the Recruitment Rules.
- c.) That the applicant may be allowed seniority from the date of appointment as Stenographer Grade II with all consequential benefits.
- d.) That Hon'ble Tribunal may issue such other appropriate order(s), direction(s) deemed fit and proper by this Hon'ble Tribunal to meet the ends of justice.

9. Interim order, if any prayed for:

The respondent may be directed to maintain status-quo, i.e. the applicant may not be reverted from the post of Stenographer Grade II till the finalisation of the case.

10. In the event of application sent by registered post etc.

Nil

11. Particulars of Bank Draft/ Postal Order:-

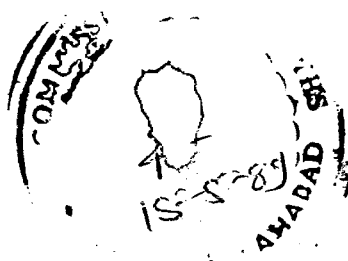
Postal Order No.

Issued by P.O. *DP 447/59*

P.O. Enclosed. *HIGH COURT*

Dt. 30/3/89

Payable at New Delhi



496

12. List of enclosures:

* As per index of application.

Verification:

I, Vinod Khullar, Wife of Shri R.N. Khullar, age 38 years, working as stenographer Grade II in the Films Division, Delhi, do hereby verify that the contents of the above application are true to my personal knowledge and believed to be true on legal advice and nothing material has been suppressed.

V. Khullar

(Vinod Khullar)
Applicant

New Delhi
29th March, 1989

OM
15-5-89
ALLAHABAD

Copy of C.M.NO.28036/8/87-ESTT.(O), dated 30.3.1988, from the Department of Personnel and Training, New Delhi.

Subject:- Ad-hoc appointment - Revision of instructions on.

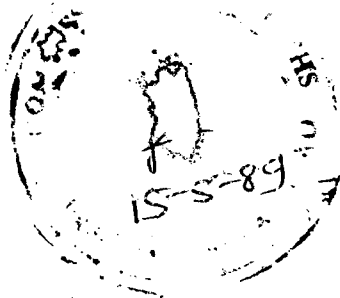
The undersigned is directed to say that instructions have been issued from time to time by the Department of Personnel and Training requesting all Ministries/Departments to fill all posts only in accordance with the prescribed procedure and Recruitment Rules, on a regular basis. Consequently, Ministries/Departments are required to ensure that all appointments made on an ad-hoc basis are limited to posts which cannot be kept vacant until regular candidates become available. However, it has been noted that appointments continue to be made on an ad-hoc basis and proposals are being received in this Department for regularisation of these appointments on the grounds that the persons concerned have been working against those posts for a long time. This has led to instances where Courts and Tribunals have directed the Government to fix seniority after taking into consideration the period of service rendered on an ad-hoc basis. This unintended benefit of adhoc service has, therefore, been bestowed to a number of persons whose adhoc promotions have been made on the basis of seniority-cum-fitness, even though the Recruitment Rules for the post may have proscribed promotion by selection.

2. In view of the position explained above, it has been decided that the Ministries/Departments may not make any appointment on an adhoc basis including appointments by direct recruitment, promotion, transfer on deputation etc. The procedure to be followed in circumstances when adhoc appointments are presently frequently being resorted to, is explained below :-

(i) ABSENCE OF RECRUITMENT RULES:

Adhoc appointments are frequently resorted to on the grounds that Recruitment Rules for the post are in the process of being framed. In this Department's O.M.NO.39021/5/83-Estt.(O) dated 29th July, 1986, all Ministries/Departments have been advised that if there overriding compulsions for filling any Group A or Group B post in the absence of Recruitment Rules, then they may make a reference to the Union Public Service Commission (UPSC) for deciding the mode of recruitment to that post. Further action to fill the post may be taken according to the advice tendered by the UPSC. All such appointments will be treated as regular appointments. In the case of Group C and D Posts which are outside the purview of UPSC, powers to frame Recruitment Rules without consulting the Department of Personnel and Training, have already been delegated to the Administrative Ministries vide this Department's O.M.NO.CO-14017/1A/85-Estt.(RR) dated 21st March, 1985. Therefore, no appointment may be made to any post on an adhoc basis on the ground that no Recruitment Rules exist for the same.

.....3/-



(8) in the Recruitment Rules only prospectively, except in
- 3 -

(ii) REVISION OF RECRUITMENT RULES;

Adhoc appointments are also frequently resorted to on the ground that proposals are under consideration to amend the existing Recruitment Rules. The legal position in this regard is that posts are to be filled as per eligibility conditions prescribed in the rules in force at the time of occurrence of the vacancies unless the amended Recruitment Rules are brought into force with retrospective effect. In fact, the practice has been to give effect to amendments in rare cases. Hence, regular appointment/promotions may be made in all such cases in accordance with the Recruitment Rules in force at the time when the vacancy arises. No adhoc appointment/promotions may be made on the grounds that the Recruitment Rules are being revised or amended.

