

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE ..... O.A. 120 OF 1989 .....

NAME OF THE PARTIES ..... V. K. Agnihotri ..... Applicant

Versus

..... Union of India ..... Respondent

Part A.

Sl.No.	Description of documents	Page
1	Checklist	1 to 2
2	Order sheet	3 to 3
3	Judgment 28-5-92	6 to 7
4	Petition with Annexure, power	8 to 53
5	C.A.	54 to 68
6	R.A.	69 to 81
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

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

Dated .....

Counter Signed.....

  
Section Officer/In charge

Signature of the  
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

(CAI)  
Central Administrative Tribunal  
Circuit Bench, Lucknow  
Date of Filing: 31/5/89  
Date of Receipt: 31/5/89

Registration No. 125 of 1989(A)

Deputy Registrar(J)

APPLICANT(S) V.K. Agnoltri

RESPONDENT(S) Union of India & Others

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	yes
2. a) Is the application in the prescribed form ?	yes
b) Is the application in paper book form ?	yes
c) Have six complete sets of the application been filed ?	yes
3. a) Is the appeal in time ?	yes
b) If not, by how many days it is beyond time?	N.A
c) Has sufficient case for not making the application in time, been filed?	N.A
4. Has the document of authorisation/ Vakalatnama been filed ?	yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	DD/A 780124 2550/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	yes
c) Are the documents referred to in (a) above neatly typed in double sapce ?	yes
8. Has the index of documents been filed and paging done properly ?	yes
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?	yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	N/A

(12)

Particulars to be Examined

Endorsement as to result of examination

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

dinesh/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

(A3)

ORDER SHEET

REGISTRATION No. 120 of 1989 C

APPELLANT  
APPLICANT

V. K. Aggarwal

VERSUS

DEFENDANT  
RESPONDENT

Union of India

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

26.6.89

Hon. Mr. Justice K. Nalkh, V.C.  
Hon. Mr. K. J. Raman, A.M.

Admit.  
Issue notice to respondents. Respondents are directed to file counter reply within four weeks to which the applicant may file rejoinder, if any, within two weeks thereafter. The case for hearing on 11.8.89. The applicants will also produce the records of disciplinary proceedings at the time of hearing.

A.M

V.C.

or  
Notice issued  
5-7-89

GR: Notices were conveyed through regd. post. Neither reply nor any counter reply was received back. Submitted for...

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

(A4)

O.A. No. 120/89 (L)  
REGISTRATION No. \_\_\_\_\_ of 198 .

APPELLANT  
APPLICANT

V.K. Agnihotri

VERSUS

DEFENDANT  
RESPONDENT

Union of India and ors

Sl. No. of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
11/8/89	<p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>Mr. M. Dubey, L/C for the applicant is present. None is present for respondents. Counter affidavit has not been filed. Let the counter affidavit be filed within four weeks to which the applicant may file rejoinder if any, within two weeks thereafter. List this case on 31/10/89 for hearing/ex-parte hearing as the case may be.</p> <p style="text-align: right;"><i>J.M.</i></p> <p>(sns)</p>	<p><i>OR - No reply filed submitted for ex-parte hearing</i></p> <p style="text-align: right;">2 <i>U/K</i></p>
31/10/89	<p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>Shri M. Dubey counsel for the applicant is present. None appears for the respondents. No sitting of Division Bench, therefore, list this case for <u>hearing/ex-parte hearing on 15-12-89.</u></p> <p style="text-align: right;"><i>J.M.</i></p> <p>(sns)</p>	<p><i>C</i></p>
15/12	<p>No sitting. Adj. to 21.2.90. Both the counsel are present.</p>	

12/09

(AS)

11-12-91

Due to paid demer  
of Sh. B. D. Chadha (ADN)  
case is adj. to 17-3-92.

B.O.C.

*[Signature]*

on  
CA RA have been  
reassigned  
S.M.  
17-3-92  
*[Signature]*  
16-3-

No Siding of D.M. Adf n  
21-4-92

*[Signature]*

21-4-92

No Siding of D.M. Adf on n  
28-5-92

*[Signature]*

AS

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

O.A.No. 120/89

Virendra Kumar Agnihotri

Applicant

versus

Union of India & others

Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

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

The applicant was working as S.B.C.C Pali Sub office(Hardoi) in the postal department. On 26;11.77 he ~~was~~ dealt with two withdrawals forms. It appears that thereafter, the chargesheet was issued to the applicant in respect of these withdrawals and charge was that there were certain grave lapses on his part. The enquiry proceeded. The enquiry officer held the applicant guilty of both the charges and punishment was awarded to the applicant reducing his pay by one stage. He was suspended and after two years the suspension order was recalled but he was not allowed full pay and allowances for suspension period from 1.1.84 ro 3.11.85 by SPOs Hardoi Memo dated 16.3.89. The applicant filed appeal against the order dated 16.3.89. The appellate authority held that "though neither it has been established in the enquiry that the appellant accepted the applications for withdrawl

(A)

referred to in the memo of charges on 26.11.77 after close of the counter not it could be proved that the fact of the death of the depositor was in the knowledge of the appellant at the time of payment on 28.11.77. Yet the pleas put forth in defence to accepting a P.B. after close of the working hour, making payment to the messenger and tampering of the S.S. Book of the department to entrap the appellant all these preponderantly hint at the probability of having committed the lapses by the appellant."

2. In view of this I do not find any justification in the penalty issued. The appellate authority could have recorded a clear cut finding whether there were lapses on the part of the applicant. Instead of recording a clear cut finding the appellate authority, based on his conclusion on probability in respect of certain events. That part of the appellate order is quashed. The appellate order, in these circumstances cannot be allowed to stand. The last part of the appellate order is quashed. The appellate authority without touching <sup>the</sup> quashed part of the order, will decide the remaining part of the appellate order within a period of three months. The appellate authority to consider whether the suspension order was <sup>the</sup> recalled and whether the applicant was entitled to the salary during the period he was under suspension.

A.M

V.C.

Shakeel/

Lucknow: Dated: 28.5.92.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT  
1985

Virendra Kumar Agnihotri

Versus

Applicant

Union of India and others

Respondents

Sl. No. Description of documents relied upon Page No.  
COMPILATION No. 1

1.	Application	1 - 9
2.	Ann. No. A-11, True copy of punishment order dated 31.12.87.	10 & 11
3.	Ann. No. A-12, " appellate order dated 20.5.88.	12 & 13
4.	Ann. No. A-15, " order dated 16.3.89.	14

Annexure No. COMPILATION No. 2

1.	A-1, True copy of withdrawal form	15 & 16
2.	A-2, " charge sheet dated 16.7.85	17 & 18
3.	A-3, " Article of charges	19
4.	A-4, " statement of imputation	20 & 21
5.	A-5, " list of documents.	22
6.	A-6, " list of witnesses	23
7.	A-7, " statement of Naresh Singh	24 & 26
8.	A-8, " " Ganga Singh	27 & 29
9.	A-9, " " Suresh Chandar	30 & 32
10.	A-10, " copy of Inquiry report	33 & 39
11.	A-13, " copy of appeal dated 9.2.88	40 & 44
12.	A-14, True copy of suspension order dated 31.12.83.	45

13. Postal order for Rs.50.00.

14. Vakalatnama.

*Virendra Kumar Agnihotri*  
Signature of Applicant.

FOR USE IN TRIBUNAL'S OFFICE

Date of filing or date of receipt:

Registration No. 120/89(L)

for Registratr.

*Filed on 30.5.89  
mailed for 26.6.89  
M. Dubey  
Maw*

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

OA 120/02(L)

BETWEEN

Virendra Kumar Agnihotri, aged about 51 years, son of late Sri Har Dayal Agnihotri R/O village & P.O. Pali, Distt. Hardoi presenting working as Postal Assistant Pali P.O. District Hardoi. Applicant

Versus

1. The Union of India, through the Secretary Ministry of Communication, Department of Posts, Government of India, New Delhi.
2. Director Postal Services Lucknow Region Lucknow.
3. Adhikshak Dak Vibhag, Hardoi Prakhand, Hardoi.
4. The Enquiry Officer Sri Vijai Verma, the then Asstt. Supdt. of Post Offices Hardoi C/O Supdt. of Post Offices Hardoi Division Hardoi. Respondents

Details of application-

I) Number of the orders against which the application is made:

- (i) Memo No. F-5/83-84; (ii) Memo No. RDL/App-56/88-89/13;  
(iii) Memo No. F-5/83-84.

II) Date of the order: (i) 31.12.87; (ii) 20.5.88 received on 16.11.88; (iii) 16.3.89.

III) Authority which has passed the order:

- (i) Adhikshak Dak Vibhag Hardoi - respondent no. 3.  
(ii) Director Postal Services, Lucknow Region, Lucknow - respondent no. 2.  
(iii) Supdt. of Post Offices, Hardoi - respondent no. 3.

The true copies of the orders are annexures A-11, A-12 and A-15 respectively.

2. Jurisdiction of the Tribunal :- The applicant declares that the subject matter of the orders against which he wants redressal is within the jurisdiction the the Tribunal.

3. Limitation : The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunal Act 1985.

4. Facts of the case :

(i) That the applicant has been an employee of the Postal Department for the last over 26 years and his conduct and service have all along been satisfactory without any complaint or adverse remark whatsoever. The applicant has been working under the administrative control of respondent no. 3.

(ii) That while working as S.B.C.C. Pali Sub office (Distt. Hardoi) on 26.11.77 the applicant dealt with two withdrawal forms relating to the Pali S.B. A/C No. 139816 & 139817 for Rs.3100/- &

*Handwritten signature*

A10

Rs.10,450/- respectively sought to be withdrawn through messenger. As the signatures of the depositor on the withdrawal forms did not tally with the specimen signatures on record, the applicant gave his remarks 'SS difer' under his signature dated 26.11.77 and placed the case before the Sub-Postmaster for his information and instructions. The Sub-Postmaster took the identification of S/S Ganga Vishnu and Naresh Singh who were employed in the local Bhatiya Inter College as clerk and Principal respectively. As these persons were fully known to the applicant, he gave a remark to that effect on the withdrawal forms under the instructions of the Sub-Postmaster and thereupon, the identification was accepted by the Sub Postmaster Pali under his signature dated 26.11.77. The warrant of payment was, however, not passed by the Sub Postmaster on that day due to paucity of funds and the messenger was called the next day for payment. 27.11.87 was a Sunday. The warrant of payment was passed by the Sub Postmaster Pali on 28.11.77 and the payment was effected thereafter under proper attestation and witness. A sum of Rs. 5000/- was paid in cash and the balance was credited in the account of the messenger. A true copy of the withdrawal form in respect of account no. 139817 dated 26.11.77 as supplied by the department is annexure A-1.