(iii) REVISION OF SENIORITY LIST:

Another reason for making adhoc arrangements and delaying regular promotions is that the seniority position of the officer holding the post in the feeder grade is disputed. In all such cases regular DPCs may be held based on the existing seniority list. In case such disputes are pending before a Court/Tribunal, unless there is an injunction/stay order against making regular promotions, the appointing authority may convene the DPC and make promotions on the basis of the existing seniority list. However, while issuing the orders in such cases it should be stipulated that these promotions are provisional and subject to the final decision of the Court/Tribunal. Subsequently, when the directions of the Court/Tribunal become available, a Review DPC may be held and the necessary adjustments made in the promotions of officers based upon the revised seniority list. In case any of the officers provisionally promoted do not figure in the list approved by the Review DPC they may be reverted to the posts held by them earlier.

(iv) SHORTAGE IN DIRECT RECRUITMENT QUOTA:

Adhoc appointments are also made on the consideration that adequate number of qualified candidates are not available for filling the vacancies through the direct recruitment quota prescribed in the Recruitment Rules. In some cases, even though, the required number of candidates are recommended by the Union Public Service Commission/Staff Selection Commission, some of them do not join or they join only to resign thereafter.

According to the instructions contained in this Department's O.M.NC.24012/34/80-Catt.(B) dated 20th February, 1981, while notifying vacancies to recruiting agencies, especially the SSC, the appointing authority is expected to compute the total number of vacancies taking into consideration the likely vacancies during the period beginning from the date of announcement of the examination in question upto the date of announcement of the subsequent examination so that the total number of posts to be kept vacant may be very few.

.....4/-



(9)

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In spite of this, if some vacancies still remain unfilled, the following measures may be adopted:-

(a) Wherever possible, the posts may be allowed to remain vacant until qualified candidates become available at the next examination.

(b) Wherever the Recruitment Rules for the posts provide alternative methods of recruitment i.e. not only by the direct method but also by transfer on deputation, efforts may be made to fill these vacancies which cannot be held over (until candidates of the next examination become available), by the alternative methods i.e. by transfer on deputation etc.

(c) However, in cases where direct recruitment is the only method provided in the Recruitment Rules, Ministries/Departments have been advised vide O.M. NO. 14017/8/84-Estt.(RR) dated 19th June, 1986, that the Rules may be amended to provide for transfer on deputation as an alternative method to fill short-term vacancies in the direct recruitment quota. In case the rules have not been amended the Ministries/Departments may take steps to do so immediately so that the shortage of qualified candidates against the DR quota, may be met by filling the vacancies through transfer on deputation for short periods.

(v) Whenever short-term vacancies are caused by the regular incumbents proceeding on leave for 45 days or more, study leave, deputation etc. of less than one year duration, they may be filled by officers available on an approved panel. Such a panel may be maintained taking into account not only the actual but also the vacancies anticipated over a period of 12 months in accordance with the existing instructions of holding DPCs. Wherever an officer is not available on an approved panel the post may be kept vacant, as far as possible.

3. If the proscribed instructions and procedures are strictly adhered to, it may be seen that there will be very few cases where appointments need to be made on an adhoc basis. Such circumstances may be -

(i) where there is an injunction by a Court/Tribunal directing that the post may not be filled on a regular basis and if the final judgement of the Court/Tribunal is not expected early and the post also cannot be kept vacant.

(ii) where the DR quota has not been filled and the RRs also do not provide for filling it up on transfer or deputation temporarily and the post cannot also be kept vacant.

(iii) In short term vacancies due to regular incumbents being on leave/deputation-etc., and where the posts cannot be filled as per para 2(v), and cannot also be kept vacant.

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4. In such exceptional circumstances adhoc appointments may be resorted to subject to the following conditions:-

(i) The total period for which the appointment/promotion may be made, on an adhoc basis, will be limited to one year only. The practice of giving a break periodically and appointing the same person on an adhoc basis may not be permitted. In case there are compulsions for extending any adhoc appointment/promotion beyond one year, the approval of the Department of Personnel and Training may be sought at least two months in advance before the expiry of the one year period. If the approval of the Department of Personnel & Training to the continuance of the adhoc arrangements beyond one year is not received before the expiry of the one year period the adhoc appointment/promotion shall automatically cease on the expiry of the one year term.

(ii) If the appointment proposed to be made on an adhoc basis involves the approval of the Appointments Committee of the Cabinet, this may be obtained prior to the appointment/promotion being actually made.

(iii) Where adhoc appointment is by promotion of the officer in the feeder grade, it may be done on the basis of seniority-fitness basis even where promotion is by selection method as under :-

(a) Adhoc promotions may be made only after proper screening by the appointing authority of the records of the officer.

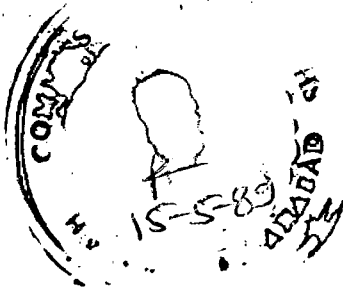
(b) Only those officers who fulfil the eligibility conditions prescribed in the recruitment rules should be considered for adhoc appointment. If, however, there are no eligible officers, necessary relaxation should be obtained from the competent authority in exceptional circumstances.

(c) The claims of Scheduled Castes and Scheduled Tribes in adhoc promotions shall be considered in accordance with the guidelines contained in the Department of Personnel & A.R. Office Memorandum NO.36011/14/83-Estt.(SCT) dated 30.4.1983 and 30.9.1983.

(iv) Where adhoc appointment by direct recruitment (which as explained above should be very rare) is being done as a last resort, it should be ensured that the persons appointed are those nominated by the employment exchange concerned and they also fulfil the stipulations as to the educational qualifications/experience and the upper age limit prescribed in the Recruitment Rules.

Where the normal procedure for recruitment to a post is through the employment exchange only, there is no justification for resorting to adhoc appointment.

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(v) Where the appointing authority is not the Ministry, the authorities competent to approve adhoc appointments may be decided by the Administrative Ministries themselves. The competent authority so authorised by the Ministry should be one level higher than the appointing authority, prescribed for that post.

5. Adhoc promotions with respect to officers whose cases are kept in a sealed cover in accordance with O.M.NO.22811/2/86-Estt.(A), dated 12.1.1988, will however, continue to be governed by these special instructions. Similarly, adhoc promotions of officers belonging to the Central Secretariat Service (CSS) to posts of Under Secretary/Deputy Secretary under the Central Staffing Scheme, will continue to be regulated by special instructions contained in O.M. NO.31/16/82-EO(MM) dated 28.9.1983.

6. All adhoc appointments including adhoc promotions shall be reviewed on the basis of the above guidelines. In exceptional circumstances, wherever such appointments are required to be continued beyond the present term, the decision thereon may be taken by the authority prescribed in para (4)(v). However, it may be noted that the continuance of such adhoc appointments including adhoc promotions will be subject to the overall restriction of one year from the date of issue of these instructions.

7. All Ministries/Departments are requested to take action in accordance with the above mentioned instructions in respect of both Secretariat as well as non-Secretariat offices under them.

8. The receipt of this O.M. may kindly be acknowledged.

See

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TARABAD

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Group 'C' Departmental Promotion Committee

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10-2353

Stenographer
Grade-II

General Services
Group 'C' Non-Gazetted
Minister

10-2353

(Subject to variation
dependent on workload)

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HAB

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Essential:
(i) Matriculation of a recognised University
or Board of Education or its equivalent.
(ii) Speed of at least 120 words per minute
in shorthand and 50 words per minute in
typewriting.

AB3

Desirable:
Previous experience as a Stenographer in a
Government office or a Commercial concern
of repute.

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[illegible]

Notes: The crucial date for determining the age limit should be the closing date for receipt of applications from candidates in India (other than those in Arabian and Nicobar Islands and Lakshadweep). In the case of recruitment made through Employment Exchange the crucial date for determining the age limit shall be the last date upto which the Employment Exchange has been asked to submit the names.

(14)
No. 4/14/70. DFW
FILMS DIVISION
MINISTRY OF INFORMATION AND BROADCASTING
GOVERNMENT OF INDIA

Annexure A-3

4-Tolstoy Marg,
New Delhi-110001.

Dated the 1st October, 86

ORDER

Smt. Vinod Khullar, Permanent Stenographer, Films Division, New Delhi is promoted to officiate as Personal Asstt. on purely adhoc basis w.e.f. 1st October, 1986 (afternoon) vice Shri A.S. Rayan, Personal Asstt. transferred to Bombay. Her promotion is without prejudice to the claims of her seniors.

(S.N. SINGH)

Administrative Officer

Sum
Smt. Vinod Khullar,
Pmt. Stenographer,
Films Division,
4-Tolstoy Marg,
New Delhi

MESSIA

15-5-89
ALABHAD

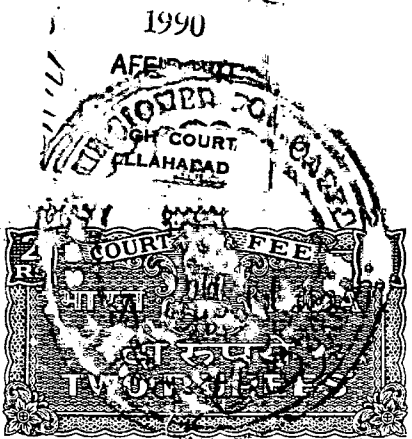
7/10/6

In the Hon'ble W Central Administrative Tribunal

Circuit Bench, Lucknow.

IN RE

O.A. No. 80 of 1990 L.



P.T.
23/7/90

Inayat Ullah

Applicant

Versus

Assistant Administrative

Officer and others

Respondents.



9.10.90

Rejoinder Affidavit to the Supplementary & Counter Affidavit filed by the respondents no. 2,3, and 4 to the Supplementary affidavit moved by the applicant.

I, the deponent ~~aboves~~ Inayat Ullah aged about 45 yrs. s/o Late Sri Inam Ullah Junior

1167

- 2 -

Booker, Films Division Government of India
Ministry of Information and Broadcasting
94 Durga Bhawan Kapoor Lane Mahatama Gandhi
Marg, Lucknow do hereby solemnly affirm and
state on oath as under.