(iii) That the applicant acted bonafidedly and in accordance with rules in dealing with the aforesaid withdrawal forms and making payment to the person concerned, but the respondent no. 3 prejudiciously and maliciously preferred to serve the applicant with a charge sheet by his memo No. F-5/83-84 dated 16.7.85 alleging that the applicant while functioning as SBCC Pali S.O. during the period from 26.11.77 to 28.11.77 accepted the withdrawal forms in respect of Pali S.B. A/C nos. 139816 and 139817 for Rs.3180/- and Rs.10450/- respectively on 26.11.77 after closing of the S.B. counter and endorsed remarks 'SS differs' though specimen of depositor in respect of these accounts were not on record in S.S. Book and that the applicant paid amount in respect of the withdrawals of the aforesaid accounts of a deceased depositor Smt. Deep Malika and also paid by book adjustment to the messenger Sri Suresh Suresh Chandra Dixit and transferred a sum of Rs.8630/- in S.B.

श्री सुरेश चंद्रा दित्त

A/C No. 7136173 (Suresh Chandra Dixit) of the messenger. It was alleged that the applicant violated the provisions of Rule 425 of P & T Man. Vol. VI Part II and (2) that during the aforesaid period and while functioning in the aforesaid office, the applicant accepted the withdrawal on 26.11.77 after closing of S.B. counter as stated by him and endorsed remarks "S.S. differs" though specimen of depositor in respect of S.B. A/C no. 139186 & 139187 were not on record in the S.S. book. The applicant was alleged to have given false remarks and acted in a way which is unbecoming of a Government Servant and failed to maintain devotion to duty and violated the provisions of rule 3(i)(ii) & (iii) of CCS (Conduct) Rules 1964.

A true copy of the aforesaid memo dated 16.7.85 is annexure A-2 and true copies of its annexures I to IV, containing the statement of article of charges, statement of imputation of misconduct or misbehaviour, list of documents and list of witnesses are annexed as annexures A-3, A-4, A-5 and A-6 respectively.

(iv) That Sri Vijai Verma, Asstt. Superintendent of Post Offices Hardoi was appointed as Inquiry Officer and Sri S.B. Gupta Accountant Divisional Office Hardoi as Presiding Officer. The applicant was assisted by Sri G.S. Verma, SPM Hardoi R.S. as his defence nominee under Rule 14(8) of the CCS (CCA) Rules 1965. The appointment of Sri Vijai Verma as Inquiry Officer was irregular and against the instructions of the Director General Post & Telegraph that the Inquiry Officer should belong to other neighbouring or / division.

(v) That during enquiry it was not revealed how the case started and how the preliminary enquiry was initiated in 1983 after lapse of more than five years. The then SDI North Hardoi who conducted the preliminary enquiry simply said in his statement dated 7.5.87 before the Inquiry Officer, that he had been ordered by the Supdt. of Posts Hardoi to make enquiry into the case, but he did not indicate what was the basis of enquiry, and what was its scope. The Inquiry Officer recorded the statements of prosecution witnesses viz. S/S Jag Roop, Naresh Singh, Ganga Vishnu, Suresh Chandra, Shiva Mohan Singh, H.P. Singh, H.L. Gupta and Ram Lal Dohar.

(vi) That Sri Jagroop in his statement dated 4.4.86 said that he made a complaint in the Post Office after withdrawal of the

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amount. The Inspector had shown the form of withdrawal and he could not recognise the signature of Deep Malika, the account holder. Although the complaint is alleged to have been made after payment in 1977, the enquiry was surreptitiously started in later part of 1982, after 5 years, for which no reasons have been given before the Inquiry Officer by any of the witnesses. Sri Jagroop claiming to be the brother of Deep Malika is an interested witness and much credence cannot be given on his statement. S/S Naresh Singh and Ganga Vishnu in their statements dated 4.4.86 and 25.9.86 respectively before the Inquiry Officer deposed that Smt. Deep Malika had affixed her signature on the withdrawal forms and appointed Sri Suresh Chandra Dixit as her messenger in their presence and that they were present at the time of payment and the payment was made before them and they attested the signatures of the account holder on 26.11.77 and also of the messenger taking payment on 28.11.77. True copies of their statements are annexures A-7 and A-8.

Sri Suresh Chandra Dixit in his statement dated 26.8.86 admitted before the Inquiry Officer that he had signed as messenger on the withdrawal form on 26.11.77 and also affixed his signature for payment of the amount on 28.11.77 which was paid to him by the applicant after 10 AM and that due to paucity of funds in the Post Office some amount was given in cash and the rest credited to his account. A true copy of his statement is Annexure No. A-9.

Sri Shiv Mohan Singh Sachiva Town Area Pali deposed in his statement on 19.3.87 that the date of death of Smt. Deep Malika was noted in the register of birth and death of Town Area as 28.11.77 and the death certificate issued was in accordance with/register.

Sri H.P. Singh, C.I. Hardoi Division in his statement dated 19.3.87 deposed that the enquiry regarding payment of Rs. 3180/- and 10450/- from Pali Post Office SB A/C No. 139816 & 139817 after alleged death of the depositor was entrusted to him by the Supdt. of Post Officer Hardoi and earlier part of enquiry had been made by the previous Inspector and he came to the conclusion that the amount was withdrawn after the death of the depositor.

Sri H.L. Gupta deposed in his statement dated 7.5.87 that he conducted enquiry

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conducted enquiry on the instructions of the Supdt. of Post Offices Hardoi and recorded some statement before 23.4.83.

Sri Ram Lal Dohar, who was the Sub Postmaster Pali at the relevant time deposed in his statement dated 19.1.87 that he had furnished the certificate dated 11.12.82 regarding non availability of the specimen signatures in respect of S.B. A/C no. 139816 & 139817, that he had signed under I/A (Identification accepted) on 26.11.77 and passed for payment on 28.11.77.

(vii) That the applicant requisitioned for certain records to be produced before the Inquiry Officer to set up his proper defence but the Inquiry Officer arbitrarily declined to make the following records available for inspection by the defence although they were material and relevant in the case.

1. A copy of final report by the police ) These records were very
2. A copy of F.I.R. lodged to P.S. Pali ) material as they relate
3. A copy of F.I.R. lodged at PS Shahabad ) to the same A/cs in question.
4. Enquiry report of SPOs Hardoi ) Enquiries were made by the SPOs & ) vigilance authorities & their
5. Copy of vigilance report in ) reports were relevant for his ) defence. the case.
6. Diaries of IPOs and ASPOs ) Enquiries were made by the SPOs, ) ASPOs & IPOs in the case and their
7. Diaries of SPOs Hardoi for ) diaries were very material. 12/83.
8. Error book of SBCC Pali for 26.11.77 to 28.11.77.
9. Order book of SPM Pali for 26.11.77 to 28.11.77.
10. SB-10(b) in respect of A/C No. 139816 and 139817.
11. Index Card in respect of SB A/C No. 139816 and 139817.
12. Hand to hand receipt book of SBCC Pali for 26.11.77 to 28.11.77.

The defence ~~is~~ was highly prejudiced due to non-supply of additional documents against the instructions of Government of India Ministry of Home Affairs OM No. F-30/5/6/AVD dated 25.8.61 which lays down that the question of relevancy should be looked at from the point of view of the defence and if there is any possible line of defence to which the document may, in some way be relevant, though the relevance is not clear to the disciplinary authority at the time that the request is made, the request <sup>for access should be made</sup> ~~where it is decided~~ <sup>he</sup> ~~to refuse~~ rejected. In any case, where it is decided to refuse access, reasons for refusal should be cogent and substantial and should invariably be recorded in writing. Further that if the

*अभिमान मन्त्रालय*

(AW)

officer requests for any official records other than those included in the list, the request should ordinarily be acceded to."

(viii) That under rule 14(18) of the CCS(CCA) Rules 1965, The Inquiry Officer is under an obligation to question the Government servant on the circumstances appearing against him in the evidence for the purpose of enabling him to explain any circumstances appearing in the evidence against him, ~~in the evidence for the purpose of enabling him to explain any circumstances appearing in the evidence~~ but no such examination was made by the Inquiry Officer which ~~explains the circumstances~~ interalia suggested that there was nothing against the applicant in the evidence brought before the Inquiry Officer.

(ix) That the Inquiry Officer notwithstanding the provisions contained in the said Rule 14(18), submitted his enquiry report concluding that the charge No. 1 against the applicant was proved only to the extent that he endorsed false remark 'SS differs' on applications for withdrawals from SB A/C no. 139816 & 139817 on 26.11.77 and violated the provisions of Rule ~~4125~~<sup>425</sup> of P & T Manual Vol. VI Part II and in regard to charge no. II the charge was also proved to the same extent and the applicant violated the provisions of Rule 3(1)(ii) and 3(1)(iii) of CCS(Conduct) Rules 1964. A true copy of the Inquiry Report is annexure A-10.

(x) That the respondent no. 3 did not apply his mind objectively to the facts and circumstances of the case that the applicant had acted bonafidely in the manner expected of a person of ordinary prudence placed in similar circumstances and the payments on the withdrawal forms were rightly and correctly made as required under the rules to the right person on proper attestations and there was no loss to the department. The respondent no. 3 with intention to justify the suspension of the applicant and deprive him of the full pay and allowances punished the applicant and ordered by his memo No. F-6/83-84 dated 31.12.87 to reduce the pay of the applicant by one stage from Rs.1360/- to Rs.1330/- for one year w.e.f. 1.12.88, adding that the applicant would not get increment of pay during the period of reduction and on expiry of this period his future increase in pay would not be affected. A true copy of the order dated 31.12.87 is annexure A-11.

(xi) That the applicant being aggrieved by the aforesaid

*W. S. G. S. S. S.*

Punishment order dated 31.12.87 (annexure A-10) preferred an appeal against this order to the respondent no. 2 who erred in imagining probability of having committed the lapses by the applicant without specifying what the so called lapses were. Even assuming the probability imagined by the respondent no. 2 to be tenable, it would be wrong to punish the applicant on mere suspicion as suspicion however strong cannot take the place of evidence to penalise a person. He rejected the appeal dated 9.2.88 by his order dated 20.5.88 received by the applicant on 16.11.88 through the SDI North Sub-division, Hardoi. A true copy of the order dated 20.5.88 is annexure A-12 and true copy of the appeal dated 9.2.88 is annexure A-13.

(xii) That both the respondents No. 2 & 3 failed to appreciate that the charges levelled against the applicant were not substantiated and there was no evidence that the specimen signatures were not on record and the applicant gave a false remark 'SS differ' as erroneously held. The remark given by the applicant was placed before the Sub-postmaster and on his instruction attestation of known person was taken, which was accepted by the Sub-postmaster. There was absolutely no lapse on the part of the applicant.

(xiii) That earlier the applicant was placed under suspension by SPOs Hardoi memo dated 31.12.83 on the grounds of contemplation of disciplinary proceedings which were started on issue of charge sheet dated 16.7.85. The suspension order was, however, revoked on 4.11.85. The suspension and its continuance was in violation of the Government orders and the applicant was put to great hardships prejudicially and arbitrarily. In face of the punishment inflicted upon the applicant, he has not been allowed full pay and allowances for the suspension period from 1.1.84 to 3.11.85 by SPOs Hardoi memo dated 16.3.89, which has caused the applicant a heavy loss of several thousands of rupees, besides financial and mental agonies suffered by the applicant during the suspension period due to unjustified and unwarranted suspension order. A true copy of the order dated 16.3.89 is annexure A-15 and a true copy of the suspension order dated 31.12.83 is annexure A-14. The applicant was placed under suspension in violation of instructions contained in G.I. MHA letter No. 43/56/64 AVD dated 22.10.64 and D.G.P&T's letter

*all copy about 20/11/88*

No. 201/43/76 Disc II dated 15.7.76. The instructions contained G.I.C.S. (Departments of Personnel) OM No. 39/39/70 Ests(A) dated 4.2.71 and OM No. 39/33/72-Ests(A) dated 11.12.72 laying down the total period of suspension viz. both in respect of investigation and disciplinary proceedings should not exceed six months, were <sup>violated</sup>

(xiv) That the applicant having been aggrieved by the suspension order dated 31.12.85 <sup>(A-14)</sup> charge sheet dated 16.7.85 (A-2) punishment order dated 31.12.87 (A-11), appellate order dated 20.5.88 (A-12) and the order dated 16.3.89 (A-15) restricting the pay and allowances of the applicant to the subsistence allowance already paid to him, prefers this application before <sup>this Hon'ble</sup> Tribunal

5. Grounds for relief with legal provisions -

(i) Because the order dated 31.12.83, suspending the applicant after more than 6 years of the alleged incident is unjust, malicious and malafide and against Government orders.

(ii) Because the continuance of suspension order dated 31.12.83 suspending the applicant after more than 6 years of the alleged incident is ~~unjust~~ and issue of charge sheet dated 16.7.85 after more than 18 months is malafide, irregular and in violation of Government instructions.

(iii) Because the applicant had acted bonafide with no ill motive and the punishment awarded is unjust and unwarranted.

(iv) Because the Inquiry Officer did not afford reasonable opportunity of defence and the inquiry was vitiated and the whole proceedings is null and void.

(v) Because the finding of the Inquiry Officer is erroneous and not based on any evidence.

(vi) Because both the disciplinary as well as appellate authority have not appreciated the facts and circumstances of the case and their decision is patently erroneous.

(vii) Because the denial of full pay and allowances for the suspension period is wrong and unjust as the suspension order and its continuance for about 2 years is unwarranted and unjust.

(viii) Because the applicant was wrongly asked to apply for leave to cover the suspension period without any fault on his part.

(ix) Because the whole disciplinary proceeding is unjust, irregular, illegal and void.

*[Handwritten signature]*

Lucknow, Dated: May 26, 1989.

*M. Dubey*

Signature of the applicant

I, Virendra Kumar Agrahori son of late Sri Har Dayal Agrahori aged about 51 years working as Postal Assistant, P.O. Pall, District Hardoi R/O Village & P.O. Pall District Hardoi do hereby verify that the contents of paras 1 to 4, 6, 7, 9, 10, 11 & 12 are true to my personal knowledge and paras 5 & 8 are believed to be true on legal advice, that I have not suppressed any material fact.

**VERIFICATION**

12. List of enclosures : (1) Annexures A-1 to A-15. (2) Postal order for Rs.50/-.

1. Number of Indian Postal Order(s) *DD 780 124*  
2. Name of Issuing Post Office - *Lucknow*  
3. Date of Issue of Postal order - *26.5.89*  
4. Post office at which payable - *Allahabad, P.O.*

11. Particulars of Postal order filed in respect of the / fee: application

applicants counsel *Sri M. Dubey, Advocate.*

10. The application is being presented personally through the

speedily. The case be adjudicated

for. It is however, requested that in order to mitigate the finan-

9. Interim order, if any prayed for : No interim order is prayed

of the case be allowed in his favour.

(e) Any other relief deemed just and proper and to which the appli-

(d) That the cost of the case be awarded in favour of the applicant

(c) That the suspension order dated 31.12.83 (annexure A-11) and

(b) That the entire disciplinary proceeding from issue of charge

(a) That the suspension order dated 31.12.83 be declared unjust,

irregular and void.

above, the applicant prays for the following reliefs:

8. Reliefs sought: In view of the facts mentioned in paras 4 & 6

such application, writ petition or suit is pending before/ them;

or any other authority or any other Bench of the Tribunal nor any

any application, writ petition or suit regarding the matter in

respect of which this application has been made, before any court

7. The applicant further declares that he had not previously filed

(4) Representation rejected (annexure A-15)

(3) Representation regarding pay & allowances for suspension

(2) Appeal rejected (annexure A-12)

(1) Appeal dated 8.2.88 (annexure No. A-13)

he has availed the remedies available to him under the/service rules

6. Detail of the remedies exhausted: The applicant declares that

relevant

आरक्षण - डाक - विभाग

कार्यालय, अधीक्षक डाक विभाग, हरदोई प्रखण्ड, हरदोई-241001

ज्ञापन संख्या-एफ-5/83-84

हरदोई दिनांक 31-12-87

इस कार्यालय के ज्ञापन संख्या सम दिनांक 16-7-85 के माध्यम से श्री वी० के० अग्निहोत्री टो० आर० सा० हरदोई प्रखण्ड के खिलाफ सी०सी०एस० सा०सी०एस० सुस्त, 1965 के नियम-14\* के अन्तर्गत जाँच कार्यवाही करने का प्रस्ताव पारित किया गया था। आरोपों के ज्ञापन का वितरण उक्त श्री वी० के० अग्निहोत्री को 24-7-85 से पूर्व हो चुका था। अनुबन्ध-I साथ में संलग्न है।

उक्त श्री वी० के० अग्निहोत्री ने अपने आवेदन पत्र दिनांक 24-7-85 के माध्यम से व्यक्तिगत सुनवाई की प्रार्थना की थी जो कि स्वीकार कर ली गयी व दिनांक 5-8-85 को उक्त श्री वी० के० अग्निहोत्री को व्यक्तिगत सुनवाई की गयी इस कार्यालय के समसंख्यक ज्ञापन दिनांक 23/9/85 के द्वारा उक्त श्री वी० के० अग्निहोत्री के विरुद्ध जाँच करने हेतु श्री विजय वर्मा सा०जी० टो० हरदोई को जाँच अधिकारी व श्री वी०पी० सिंह तत्कालीन डाकनिरीक्षण [केन्द्रीय] हरदोई को प्रस्तोता अधिकारी नियुक्त किया गया। कुछ विषम परिस्थितियों व श्री स्त० बी० गुप्ता लेखाकार प्रखण्डीय कार्यालय हरदोई को प्रस्तोता अधिकारी समसंख्यक ज्ञापन दिनांक 31-10-85 के द्वारा नियुक्त किया गया।

जाँच अधिकारी ने दिनांक 11-11-85 को जाँच कार्यवाही प्रारम्भ की तथा 21-9-87 को समाप्त की। श्री जी०एस० वर्मा ने अभिरोपित कर्मचारों के बचाव सहायक के रूप में कार्य किया।

प्रस्तोता अधिकारी ने अपना संक्षिप्त सार दिनांक 14-10-87 को प्रेषित किया तथा अभिरोपित कर्मचारों ने अपना बचाव सार दिनांक 24-10-87 को प्रेषित किया।

जाँच अधिकारी ने अपनी जाब आख्या दिनांक 21-12-87 प्रेषित की जो कि इस कार्यालय में उती दिन प्राप्त हो गयी। प्रतिलिपि साथ में संलग्न है।

मैंने आरोप-पत्र, जाँच अधिकारी की जाँच आख्या, प्रस्तोता का सार, अभिरोपित कर्मचारों का बचाव सार, समस्त प्रदर्शकों, जाँच के दौरान लिये गये साक्षियों के बयानों, सम्बन्धित पत्रावली एवं अभिलेखों का खट्टेन अध्ययन किया तथा इस निष्कर्ष पर पहुँचा कि जाँच अधिकारी को जाब आख्या सही है। इस प्रकार मैं जाँच अधिकारी के निष्कर्ष से सहमत हूँ। अभिरोपित कर्मचारों ने अपनी जिम्मेदारी उपडायाल के कंधों पर डालने की कोशिश की है जो मानने योग्य नहीं है।

आदेश

अतः यह आदेश किया जाता है कि उक्त श्री वी० के० अग्निहोत्री डाक सहायक हरदोई प्रखण्ड का वेतन एक स्तर रु. 1350/- से 1330/- तक डाइम स्केल