1. That the deponent is applicant in
the above noted application and as such he
is well conversant with the facts and cir-
cumstances of the case. He has gone through
the supplementary ^{Counter} affidavit and has fully
understood the contents thereof and giving
the parawise reply of the same as here -
under.

2. That the contents of paras 1 and 2
of the Supplementary Counter Affidavit needs
no reply.

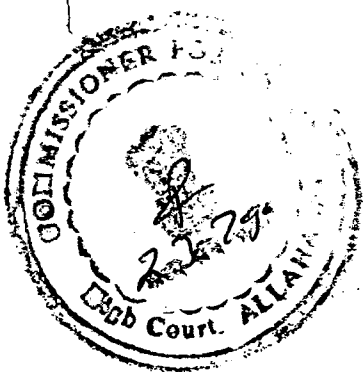
3. That the contents of para 3 of the
Supplementary Counter Affidavit as stated
are wrong and incorrect and the same are
denied and in reply thereof the facts
already stated in ^{para 4 & 5 of the} supplementary affidavit are
reiterated to be correct. It is further sub-
mitted that Sri K.K. Chawla who has been given
promotion to the post of Salesman was earlier
posted on the same post. However he was re-
verted to the post of Senior Booker as per
directions given by the Ministry of Finance



2.11.56

Alod

and personnel and as such the person who was working on the post of Senior booker was re-verted to the post of Junior Booker and the Junior booker on which post the ~~work was~~ deponent was working, was reverted back to the post of Film Shipper and now ~~again~~ Sri K.K. Chawla has again been promoted to the post of Salesman and as such the post of Senior booker has ~~been~~ fallen vacant, but instead of filling up the aforesaid vacancy of the post of Senior Booker, Sri Radhey shyam is being transferred to the post of Junior booker by adjusting him to the ~~aforsaid~~ post of Senior booker. The deponent who is duly qualified for appointment to the post of Junior booker has been deprived of his right, with mala fide intention. It is relevant to state here that ~~on~~ on the one hand the respondents are saying that the panel for appointment ~~to~~ to the post of senior booker has not been prepared by them and on the other hand they have submitted in para 8 of the Counter Affidavit filed by them to the application for stay moved by the applicant mentioning therein that Sri S.K. Sharma Junior booker working in the same branch has been one of the official considered for appoint-



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- 4 -

ment against the ⁵vacancy and as such ~~are~~
statements ^{of the respondents are} ~~are~~ contradictory false and un-
believable. Sri Radhy Shyam has been trans-
ferred at Lucknow only with malefide intention
to deprive the claim of the deponent for
appointment on the post in question.

4. That the contents of para 4 of the
Supplementary Counter Affidavit as stated are
wrong and incorrect and the same are denied
and in reply thereof the facts already stated
in para 6 of the supplementary affidavit are
reiterated to be correct. As stated in the
foregoing paragraph the deponent has been
deprived by the respondents to be appointed
on the post of Junior booker with malefide in-
tention.



5. That the contents of para 5 of the
supplementary Counter Affidavit as stated are
wrong and incorrect and the same are denied
and in reply thereof the facts stated in para
7 of the supplementary affidavit are reiterated
to be correct. It is further submitted that the
deponent ~~ix~~ has continuously worked for three

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- 5 -

years on the post of Junior booker.. However, he was reverted to the post of Film Shipper against the directions issued by the Ministry of Finance and Personnel in a most illegal and arbitrary manner. The deponent is seniormost Film Shipper posted at Lucknow and ~~also~~ is duly qualified for the promotion to the post of Junior Booker and as such he has prior right for promotion to the post of Junior Booker ^{which is vacant} _{at Lucknow.}

6. That the contents of para 6 of the Supplementary Counter Affidavit as stated are wrong and incorrect and the same are denied and in reply thereof the facts already stated in para 8 of the supplementary affidavit are reiterated to be correct. It is further submitted that the post of Junior Booker ~~has~~ is ~~is~~ already vacant at Lucknow. However, he is being deprived of being appointed on the above said post with malafide intention and Sri Radhy Chyam has been transferred to Lucknow in order to deprive his claim to be post as Junior Booker.



Lucknow

Dt. 23. 7.1990

S. Ullah
Deponent.

Verification

I, the deponent above named do hereby
verify that the contents of paras 1 to 6 of
this supplementary counter affidavit are true to my
own knowledge, those of paras 1 to 6 are based
on legal advice and paras 1 to 6 are based
on record.

No part of it is false and nothing material
has been concealed so help me God. Signed and
verified this 23 day of July 1990 in the courts
compound.

Lucknow

Dt. 23. 7. 1990

Julia
Deponent

I identify the deponent

who has signed before me.

Dr. Anil Kumar
Advocate.