दीर्घ कृष्ण आशु देवी

के वेतनमान 975-25-1150 ई बी-30-1660 में एक वर्ग को अवधि के लिये 1-12-88 से घटाया जाता है। यह पुनः निर्देशित किया जाता है कि उक्त श्री वी० के० अग्नि-होत्री घटोत्री को अवधि में वेतन की बढ़ोत्तरी नहीं पायेंगे और इस अवधि के समाप्त होने पर इस घटोत्तरी से उनके वेतन की भविष्य की बढ़ोत्तरियाँ प्रभावित नहीं होगी।

शिवराज चन्द्र सक्सेना  
अधीक्षक डाक विभाग  
हरदोई प्रखण्ड, हरदोई  
241001

प्रतिलिपि:-

Regd

- 1- श्री वी० के० अग्निहोत्री टो०आर०सी० हरदोई प्र०डा० को प्रेषित है।
- 2- डाकपाल हरदोई को आवश्यक कार्यवाही हेतु प्रेषित है।
- 3- सी० ज० मुख्यालय को दण्ड रजिस्टर हेतु प्रेषित है।
- 4- निदेशक डाक सेवाएं लखनऊ क्षेत्र, लखनऊ को सूदनार्थ प्रेषित है।
- 5- डाक भंडाध्यक्ष उ० प्र० परिमण्डल लखनऊ को उनकी पत्रावली संख्या आई०एन०वी०/एम०-3/7/84/8 के सन्दर्भ में प्रेषित है।
- 6- कर्मचारों को व्यक्तिगत पत्रावली हेतु प्रेषित है।
- 7- कर्मचारों के गोपनीय अभिलेखों हेतु प्रेषित है।
- 8- कर्मचारों के सेवा ज्ञापन हेतु प्रेषित है।
- 9- सतर्कता विवरणा प्र० का० हरदोई
- 10- कार्यालय प्रति ।
- 11- अतिरिक्त प्रति ।

शिवराज चन्द्र सक्सेना

Attested  
True copy  
M. Dubeey  
ndv

Lead on 16/11/88  
by SPT  
Hardoi Sub  
Annexure A-12  
10/11/88

P20

OFFICE OF THE DIRECTOR POSTAL SERVICES  
LUCKNOW REGION: LUCKNOW-226007

Memo No. LDL/App-56/88-89/13 dated 20.5.88

\*\*\*\*\*

This is the appeal dated 9.2.88 preferred by Shri V.K. Agnihotri P.A. Hardoi H.O. against the orders contained in SPOs Hardoi memo No. F-5/83-84 dated 31.12.87 partially modified vide memo number even dated 7.1.88 imposing upon him the penalty of reduction by one stage in the same time scale of pay for a period of one year with specific direction that increment of pay will not be admissible during the period of reduction and that the reduction will not affect future increments of pay. The appeal is not time barred.

2. The appellant was proceeded against u/r 14 of CCS (CCA) Rules, 1965 vide SPOs Hardoi memo no. even dated 16.7.85 for allegations against him that while working as SBCO at Pali S.O. during the period 26.11.77 to 28.11.77 (i) he accepted applications for withdrawal in respect of SB A/c No. 139816 and 139817 on 26.11.77 after closing of S.B. counter, gave a remark of difference in signature on the said applications though specimen signatures were not on record, paid the amount of withdrawals to the messenger on 28.11.77 partly in cash and partly by book transfer after the death of the depositor and thus violated provisions of rule 425 of P&T Man. Vol VI Part II, and (ii) by accepting the applications for withdrawal on 26.11.77 after closing of the counter and by endorsing a false remark regarding difference in depositor's signature and thus failed to maintain devotion to duty and acted in a manner unbecoming of government servant in violation of rule 3(1)(ii)&(iii) of CCS (Conduct) Rules, 1964.

3. The appellant vide his application dated 24.7.85 denied the charges and wanted to be heard in person. Accordingly he was given personal hearing by SPOs Hardoi on 26.8.85 and vide memo dated 23.9.85 Sri Vijai Verma I.I. office of PMG UP was appointed as Inquiry Officer to enquire into the charges framed against the appellant. The Inquiry Officer in his Inquiry Report dated 21.12.87 submitted to the SPOs Hardoi concluded that charge I against the appellant was partly proved to the extent of endorsing false remark regarding difference in signature of the depositor and thereby violation of rule 425 of P&T Man. Vol VI Part II and that charge II was also proved to that extent only. The SPOs Hardoi considered the memo of charges, report of inquiry officer and other records relevant to the case and agreed with the findings of inquiry officer and imposed the impugned penalty upon the appellant.

4. The appellant in his instant appeal has not pointed out any technical lacuna but has reiterated the facts of the case already included in his written statement of defence given to the Inquiry Officer and has stressed that he had not violated rule 425 of P&T Man. Vol VI Part II. The appellant has further argued that in his statement of defence he has already given sufficient evidence to prove that he

*[Handwritten signature]*

13  
P2

had compared the signature of depositor on application for withdrawal with specimen signature on record and the S.P.M. had also confirmed the remark after satisfying himself. The plea of the appellant is that the findings of Inquiry Officer that specimen signature were not on record is not tenable.

5. After a thorough and careful consideration on the appeal and material evidence available in the disciplinary proceedings file I find that though neither it has been established in the enquiry that appellant accepted the applications for withdrawal referred to in the memo of charges on 26.11.77 after close of the counter nor it could be proved that the fact of the death of the depositor was in the knowledge of the appellant at the time of payment on 28.11.77. Yet the pleas put forth in defence to accepting a P.B. after close of the working hour, making payment to the messenger and tampering of the S.S. Book of the department to entrap the appellant all these preponderingly hint at the probability of having committed the lapses by the appellant. In view of this, I don't find justification to interfere in the penalty already imposed on the appellant.

6. I, therefore, hereby, reject the appeal and confirm the penalty already imposed on the appellant vide SPOs Hardoi memo. referred to above.

*B.P. Singh*  
(B.P. Singh)  
Director Postal Services,  
Lucknow-Region: Lucknow.

Copy to:-

- 1. The official concerned through SPOs Hardoi.
- 2-4: SPOs Hardoi.
- 5-6: Office copy.

*File (give memo) to file*

*Witnessed  
me by  
M. Dulega  
DW*

14

GOVT. OF INDIA  
DEPARTMENT OF POSTS INDIA  
OFFICE OF THE SUPDT. OF POSTOFFICES, HARDOI DN. HARDOI.

Memo No. F-5/83-84

dt. at HarDOI the 16.3.89

Where as Shri V.K. Agnihotri P.A. Pali S.O. was placed under suspension vide this office memo no. even dt.

31.12.83 on the grounds of contemplation of disciplinary proceedings and orders of suspension of the said Shri V.K. Agnihotri were revoked vide this office memo no. even dt. 30.10.85. Enquiries under Rule. 14 of CCS(CCA) Rules, 1965 were started vide this office memo no. even dt. 16.7.85 and have been finalised vide this office memo of even no. dt. 31.12.87 partially modified vide memo number even dated 7.1.88 imposing upon him the penalty of reduction of one stage in the same time scale of pay for a period of one year with specific direction that increment of pay will not be admissible during the period of reduction and that the reduction will not effect future increments of pay which remained unchanged on appeal also and the undersigned has to decide the suspension period of the said Shri V.K. Agnihotri and also pay and allowances to be paid to him during the suspension period.

Where as the said Shri V.K. Agnihotri was given an opportunity to make any representation within 60 days from date of receipt of the show cause notice, as he might wish as to why the period of his suspension might not be treated as non duty and his pay and allowances for that period be restricted to subsistence allowance already paid vide this office memo of even number dated 4.1.89, which was delivered to the official on 5.1.89.

The said Shri V.K. Agnihotri has submitted his representation dt. 27.2.89 received in this office on 28.2.89

I, R. S. Khusrro, SPOs HarDOI have examined this case thoroughly. As the official has not submitted so far any application for grant of leave of the kind due and admissible to him to cover the period of suspension, it is hereby ordered that the period of suspension from 1.1.84 to 3.11.85 will remain as suspension for all purposes and payment for that period will be restricted to the subsistence allowance already paid to him.

*R.S. Khusrro*  
( R. S. Khusrro )  
Supdt. Of Postoffices,  
HarDOI. Dn. HarDOI.

Copy to:-

1. Shri V.K. Agnihotri P.A. Pali S.O. for information.
2. The P.M. HarDOI for necessary action.
3. The D.A. (P) Lucknow through P.M. HarDOI.
4. The P.M.G UP Circle Lucknow w/r to his no. Inv/M-3/7/84/8.
5. O/C.
6. Spare.

*श्री व. क. अग्निहोत्री*

*Shri V.K. Agnihotri*  
*M. Duley*  
*Offr.*

15

# Annexure No A-1

A22

SK no. 1016  
 Scientific  
 N. C. S. 1/77  
 V.K. Agnihotri  
 SBCE  
 Pal  
 26/11/77

..... डाकघर में निम्न  
 डाकघर नाम व जगह का नाम..... शिवालय..... 198 .  
 POST OFFICE SAVINGS BANK पाली  
 ACCOUNT NO. 235-2 DATE 26-11-77 198 .

..... (सबसे पहले).....  
 ..... में डाल दें :

Pay self/meaningful whose signature is below the sum of Rupees (in word) एक हजार चालीस पांच  
 .....  
 26-11-77

The balance in the account ..... will be Rupees (in words) एक हजार चालीस पांच  
 .....  
 26-11-77

.....  
 सुरेश चन्द्र दीक्षित सुरेश चन्द्र दीक्षित दीपमालिका देवी  
 .....  
 26-11-77

.....  
 सुरेश चन्द्र दीक्षित दीपमालिका देवी को माली भंति जानता व  
 जानता व पहचानता है इन्होंने मेरे सामने अपने दीपमालिका देवी  
 स्टाफर किये और दीपमालिका देवी ने मासुख  
 दीक्षित को सुरेश चन्द्र दीक्षित को देखा  
 सुरेश चन्द्र दीक्षित  
 भारतीय इंटर कालेज पाली 26-11-77

.....  
 मेरे सामने सुरेश चन्द्र दीक्षित को माली भंति जानता व  
 पहचानता है इन्होंने मेरे सामने दीपमालिका देवी को  
 दीपमालिका देवी को देखा  
 सुरेश चन्द्र दीक्षित  
 सुरेश चन्द्र दीक्षित  
 26-11-77

दीपमालिका देवी

Attested  
 me  
 M. Duleja  
 Pal



INDIAN POSTS AND TELEGRAPHS DEPARTMENT  
o/o The Supdt, of pst offices Hardoi Dn, Hardoi.  
Memo No- F-5/83-84  
Dated at Hardoi the. 16-7-85

17  
A24

The undersigned proposes to hold an inquiry against Shri. V. K. Agnihotri T.R.C. Hardoi H.O. (u/s) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2. Sri V.K. Agnihotri T.R.C. Hardoi H.O. (U/S) is directed to submit within 10 days of the receipt of this memo a written statement of his defence and also to state whether he desires to be heard <sup>in</sup> person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

3. Sri V.K. Agnihotri, T.R.C. Hardoi H.O. (U/S) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the C.C.S. (CC&A) Rules 1965 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex-parte.

5. Attention of Sri V.K. Agnihotri T.R.C. Hardoi H.O. (U/S) is invited to Rule 20 of the Central Civil Services (Conduct) Rules 1964, under which no Govt. servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Govt. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings it will be presumed that Sri V.K. Agnihotri T.R.C. Hardoi H.O. (U/S)

*Handwritten signature*

is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of CCS(Conduct) Rules, 1964.

125

6. The receipt of the memorandum may be acknowledged.

Sd/- illegible  
Supdt. of Post Offices, Hardoi Dn  
Hardoi, Pin 241 001

Regd. A.D.

To - Sri V.K. Aginhotri  
T.R.C. Hardoi H.O. (U/S).

Attested  
TRUE COPY

*Handwritten signature/initials*

*M. Duleep*  
*Adm.*

Statement of articles of charge framed against Sri V.K. Agnihotri  
T.R.C. Hardoi HO (U/S).

Article -I

That the said Sri V.K. Agnihotri while functioning as SBCC, Pali S.O. during the period w.e.f. 26.11.77 to 28.11.77 accepted after closing of S.B. counter the following withdrawals on 26.11.77 ~~to~~ and endorsed remarks 'SS differs' though specimen of depositor in respect of SB account No. 139816 & 139817 were not on record in S.S. Book.

Sl.No.	SB A/C No.	Date of W/D	Amount of W/D
1.	Pali SB A/C No. 139816	28.11.77	Rs.3180/-
2.	Pali SB A/C No. 139817	28.11.77	Rs.10450/-
Total:			Rs.13630/-

Sri V.K. Agnihotri paid amount in respect of the W/Ds of the aforesaid accounts of a deceased depositor Smt. DeepMalika and also paid by book adjustment to the messenger Sri Suresh Chandra Dixit and transferred a sum of Rs.8630/- S.B. A/C No. 136173 (Suresh Chandra Dixit) of the messenger.

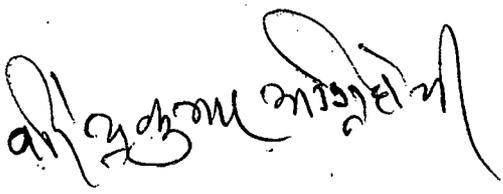
Thus it is alleged that during the aforesaid period and while functioning in the aforesaid office as SBCC the said Sri V.K. Agnihotri violated the provisions of Rule 5 425 of P&T Man. Vol. VI part II.

Article -II

That during the aforesaid period and while functioning in the aforesaid office, the said Sri V.K. Agnihotri while working as SBCC accepted the W/D on 26.11.77 after closing of SB counter as stated by him and endorsed remarks 'S.S. differs' though specimen of depositor in respect of SB A/C No. 139186 & 139187 were not on record in the S.S. Book. Thus he gave false remarks and acted in a way which is to unbecoming of a Govt. servant and failed to maintain devotion/duty.

Thus it is alleged that during the aforesaid period and while functioning in the aforesaid office as SBCC the said Sri V.K. Agnihotri violated the provisions of Rule 3(1)(ii)&(iii) of C.C.S. (Conduct) Rules, 1964.

Sa/-

Supdt. of post offices, Hardoi Dn.  
Hardoi, Pin-241001Attested  
TRUE COPY



## Annexure-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Sri V.K. Agnihotri, T.R.C., Hardoi H.O.

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## Article-I

That the said Sri V.K. Agnihotri while functioning as SBCC Pali S.O. during the period with effect from 26.11.77 to 28.11.77 accepted the withdrawal on 26.11.77 after closing of S.C. counter & endorsed remarks 'S.S. Differs' though specimen of depositor in respect of SB account no, 139816 & 139817 were not on record in S.S. Book of Pali S.O. Sri V.K. Agnihotri also completed entire in withdrawal application dated 28.11.77 and noted 26.11.77 as stated by him in his statement dated 19.12.83 recorded in the presence of Sri K.M. Lal the then SPOS, Hardoi. Sri V.K. Agnihotri paid amount in respect of withdrawal of the following accounts of a deceased depositor Smt. Deep Malika r/o village and Post Pali, Hardoi and also paid by book adjustment to the messenger Sri Suresh Chandra Dixit and transferred a sum of Rs.8630/- in SB account no. 136173 of the messenger Sri Suresh Chandra Dixit.

S.No.	SB A/C No.	Date of appln. W/D	Date of death of dep.	Date of W/D passed	Amount of W/Ds.	Name of depositor	Name of messenger	
1	2	3	4	5	6	8	9	
1.	Pali SB A/C No. 139816	26.11.77	27.11.77	28.11.77	Rs.3180/-	Sri Naresh Singh, Principal Seth Baboo Ram Bhartiya Inter College, Pali Hardoi.	Smt. Deep Malika Devi r/o village & Post Pali, Hardoi.	Sri Suresh Chandra Dixit, Asstt. Teacher, S.B.R.B Inter College, Pali, Hardoi.
2.	" " 139817	26.11.77	27.11.77	28.11.77	Rs.104500-	Sri Ganga Vishanu Clerk of the same college.	-do-	-do-

Thus it is alleged that during the aforesaid period and while functioning in the aforesaid office as SBCC, the said Sri V.K. Agnihotri is violated the provisions of Rule 425 of P&T Manu Vol. VI Part II.

## Article -II

That during the aforesaid period and while functioning in the aforesaid office the said Sri V.K. Agnihotri, while working as SBCC accepted the W/D on 26.11.77 after closing of SB counter as stated by him and endorsed remarks 'S.S. differs' though specimen of depositor A/C No. 139816 and 139817 were not on record -or in respect of SB stated by him and endorsed remarks in the S.S. Book of Pali S.O. Thus he gave false remarks and acted in a way

*Sri V.K. Agnihotri*

which is unbecoming of a Govt. servant and failed to maintain devotion to duty.

Thus it is alleged that during the aforesaid period and while functioning in the aforesaid office as SBCC, the said Sri V.K. Aginhotri violated the provisions of Rule 3(1)(ii) & (iii) of CCS (conduct) Rules, 1964.

Sd/- illegible  
Supt. of Post Offices,  
Harcoi Dn. Hardoi.

*True copy me to file*

*Attested*  
TRUE COPY

*M. Duleep*  
*12/10/80*

## Annexure - III

List of documents by which articles of charge framed against Sri V.K. Agnihotri, T.R.C., Hardoi H.O. (U/S) are ~~framed~~ proposed to be sustained.

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1. Photostate copy of warrant of payment of Pali SB A/C No. 139816 and 139817 for Rs. 3180/- and Rs. 10450/- respectively dated 28.11.77 attested by police authorities.
2. Certificate in respect of non availability of specimen signatures in the S.S. Book of Pali S.O. in r/o Pali SB A/C No. 139816 and 139817 granted by SPM Pali on 11.12.82.
3. Ledger copy of Pali SB account No. 139816 and 139817.
4. W/S of Sri R.L. Dohar SPM Pali dated 28.5.83 recorded by S.D.I. (N) Hardoi in R/O account no. 139816 and 139817 separately and confirmed before SPOs Harodi on 16.12.83 alongwith some question answers.
5. W/S of Sri R.L. Dohar dated 15.3.83 in r/o Pali SB A/C No. 139816 and 139817 recorded by S.D.I. (N) Hardoi separately. Sri Ram Sunder r/o vill. Babarpur, PO
6. W/S of Sri Jagroop S/O ~~Sri R.L. Dohar~~ Pali Hardoi dated 27.5.83 in r/o Pali SB A/C No. 139816 & 139817 separately.
7. Copy of judgment passed by Sri G.P. Srivastava, Civil Judge, Hardoi in Misc. case No. 19/78 (leading cash) and Misc. 24 of 79 decided on 22.8.79.
8. W/S of Sri Naresh Singh the then Principal B.I. college, Pali Hardoi dated 27.5.83 in respect of account No. 139816 & 139817 separately.
9. W/S of Sri Ganga Vishnu, clerk S.B.R.B. Inter College, Pali Hardoi dated 14.3.83 in respect of A/C No. 139817 & 139816 separately.
10. W/S of Sri V.K. Agnihotri T.R.C. Hardoi HO dated 27.5.83 recorded by S.D.I. (N) Hardoi and confirmed by SPOs Hardoi on 10.12.83 alongwith some question answers.
11. W/S of Sri Suresh Chandra Dixit Asstt. Teacher S.B.R. Bhartiya Inter College Pali Hardoi dated 14.3.83 in respect of A/C 139816 & 139817 separately.
12. Death certificate dated 28.5.83 granted by Sachiv Town Area Pali, Hardoi in respect of Smt. Deep Malika.
13. Ledger card of Pali SB A/C Nos. 139816, 139817 and 136173.
14. Long Book of Pali SO dated 26.11.77 and 28.11.77.
15. SO account of Pali SO dated 26.11.77 and 28.11.77.

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Supdt. of Post Offices  
Hardoi Dist. Hardoi.