Rohini MS
OATH COMMISSIONER
Dist. Court, Allahabad

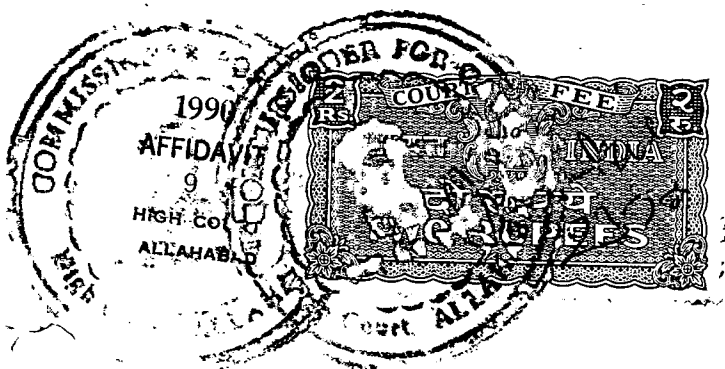
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(A112)

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

In Re

C....No. 80 of 1990L.



Inayat Ullah

--- Applicant

Versus

Assistant Administrative

Officer and others. -- Respondents.

Rejoinder Affidavit to the
Counter Affidavit filed by the
opposite party no. 1, 2, 3 and 4
to the application for stay moved
by the applicant.

I, the deponent Inayat Ullah aged
about 45 years son of Late Sri & Inam Ullah
Junior Booker, Films Division Government of
India Ministry of Information and Broadcasting
94 Durga Bawan Kapoor Lane Madhwa Gandhi
Marg, Lucknow do hereby solemnly affirm and

A113

- 2 -

state on oath as under.

1. That the deponent is applicant in the above noted application and as such he is well conversant with the facts and circumstances of the case. He has gone over the Counter Affidavit filed by the respondents and has understood the contents thereof and is giving the parawise reply of the same as hereunder.

2. That the contents of para 1 of the Counter Affidavit need no reply.

3. That in reply to the contents of para 2 of the Counter Affidavit the contents of para 1 of the application are reiterated to be correct.

4. That in reply to the contents of para 3 of the Counter Affidavit the contents of para 2 of the application as stated are reiterated to be correct.

5. That in reply to para 4 of the Counter Affidavit the facts stated in para 3 of the stay application are reiterated to be correct.

6. That the contents of para 5 of the Counter Affidavit as stated are wrong and incorrect and the same are denied and in

sum



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reply thereof the facts already stated in para 4 of the stay application are reiterated to be correct. It is further submitted that the deponent ~~was~~^{is} promoted to the post of Junior Booker on adhoc basis with effect from 31.3.86 and thereafter he was reverted to the post of Film Snapper vide instructions dated 30.3.1989 with effect from 29.3.1989. As such the deponent has continuously worked on adhoc basis for three years on the post of Junior Booker ~~on~~ ~~ad hoc basis~~ and as such as per directions issued by the Ministry of Finance and personnel from time to time the applicant was liable to be regularised. It is further submitted that detailed reply has already been given in the rejoinder affidavit to the Counter Affidavit filed to the original application and detailed facts have already been mentioned in the original application.

7. That in para 6 of the Counter Affidavit the contents of para 5 of the Interim Stay application are reiterated to be correct.

8. That the contents of para 7 of the Counter Affidavit as stated are wrong and incorrect and the same are denied and in reply thereof the facts already stated in para 6 of the Stay application are reiterated to be correct. It is further submitted that



A/15

- 4 -

the deponent has his sympathy with Sri Radhaysayan Junior Booker because as stated in the Counter Affidavit he is suffering from some chronic disease. However it is submitted that Sri Radhey Shyam was ^{selected and} given promotion from the post of Lower Division clerk to the post of Junior Booker and was posted at Visiwahe who is much junior to the applicant and now he is being transferred to Lucknow and is being adjusted against one post of Senior Booker only in order to defeat the claim of the deponent for the aforesaid post with malafide intention because he has ~~existingly~~ filed the present application before this Hon'ble Tribunal, ~~and~~ ~~on~~ ~~the~~ ~~basis~~ ~~of~~ ~~the~~ ~~same~~ ~~facts~~ ~~and~~ ~~circumstances~~. Otherwise Sri Radhey Shyam could have been adjusted at some other place where he would have some better facilities for his treatment than at Lucknow such as New Delhi, Bombay, Madras and Bangalore where the branches of the applicant's department exist. It clearly indicates that how much sympathy respondents have with Sri Radhey Shyam and as such the action of the respondents are malafide, arbitrary and unjustified.

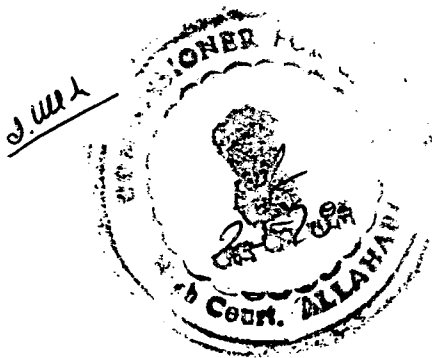
9. That the contents of para 8 of the Counter Affidavit as stated are not admitted and in reply thereof the facts already stated in para 7 of the stay application are re-



(116)

iterated to be correct. The contents of paragraph 8 itself show that how much ~~xx~~ respondents are annoyed and prejudiced with the applicant and have malafide intention because the applicant had dared to file the present application against their illegal action. Respondents are adjusting a person on stop gap arrangement who is suffering from some chronic disease and ~~who~~ cannot perform the duties properly and who is under treatment, although the deponent who is duly qualified and available for appointment against the aforesaid post by adjusting. In this manner by adjusting a junior person against the said post the deponent has been deprived his right to be posted on the said post. It is further submitted that a detailed reply has already been given in the rejoinder affidavit to the Counter affidavit filed against the original application.