Attested  
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ANNEXURE A-6

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Annexure - IV

List of witnesses by whom the articles of charge framed against Sri V.K. Agnihotri, TRC, Hardoi, H.O. (U/S), are proposed to be sustained.

\*\*\*\*\*

1. Sri Jagroop s/o Sri Ram Sunder r/o village Babarpur Post Pali District Hardoi.
2. Sri Naresh Singh the then Principal S.B.R. Bhartiya Inter College Pali, Hardoi, now lecturer of the same college.
3. Sri Ganga Vishanu clerk S.B.R. Bhartiya Inter College Pali, Hardoi.
4. Sri Suresh Chandra Dixit Asstt. teacher S.B.R.B. Inter College, Pali, Hardoi.
5. The Sachiv Town Area Pali, Hardoi.
6. Sri H.P. Singh S. D.I. (North), Hardoi.
7. Sri H.L. Gupta Asstt. Supdt. of Post Offices, Hardoi.
8. Sri R.L. Dohar, S.P.M. Pali (Hardoi) (U/S).

Sd/- illegible  
Supdt. of Post Offices, Hardoi Dn.  
Hardoi.

Attested  
TRUE COPY

*(Handwritten signature)*

*(Handwritten signature)*



दस्तावेजों के माध्यम से प्रमाणित किया जा रहा है।  
 दिनांक 27-5-03 को डाक नंबर 30 के द्वारा प्रमाणित  
 किया गया। यह तथ्य मई मास में प्रमाणित किया गया है।  
 तब से इस पर कोई प्रमाणित नहीं है।

दस्तावेज 139187 का प्रमाणित रूप  
 (आवकपत्र) दिनांक 26-11-77 को फाइल नंबर 30 के तहत  
 आगत है जिस पर प्रमाणित कर-उपलब्ध है। इस पर  
 उक्त रकम से 10450/- रु (दस हजार चार सौ पचास  
 रु) निकालने हेतु जमाकर्ता श्रीमती दीपमाला की  
 न डायरेक्टिव का तब उसी दिनांक 26-11-77 को प्रमाणित  
 किया गया।

X. जमाकर्ता श्रीमती दीपमाला की न डायरेक्टिव  
 की प्रमाणित रूप की न डायरेक्टिव की डाक नंबर में 26-11-77  
 को प्रमाणित किया गया। तब से इस पर कोई प्रमाणित नहीं है।  
 इस रकम को प्रमाणित रूप में प्रमाणित किया गया है।  
 श्रीमती दीपमाला की न डायरेक्टिव की न डायरेक्टिव की न डायरेक्टिव  
 डाक नंबर पर भी मई ही जमा की गई। 26-11-77 को डाक नंबर 30 के  
 द्वारा प्रमाणित किया गया। प्रमाणित रूप में प्रमाणित किया गया है।  
 इस रकम को प्रमाणित रूप में प्रमाणित किया गया है।  
 जमाकर्ता श्रीमती दीपमाला की न डायरेक्टिव की न डायरेक्टिव की न डायरेक्टिव  
 को प्रमाणित रूप में प्रमाणित किया गया है।

X. उक्त रकम को प्रमाणित रूप में प्रमाणित किया गया है।  
 प्रमाणित रूप में प्रमाणित किया गया है।

X. प्रमाणित रूप में प्रमाणित किया गया है।  
 प्रमाणित रूप में प्रमाणित किया गया है।

18/11/03  
 4/11/03  
 2/11/03  
 P.O  
 4/11/03

श्रीमती दीपमाला की न डायरेक्टिव

होती है या नहीं इसीलिए मैं 26-11-77 को  
दोनों लिखावातों को इस स्तर के सम्बन्ध में

139816  
213181

अन्य कारण 27-5-03 को एक निरीक्षण उत्तरी दरवा  
के सम्बन्ध में था। जो मर जागण इ इतना पुष्टि एक  
पता है। इस पर सब इस्तासा मर ही है। दोन मुगता का  
उत्पादन पर 11 दिनांक 26-11-77 को गवाही कलक

दोनों से चलाया गया था। मुगता का इस दिन गवाही  
हुआ इस का कारण तुम्हें गरी मासम हुआ। शुभना

गवाही का अर्थ यह है 26-11-77 को 11-37/12 बजते  
पिछले लगान में जो मर लिखा था कि मर उठता कती  
तथा अदखल वीरक को यह सब पुर्णतया पर तथा

अदखली की स्त्री पर लिखा है। यह मर यह सब  
हुआ ही कि डाक बाबू का कि कि है। यह कलक  
मर तलकनी इन्सपेक्टर महोदय का पता मर  
जो मर यह बोलते थे मर प्र लिखता जाता है।

खयाल एक दादा का इतना मर

मुझे यह पता था कि श्री सुरेश चन्द दोशत के  
अपना कोई जाइना नहीं है किन्तु उनसे दोशत का  
सम्बन्ध दोशत जी के साथ बताते पर ही जाना हुआ  
अपने मर में जो मर मुझे जाना ही जाना है मर कामला  
मर उपर दादा के कलक। जाना ही कलक कलक

सुरेश चन्द दोशत ने मुझे कहा था कि अपना मुगता  
के सम्बन्ध में जाना हुआ। जो दोशत जी 28-11-77 को  
मुझे मुझे जो मर जाना ही जाना है। इस दिन की उपर दादा  
ही जाना जाना कहना

जाना कती दादा प्र

दिनांक 28-11-77 को दोन लिखा का मुगता मर  
जाना ही की मर मुझे जो मर जाना ही जाना है कि मर

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श्री सुरेश चन्द दोशत

Attested  
me by  
M. Duley  
VSK





आजादिवाङ्मय 25-9-1965 को पानी उपाय  
को को तारिख कुमाय बागिचारी उपाय लडाएर  
को तारिख तारिख 16/11/65 (1965) को तारिख  
को उपायको तारिख तारिखको उपाय हुने । तारिख तारिख  
उपायको तारिख

तारिख

1. तारिख कुमाय बागिचारी
2. उपायको तारिख
3. उपायको तारिख
4. उपायको तारिख

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आजादिवाङ्मय तारिखको तारिख  
M. Dulay  
25/9/65

Statement of Shri Suresh Chandra  
Dixit 870 Shri Radhakrishna  
Teacher. S.B.R.B. Jala College Pali  
age - about - 45.

1932

श्री 8 में सुरेश चन्द्र दाशरत लगान कार  
1981 में आज मुझे दिनांक 14-3-82 को राणा  
बयान देना जो कि पानी को करवाना संख्या  
139816 के विषय में है जिस पर मुझे 8  
पत्र है तथा आपका जवाब दिनांक 14-3-82 जो पानी  
लेवन का वाता सेना 139817 में सम्बन्धित है  
देना इस पर मुझे 80-7 पत्र है यह पत्र  
मुझ पर ही है तथा इस पर 80 हाताका  
मेरे ही

सुरेश चन्द्र  
26/11/82

26/11/86  
P.O.

26/11/82  
S.A.

26/11/82

26/11

आज मैं पानी को करवाना 80  
139816 से कि 31801- निवाले का  
पत्र की फोटो मुझे पत्र देनी। इसमें शान्त  
पत्र की ओर संबन्धित पत्र के संवाप पर  
मेरे हाताका है तथा यह मुझ पर  
कले के स्वागत पर की है हाताका है  
हाताका पत्र की को को हाताका 80/11/82  
है तथा 80 प्रश्न को को प्राप्त पर  
को हाताका हाताका प्राप्त पर को हाताका  
दिनांक 28/11/82 को में दिनांक 28-11-82 को  
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पृष्ठ 2

दरमी । इसका आवेदन पत्र की जांच  
 तथा मुगताग प्राप्त की जा चुके  
 हस्तगत नर है । आवेदन पत्र की  
 जांच के हस्ताक्षर 26-11-77 के तमाम  
 दूसरी को मुगताग पत्र की तारीख  
 20-11-77 का हस्ताक्षर कतापकी हस्ताक्षर  
 पर श्रीमती वी.समपतन का मुगताग  
 वादक 26-11-77 के तमाम तथा इसका  
 भी मुगताग मुगताग 20-11-77 के श्री वीरेंद्र  
 मुगताग की श्री विनाशा उपरोक्त होने  
 काको पर आवेदन पत्र तथा मुगताग  
 की जांच की गैरेश सिंह व श्री गंगाविष्णु  
 की जांच की आवेदन पत्र पर गवाही 26-11-77  
 का मुगताग की गवाही 20-11-77 की है  
 दिनांक 28-11-77 का उपरोक्त होने काको मुगताग  
 मुगताग मुगताग श्री विनाशा गवाही मुगताग  
 कतलाग गवाही की जांच के पत्रगली  
 को को मुगताग-काम तथा पाठक 22-  
 दिनांक 28-11-77 का उपरोक्त होने काको मुगताग  
 का को वरसा है कम तक के काला मुगताग  
 मुगताग 93630/- तमाम श्री विनाशा मुगताग  
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श्रीमती वी.समपतन  
 मुगताग  
 26/11/77

श्री वीरेंद्र  
 मुगताग  
 26/11/77

श्री गंगाविष्णु  
 मुगताग  
 26/11/77

श्री विनाशा  
 मुगताग  
 26/11/77

श्री वीरेंद्र मुगताग की जांच के पत्रगली  
 का को वरसा है कम तक के काला मुगताग  
 मुगताग 93630/- तमाम श्री विनाशा मुगताग  
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Examination done

श्री वीरेंद्र मुगताग की जांच के पत्रगली  
 का को वरसा है कम तक के काला मुगताग  
 मुगताग 93630/- तमाम श्री विनाशा मुगताग  
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Enquiry Report

This case relates to enquiry under rule 14 of CCS (CCA) Rules, 1965 against Shri V.K. Agnihotri, P.A. Hardoi. The undersigned was appointed as enquiry officer by the SPOs Hardoi vide his memo No. F-5/83-84 dated 23.9.85 to enquire into the charges levelled against Shri VK Agnihotri vide SPOs Hardoi memo No. F-5/83-84 dated 16.7.85. The article of charges are read as under:-

Article. I

That the said Shri VK Agnihotri while functioning as SBCC Pali SO during the period wef. 26.11.77 to 28.11.77 accepted the following with-drawals on 26.11.77 after closing of SB counter and enclosed remark "SS differs" though specimen of depositor in r/o SB account No. 13816 and 139817 were not on records in SS Book.