10. That the contents of para 9 of the Counter Affidavit as stated are wrong and incorrect and the same are denied and in reply thereof the facts already stated in para 8 of the Stay application are reiterated to be correct. It is further submitted that as stated above the respondents have no sympathy with Sri Radhey



(A-17)

Shyam . Respondents should have ^{to} posted ~~him~~ him some other place where Sri Radhey Shyam may get better facilities of his treatment. On the other hand by posting Sri Radhey Shyam ^{on the disputed post} with mala fide intention the right of applicant to be posted on the post in question has been infringed and he has been deprived this opportunity by them in a most illegal and arbitrary manner.

11. That the contents of para 10 of the Counter Affidavit as stated are wrong and incorrect and the same are denied. In view of above the applicant's application deserves to be allowed and the deponent should be posted on the post in question.

Lucknow

Dt. 23. 7. 1990

S. M. A.
Deponent.

Verification

S. M. A.

I, the deponent above named do hereby verify that the contents of paras 1 to 11 of this rejoinder affidavit are true to my own knowledge and those of paragraphs 1 to 11 are believed by me to be true on the basis of legal advice tendered by my counsel and those of



paras () to () are based on record.

No part of it is false and nothing material has been concealed so help me God. Signed and verified this day of July 1990 in the court's compound at Lucknow.

Lucknow

Dt. 13. 7. 1990

J. Ullah

Deponent.

I identify the deponent who has signed before me.

By: Nayak
Advocate.



Ranil
Joint Commissioner
Joint Commissioner
High Court, Allahabad
Lucknow Bench
Do. 23-7-90
23-7-90

In the Hon'ble Central Administrative Tribunal,

Additional Bench Allahabad,

Circuit Bench Lucknow.

C.M.Appln. No. 364 of 1990(L)

Inayat Ullah. ...Applicant.

Inre;

O.A.No.80 of 1989(L)

Inayat Ulla. ..Applicant.

Versus.

A ssistant Administrative Officer

and other. ...Respondents.

A PPLICATION FOR STAY.ORDER

The applicant named above most respectfully

begs to submit as follows:-

1. That the applicant was appointed as film checker and joined on 1 .12.1967. He was promoted to the post of Film Shipper on 22.2.1972 and was confirmed on 1.7.1974 later on being no vacancy he was reverted to the post of Film Checker.
2. That the applicant was further promoted to the post of Film Shipper w.e.f.23.11.1977.

J. Ullah

Filed today

L
29/5/90

A/20

- 2 -

3. That the applicant serving as Film Shipper was offered the promotion on the post of Junior Booker at Number of times but since the promotion was affected with the transfer the applicant refused his promotion on all the occasions specifically stating that he shall be accepting the promotion only at Lucknow whenever the same is available.
(Annexure C-VIII)

4. That however, the applicant was promoted on the post of Junior Booker on ad-hoc basis on 31.3.1986 and continued on the said post upto 30.3.1989. On 30.3.1989 he was served with a reversion order dated 27.3.1989 (Annexure A-VI).

5. That being aggrieved the order dated 27.3.1989 (Annexure A-6) the instant original application was filed on 11.4.1989 in which the counter and rejoinder have been exchange.

6. That the respondents have just passed an order No.A-20012/9/77-Est-II, dated 15.5.1990 transferring one Radhey Shyam the Junior Booker of Vijai -wara Branch Office to Lucknow Branch Office against the post of Senior Booker by way of adjustment. A true copy of the order is annexed herewith as Annexure A-7.

7. That it is pertinent to mention here that the Senior Booker Sri S.K.Sharma was reverted to his

S. K. Sharma

(A2)

- 3 -

original post of Junior Booker and the applicant was reverted from Junior Booker to Film Shipper post (Annexure A-5). Under such circumstances if some junior Booker can be adjusted against the post of Senior Booker, this benefit ought to have been given to the applicant preferably and none else. Moreover, Shri Radhey Shyam quite junior to the applicant in service and can not take the place of the applicant in the aforesaid manner.

8. That it will not be out of place to mention here that if the operation of the order 15.5.90 (Annexure A-7) is not stayed the very purpose of filing the instant original application shall be frustrated and the applicant shall suffer irreparable loss and injury.

P R A Y E R.

That in view of the aforesaid, it is, most respectfully prayed that the Hon'ble Tribunal may graciously be pleased to stay the operation of the impugned order dated 15.5.90 (Annexure A-7), in the interest of justice otherwise the applicant shall suffer irreparable loss and injury.

Lucknow; Dated

24.5.1990

J. M. M.
Applicant.

Verification

I, Inayatulla, aged about 44 years, son of Late Sri Inamulla, hereby verify that the contents of para 1 to 7 of this application are true to my

J. M. M.

A/22

- 4 -

personal knowledge and para 8 and 9 on the basis of legal advise which are believe to be true and that I have not suppressed any material fact.

Lucknow; Dated

24.5.1990

gull

Applicant.

Identified Shri Inayatulla son of Sri Late Inamulla who has signed before me.

T.N. Tiwari
(T.N. Tiwari) Advocate,

Counsel for the Applicant.

A123
A123

Annexure - A - 7

R/S FSI-73

No. A-20012/9/77-Est. II
Filing Division
Ministry of Information & Broadcasting
Govt. of India

24-Dr. G. Dookhiah Marg.
Bombay-400 026.

Dt: -15th May, 1990

ORDER

Shri Radhoy Shyam, Offg. Jr. Becker working in Vijayawada Branch office is transferred in the same capacity to Lucknow Branch office with immediate effect. He will be adjusted against the vacant post of Sr. Becker in terms of G.O.R.77.

2. The transfer of Shri Radhoy Shyam from Vijayawada to Lucknow is on his own request and he will not be entitled to transfer TA/DA, Joining time etc.

Sd/-

(S. GOPALARATHAN)
ASSTT. ADMINISTRATIVE OFFICER
FOR ADMINISTRATIVE OFFICER

Shri Radhoy Shyam,
Jr. Becker,
Filing Division,
Vijayawada.

Copy to:-

- 1) Branch Manager, Lucknow
- 2) Branch Manager, Vijayawada. He is requested to relieve Shri Radhoy Shyam immediately.
- 3) Recruitment Cell
- 4) Vigilance Section
- 5) Office Order Book.

S. Kumar
(S. GOPAL ARATHAN)
ASSTT. ADMINISTRATIVE OFFICER

The Minister
Director

ACe
22/5

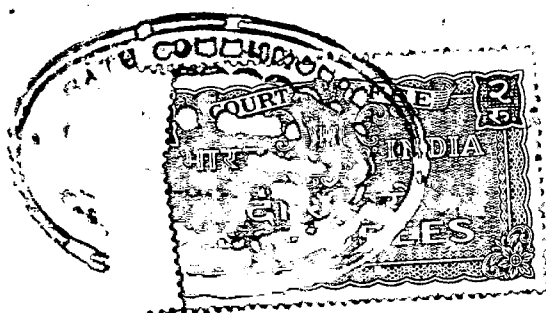
81
22/5

Shri T
22/5/90

(A124)

In the Central Administrative Tribunal Additional
Bench, Lucknow.

Petition No. 80 of 1989.



Inayat Ulla

Petitioner

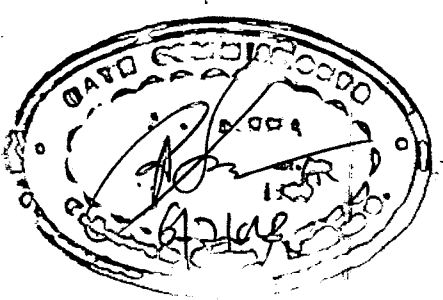
Versus

Assistant Administrative
Officers Films Division
Ministry of Broad Casting
and Information Government
of India Bombay and ors. --- Respondents.

Supplementary Affidavit

I, the deponent Inayat Ullah aged about 44
years son of Late Sri Inam Ulla , Junior Booker
Films Division Government of India Ministry of
Information and Broad Casting 94 Durga Bhawan,
Kapoor Lane Mahatama Gandhi Marg, Lucknow do
hereby solemnly affirm and state on oath as under.

1. That the deponent is claimant in the above
noted Claim petition and as such he is fully con-
versant with facts and circumstances of the case.



8/25

2. That the case has been directed to come up for final hearing on 6.7.1989 vide order dated 6.6.1989.

3. That however, during the above said period certain subsequent development has arisen which have necessitated the filing of the present supplementary rejoinder affidavit.

4. That in the Counter Affidavit the respondents have taken the stand for justifying the petitioner's reversion that it was done because of the chain reversion . It was stated that the Sales man was reverted to the post of Senior Booker and Senior Booker to the post of Junior Booker on which the petitioner was working and consequently the petitioner had to be reverted to the post of Film Shipper .

S. Ullah

5. That the above said plea of the respondent is also not available to them and the same has come to an end in view of the fact that Sri K.K. Chawala who was reverted from the post of Salesman to the post of Senior Booker has since been given regular promotion to the post of Sales man vide order dated 6.6.1989 thereby making the post of Senior Booker vacant. A photo copy of the said order dated 6.6.89 and the joining report of Sri Chawla on the said post dated 14.6.1989 are being annexed herewith as Annexures NO. S-1 and S-2 to this Supplementary affidavit.



6. That as a consequence of the above said

1126

- 3 -

promotion the post of Senior Booker has fallen vacant on which the respondent could make promotion ~~xx~~ of the reverted person from those of Junior Bookers and thereby allowing the petitioner to work on the post of Junior Booker. In fact this should have been done on their own but they have not done so with malafide intention only to deprive the petitioner his claim for working on the said post and justifying the petitioner 's reversion.