Sl.No.	SB account No.	Date of W/D	amount of W/D
1-	139816	28.11.77	Rs. 3180.00
2-	139817	28.11.77	Rs. 10450.00
			<u>Total: Rs. 13630.00</u>

Shri VK Agnihotri paid amount in r/o the W/Ds of the aforesaid accounts of a deceased depositor Smt. Deep Malika and also paid by book adjustment to the messenger Shri Suresh Chandra Dixit, and transferred a sum of Rs. 8638/- in SB account No. 13173 (Suresh Chandra Dixit of the messenger).

Thus it is alleged that during the aforesaid period and while functioning in the aforesaid office as SBCC the said Shri VK Agnihotri violated the provisions of rule 425 of P&T Manual Vol. VI Part. II.

Article, II

That during the aforesaid period and while functioning in the aforesaid office the said Shri VK Agnihotri while working as SBCC accepted the W/D on 26.11.77 after closing of SB counter as stated by him and endorsed remark "SS differs" though specimen of depositors in r/o SB account No. 139816 and 139817 were not on record in the SS Book. Thus he gave false remark and acted in a way which is unbecoming of a government servant and failed to maintain devotion to duty.

Thus it is alleged that during the aforesaid period and while functioning in the aforesaid office as SBCC the said Shri VK Agnihotri violated the provisions of rule. 3(1)(ii)(iii) of CCS (Conduct) rules. 1964.

The enquiries were started by fixing the first date of hearing as 11.11.85 and completed on 21.9.87. The case was presented on behalf of the disciplinary authority by Shri SB Gupta Acctt. o/o The SPOs Hardoi Dn. vide his memo No. F-5/83-84 dated 31.10.85. The SPS Shri VK Agnihotri was assisted by his defence nominee Shri GS Verma, SPM Hardoi RS. Before conducting the enquiries on 21.9.87 the prosecuting officer and the defence nominee, both were given opportunity to submit their brief/argument upto 28.9.87 and 5.10.87 respectively. The PO submitted his brief on 14.10.87. The SPS submitted his arguments in his defence on... 24.10.87.

In support of the charges levelled against the SPS the following documents were produced on behalf of disciplinary authority. Here-in-after, those documents are contd. 2/

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mentioned in this report as Exhibit Ex-1,2 so on as noted against each documents.

- 1-SB W/D for Rs.3180/- from SB account No.139816-EX-ka-1
- 2-W/S of Shri Naresh Singh dated 27.5.83 -EX-ka-2
- 3-SB W/D for Rs.10450/- from SB a/c No.139817 -EX.Ka-3
- 4-W/S of Shri Naresh Singh dated 27.5.83 -EX.ka-4
- 5-Copy of judgement passed by Hon'ble Civil judge Hardoi dated 22.8.89 -EX-ka-5
- 6-W/S of Shri Jagroop dated.27.5.83 -EX-Ka.6
- 7- " " " " -EX.Ka-7
- 8- " Suresh"Chandra Dixit dated 14.3.83 -EX.Ka-8
- 9- " " " " -EX.Ka-9
- 10- " Ganga Vishnu Mishra " -EX-ka-10
- 11- " " " " -EX-Ka-11
- 12- " Ram Lal Dohar Dated 15.3.83 -EX-ka-12
- 13- " " " " -EX-ka-13
- 14- " " " " -EX-ka-14
- 15- " " " " -EX-ka-15
- 16- Ledger copy of Pali account No.139816 -EX-ka-16
- 17- " " " 139817 -EX-ka-17
- 18- Certificate regarding non-availability of SS granted by Shri Ram Lal Dohar dated.11.12.83 -EX-ka-18
- 19-SO SB Journal of Pali SO -EX.ka-19
- 20-SO account of Pali SO. EX-ka-20
- 21-Death certificate granted by Pali town area (Copy). -EX-ka-21
- 22-W/S of Shri VK Agnihotri dated 19.12.83 -EX.ka-22
- 23- " " " 27.5.83 -EX.ka-23
- 24-Ledger card of SB account No.139816 -EX.ka-24
- 25- " " " 139817 -EX.ka-25
- 26- " " " 136173 -EXka-26

During the course of enquiry following witnesses were examined on the dates noted against each:-

- 1-Shri Jagroop on 4.4.86 -Pw.1
- 2-Shri Naresh Singh on 4.4.86 -Pw.2
- 3-Shri Ganga Vishnu on 25.9.86 -Pw.3
- 4-Shri Suresh Chandra on 26.8.86 -Pw.4
- 5-Shri Shiv Mohan Singh on 19.3.87 -Pw.5
- 6-Shri HP Singh on 19.3.87 -Pw.6
- 7-Shri H.L.Gupta on 7.5.87 and 12.9.87 -Pw.7
- 8-Shri Ram Lal Dohar on 18.11.86 and 19.1.87 -Pw.8

The SPS did not produce any witness in his defence However , he submitted a list of additional documents on 13.12.85. The SPS could not explain the relevancy of the documents noted below as such these were declared irrelevant by the undersigned.

- 1- A copy of FIR lodged to PS Pali.
- 2-A copy of final report by the Police.
- 3- A copy of FIR lodged at PS Shahabad.
- 4-Enquiry report of SPOs Hardoi in the case.
- 5-Copy of vigilance enquiry report in the case.

The inspection of the following documents was not permitted by the SPOs Hardoi.

- 1- Diaries of SPOs Hardoi for the period pertaining to the case i.e.12/83
- 2-D Diaries of SPOs and ASPOs Hardoi for the period i.e.10/77 to 11/77

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The following documents could not be made available to the SPS for inspection as these were neither presented nor were available .

1-Error Book of SBCC Pali so far the period from 26.11.77 to 28.11.77.

2-Order book of SPM Pali for the period for the period from 26.11.77 to 28.11.77.

3-SB-10(b) in r/o SB account No.139816 &139817

4-Index cards of SB account No.139816 and 139817

5-Hand to hand receipt book of SBCC Pali for the period from 26.11.77 to 28.11.77

Only inspection remark made by the inspecting authorities during the inspection of Pali SO for the year 1978 to 1984 were ~~made~~ made available to SPS as additional documents.

On perusal of charges levelled against the SPS it is found that the enquiry will be on the following main issues:-

Article.I

A- Whether Shri V.K. AGNIHOTRI (SPS) accepted the withdrawals from SB account No. 139816 and 139817 after closing of SB counters.

B- Whether Shri VK Agnihotri (SPS) endorsed remarks "SS differs" on the application for W/Ds from above noted account. while there were no specimen of the depositor in r/o these accounts available in the records

C- Whether Shri VK Agnihotri (SPS) paid amounts of withdrawals of Rs.3180/- and Rs.10450/- from SB account No.139816 and 139817 respectively on 28.11.77 to Shri Suresh Chandra Dixit, the messenger of deceased depositor viz. Smt. Deep Malika partly in cash and partly by book adjustment, transferring a sum of Rs.8630/- in SB account No.136173 of the messenger.

D- Whether the acts of the SPS narrated in paras A, B & C above amount to violation of provision of rule 425 of P&T manual Vol. VI part. II.

Article. II

E- Whether the acts of the SPS narrated in A & B above come in the perview of the violations of provisions of rule 3(1)(ii) & (iii) of CCS (Conduct) Rules, 1964.

Valuation of the Exhibits.

1-SB withdrawal forms dated 28.11.77 from SB account No.139816 (Ex-k-1) and 139817 (Ex-k-3) show that the application for withdrawal from SB account No.139816 and 139817 were produced on 26.11.77 and the withdrawals were made on 28.11.77 at Pali SO. These two exhibits also the amounts were paid to messenger Shri Suresh Chandra Dixit after being the depositor identified by S/S Naresh Singh and Ganga Vishnu and the identification was accepted by the SPM Pali on 26.11.77 on ~~no~~ recognition of Shri V.K. Agnihotri (SPS).

2- EX-K. 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 are written statements of the witness recorded during the preliminary enquiry.

3- EX.K-16 and 17 were ledger copies in r/o account No.139816 & 17 maintained at Pali SO and prove that both these accounts were standing at Pali SO.

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- 4- Ex.k.18 is the certificate showing the non availability of SS slips in the records of Pali SO. in r/o of accounts in question.
- 5- Ex.K.19 and 20 are the documents maintained at pali and prove the transaction of withdrawals were made at Pali SO on 28.11.77 and were taken into account on the same date.
- 6- Ex.k.21 is death certificate which proves that the depositor ~~smt~~ Deep Malika was died on 27.11.77 i.e. before the date of transactions.
- 7- Ex.k.22 is the w/s of the SPS recorded during the preliminary enquiries.
- 8- Ex.K.24&25 and 26 are the ledger cards of account No. 139816 and 139817 and 136173 which prove that the withdrawals in question were from the account no.139816 and 139817 and an entry of Rs.8630/- were deposited in a-account No.136173 standing in the name of Shri Ramash Chandra on 28.11.77 which is told to be the part of the amount of withdrawals in question.

Ex.k.5 is the copy of the judgement of the court and is hardly related to the case. It also proves the date of death of Smt.Deep Malika as 27.11.87.

Valuation of the witnesses.