7. That it would also be relevant to mention herein that actually the petitioner has been working on the post of Junior booker since 1.6.83 when he was firstly given promotion on the said post vide order Dt. 13.4.1984. However the intentional break was created and subsequently once again he was allowed to perform the duties of Junior Booker vide order Dt.13.8.1984 by the Branch Manager. His case was strongly recommended for being given regular promotion and appointment on the post of Junior Booker by the Branch Manager vide letter dated 7.6.1985. A copy of the letter dated 7.6.1985 is being annexed herewith as Annexure No. S-3 to this affidavit.

check



8. That in the circumstances mentioned above it would be expedient in the interest of justice that the opposite party be directed to allow the petitioner to work on the post of Junior Booker

AI27

and the present supplementary affidavit be
taken on record.

Lucknow

Dt. 6. 7. 1989

J. Ullah

Deponent.

Verification

I, the deponent above named do hereby verify
that the contents of paras 1 to 2 of this
affidavit are true to my own knowledge, those of
paras 3 to 4 are based on legal advice
and paras 5 to 6 are based on record.

Signed and verified this day of July
1989 at court's compound , Lucknow.

Lucknow

Dt. 6. 7. 1989

Deponent

I identify the deponent
who has signed before me.

Bhikad Chak
Advocate.

Cm
I, the undersigned, do hereby certify that the contents of the above affidavit are true to my own knowledge, those of paras 3 to 4 are based on legal advice and paras 5 to 6 are based on record.
Sd/- *S. C. M.*
17/7/89
OATE COMMISSIONER
17/7/89

19/12/89

S-1

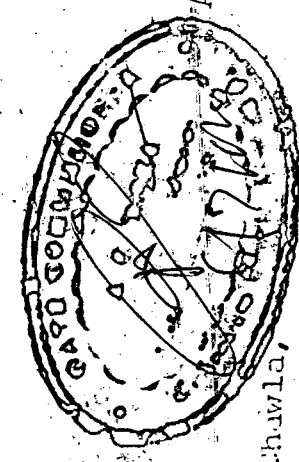
NO. 32016/2/89-RC
Films Division
Ministry of Information and Broadcasting
Government of India

24, Peddar Road, Bombay-26,
Dated the 6th June, 1989

O R D E R

On the recommendations of the Departmental Promotion
Committee, Shri K.K. Chawla, Officiating

Senior Booker in the Distribution Branch Office at Lucknow
is appointed to officiate as Salesman in the same office in the
scale of Pay of Rs. 1400-40-1800-ED-50-2300 with effect from
the date he takes over charge of the post, until further orders.



(S. GOPALARATHNAM)
Asstt. Administrative Officer

Shri K.K. Chawla,
Officiating Senior Booker,
Films Division, Lucknow.

5-2
The Branch Manager
Films Division
Government of India
LUCKNOW.

Dated 14.6.89

(H/29)

Sir,

As per Order No. A-32016/2/89-13 dated
6th June, 1989 from the Administrative Officer,
Films Division, Govt. of India, Bombay, I have
to report for my duty today afternoon as a Sales-
man.

Thanking you,

Yours faithfully,

(C. H. Singh)
Salesman,
Films Division,
Govt. of India
Lucknow Branch.



S-3

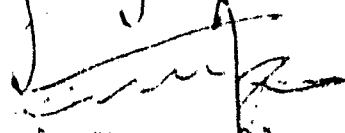
(A 180)

FINES DIVISION
City of Indianapolis
RECEIVED - 11-11-85
November 11, 1985

The Human Rights Office
Public Division, 11/11
Hendricks 20
Mazalig
clerk
Dated 7-5-85

Re: Sub. Application of In Support
Walt for fine for
June 1985

I am enclosing herewith an
application from In Support of Walt's
fine for the fine for June 1985.
I am enclosing for the fine for June 1985.
Walt had already appeared for the fine
for June 1985.

Yours faithfully

(Gerald Dwyer)
Branch Manager

Walt



वकीलत श्रीमान

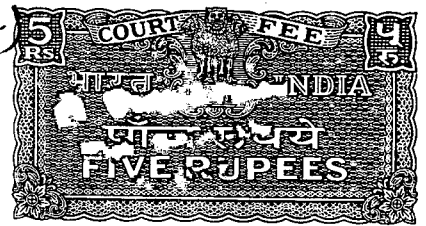
महोदय

वादी (मुद्दई)
मुद्दई (मुद्दालेह)

का

वकालतनामा

0A-80-994



Shri. M. S. Tripathi

U. S. Tripathi

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुद्दमा

सन

पेशी की ता०

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

T. N. Tripathi Acharya

And Shri V. S. Tripathi Acharya वकील

एडवोकेट महोदय

नाम अदालत
नं० मुकद्दमा
नाम फरीकन

को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया 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 रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि

प्रमाण रहे और समय पर काम आवे।
V. S. Tripathi
24.5.52

हस्ताक्षर
J. M. Acharya

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

24

महीना

5

सन् १९५२ ई०

Accepted

J. M. Acharya

T. N. Tripathi Acharya