- 1- Pw.1 Shri Jagroop in his deposition dated 4.4.86 stated that ~~smt~~ Deep Malika was his sister and he is acquainted to with her signatures. He also stated that signatgures made in Ex.k.1 and 3 as depositor are not of Smt.Deep Malika . He could not tell the exact date of death of Smt. Deep Malika but told that the withdrawals were made after ~~her death~~ her death. In cross examination Shri Jagroop could not locate the space on W/D forms where the signatures of Smt. Deep Malika exist. nor he could read the name of the depositor written on widhdrawals forms. As such it is not believable that he is acquainted with the signatures of Smt Deep Malika . The PW.1 further deposed that Smt.Deep Malika at the time of her death, was staying in the house in which PO Pali was also functioning at the time of her death.
- 2- PW.2 Shri Naresh Singh <sup>in his</sup> whose deposition dated 4.4.86 deposed that he has identified the depositor Smt.Deep Malika on the application of withdrawals dated 28.11.77 from SB account No. 139816 and 139817 on 26.11.77 The identification was made at the PO counter and the depositor Smt.Deep Malika had signed the application before him. He was also present in the PO at the time of payment of withdrawals on 28.11.77 and witnessed the payment made to Shri Suresh Chandra Dixit the messenger. He also confirmed that Smt. Deep Malika was staying in the same building in which PO Pali was functioning . He told that it was 11.00 or 12.00 hrs. of 26.11.77 when the applications were presented at the PO counter.
- 3- PW.3 Shri Ganga Vishnu in his deposition dated 25.9.86 <sup>the statement of the PW.2</sup>

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4. P.W.4:- Shri Suresh Chandra Dixit in his deposition dt.26.8.86 deposed that he was appointed messenger by Smt.Deepmalika depositor SB account no.139816 and 139817 to withdraw the amount of Rs.3180/- and 10,450/- from her accounts on 26.11.77. He attended P.O.Pali on 26.11.77 and presented the application for withdrawls alongwith the passbooks to V.K.Agnihotri counter clerk on 26.11.77. He also admitted that the depositor Smt.Deep Malika was living with him in the same building in which P.O.Pali was functioning and she died there in the night of 27 and 28.11.77. Shri Suresh Chandra Dixit further deposed that he obtained the amount of withdrawls on 28.11.77 from Shri V.K.Agnihotri (SPS). He admitted that due to non availability of cash in the P.O., the amount was paid to him partly in cash and partly by deposit in his account no.136173. The P.W. further added that he did not inform Shri V.K.Agnihotri about the death of the depositor Smt.Deep Malika. On examination by the undersigned the P.W.4 stated that the identification was checked by Shri V.K.Agnihotri (S.P.S).

5. P.W.5 Shri Sheo Mohan Singh certified the EXK.21 to be genuine.

6. P.W.6 Shri H.P.Singh and P.W.7 Shri H.L.Gupta in their depositions dt.19.13.87, 7.5.87 and 12.9.87 respectively, deposed that they have made the preliminary enquiries in this case and authenticated the records and documents proceeded as exhibits before the enquiry. Both of them stated that at the time of their enquiries that slips containing specimen signatures of the depositor of S.B.A/C no.139816 and 139817, were not available in the S.S.book of Pali S.O. Shri H.L.Gupta stated that the specimen signatures slips of the accounts under issue were not available in specimen signature book of Pali S.O. and he obtained certificate to this effect from SPM Pali on 11.12.82.

7. P.W.8 Shri Ram Lal Dohar in his deposition dt. 18.11.86 and 19.1.87 stated that the messenger Shri Suresh Chandra Dixit attended the P.O.Pali on 26.11.77 and presented the passbooks alongwith the application for withdrawls on the counter. The counter clerk Shri V.K.Agnihotri put the passbook alongwith the applications for withdrawl duly endorsing the note of diffence of specimen signatures Define him on 26.11.77. He also accepted that he issued Ex.K.18 on 11.12.82. He also confirmed the documents maintained at Pali S.O. and produced as exhibits. He also stated that the payments were made by Shri V.K.Agnihotri P.A. He further added, He was not in know about the death of the depositor Smt.Deep Malika at the time of the withdrawls.

Findings

The S.P.S. Shri V.K.Agnihotri in his defence statement dated 21.9.87 stated that the passbooks and the application for withdrawls were transferred to him by Shri Ram Lal Dohar on 26.11.87. The version of the S.P.S. is not tenable in the light of statements of S/S Suresh Chandra Dixit and Ram Lal Dohar. Similarly the version of the SPs that every thing was done on the directions of the SPM carries no weight. Being a responsible official of the department he should have acted according to the

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38/445

provisions of departmental rules on his own perception. The version of the SPS that he compared the signatures of the depositor on the application of withdrawals with those present in the specimen signature book on the direction of S.M. is also a irresponsible effort to throw his own responsibility on the shoulders of the SPM. It was the duty of the SPS to compare the signatures of the depositor to satisfy him self from all corners before effecting payment. Actually the defence statement of the SPS starts with the words "as per directions of the S.M. and ended with ~~with~~ the words "As per directions of the S.M.". Thus the SPS tried to ~~blame~~ blame the SPM Shri Ram Lal Dohar of all the charges levelled against him, and thus it is indirectly clear that some thing was done during the business of the withdrawals in question which violated the provisions of departmental Rules. Now we have to discuss the issue of charges. It is clear from the statements of witnesses that the applications for withdrawals alongwith passbook in question were presented on the counter on 26.11.77 but the presenting officer on behalf of disciplinary authority could not succeed to prove that these were presented and accepted beyond working hours/counter hours. None of the witnesses collaborated the contention of the charge. The reasoning of the P.O. that the application for withdrawals alongwith passbooks were accepted by the SPS after closing the counter business, if it was not so and these were accepted during counter hours then the payment would have been made on 26.11.77 or date stamp would have been affixed on the application. It is only a presumption not supported by any substantial proof. As per note 2 below Rule 425 of P&A Man. Vol. VI part. II, the payment of SB withdrawals can be made on subsequent days. Failure to affix the date stamp on application for withdrawals does not come within the purview of this enquiry.

From the records/documents produced and the statement of witnesses recorded during enquiry it is crystal clear that the depositor Smt. Deep Malika ~~was~~ died on 27.11.77 and payment of withdrawals were effected on 28.11.77 after her death. It is also proved that death of depositor happened in the same building in which post-office Pali was also functioning. The SPS is also resident of the same town. Thus all the circumstances lead to prove that the SPS would have certainly in knowledge of death of the depositor before making payment of withdrawals. But this is a mere fact could not be proved during enquiry. None of the witnesses told that the fact was brought to the notice of the S.S. nor any document showing the fact was produced during enquiry. It is established from the enquiries that the withdrawals were made at about 10hrs on 28.11.77 i.e. at the beginning of the counters. As such the deposition of the SPS, that he attended P.O. on 28.11.77 at 10.00 and engaged himself in his business and did not come to know about the event of death of the depositor may be recognised. It can easily be maintained that Shri V.K. Agnihotri did not violate the provisions of Rule 425 of P&A manual Vol. VI part. II while making the payment of withdrawals to the messenger of AC no. 139816 & 17 on 28.11.77 of the deceased depositor as he was not in the knowledge of the death of the depositor.

As regard to the charge that the S.S. endorsed remark 'S.S. differs' though specimen of depositor in respect of SB A/C no. 139816 and 139817 were not on record,

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The P.W. Shri H. Singh and Shri J.L. Gupta deposed that during the preliminary enquiries they had examined the S.S. book of Pali S.O. and found that the S.S. slips containing specimen of the depositor were not available there. The S.S. book of Pali SO was not produced as listed document. But it was examined as agreed by the both parties that is P.O. and SPS and it is held that neither the slips were available in the S.S. book nor there was any sign or place for the S.S. slips to have been pasted in the S.S. book. Moreover the P.W. Shri Ram Lal Dohar has also certified that the S.S. slips were not available in the S.S. book as on 11.12.83 and this certi-

-ficate was produced during the enquiry Ka. 18. Thus it is held that the SPS Shri V.K. Agnihotri gave a false remark of S.S. differs on the application for withdrawal of SB a/c No. 139816 and 139817 on 26.11.77 and thereby violated the provisions of rule. 425 of P&T Manual Vol VI Part. II. The S.P.S. Shri V.K. Agnihotri in his defence statement during the enquiry, deposed that he has done it on the verbal order of the S.M. Shri R.L. Dohar and which is not convincing and expected from a Govt. servant and thus he has done an act which is unbecoming of a Govt. servant and thereby he violated the provisions of rule. 3(1) (iii) of C.S. (Conduct) Rules. 1964.

From the perusal of records produced during the course of enquiry and the statement of Shri Suresh Chandra Dixit, Ram Lal Dohar PWA and the defence statement of S.P.S. show that the payment of withdrawals from SB a/c No. 139816 and 139817 dated 28.11.77 was partly made in cash and partly by deposit in the P.B. of SB a/c no. 136173 in the name of the messenger, Shri Suresh Chandra Dixit. But such payment is not banned or contravenes any provision of the departmental Rule. There is no such provision in the rules that the payment of withdrawals sought to be withdrawn through messenger should be made only in cash and not by other modes and as such it is clearly held that the S.P.S. did not violate the provisions of Rule. 425 of P&T Manual Vol VI part. II by making payment of withdrawals partly in cash and partly by deposit.

The charge levelled in the article. II of annexure. I is also related to the article. I and automatically stands proved to the extent to which article. I is proved as narrated above.

Conclusion After considering all the facts narrated in the briefs of the P.O. and the defence nominee and perusal of the records produced during the enquiry, examination of witnesses during enquiry it is concluded that the charge. I levelled against the S.P.S. is proved only to the extent that he endorsed false remark. 'S.S. differs' on the applications for withdrawals from S.B. A/C No. 139816 and 139817 on 26.11.77 and violated the provisions of Rule. 425 of P&T Manual VI part. II. The remaining part of the charge could not be proved during the enquiry.

As regards article. III of the charge it is also proved to the same extent as article. I and the S.P.S. has violated the provisions of Rule. 3(1) (ii) and 3(1) (iii) of C.C.S. (Conduct) Rules. 1964.

*Insufficiency of account book was found for SO on 31st Dec 1977*

*Attested*

*delivered to the P.O. of Pali on 11.12.83*

*21/12/83*

*Asstt. Supdt.  
Post Offices, Hardoi*

*अप्राप्त अक्षर*

*Attested  
me by  
M. Dubeey  
Haw*

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(copy of the appeal)  
The Director Posts Offices,  
Lucknow Region, Lucknow.

Subject: Appeal against the orders of stoppage of one year's increment.

Respected Sir,

I have been awarded punishment of stoppage of one year increment by the Superintendent vide his Memo. No. F-5/83-84 dated 31.12.83 for no fault of mine, I beg to state the following facts for your kind perusal and justice:

On 26.11.77 I was working as S.B. Counter clerk at Pali S.O. Sri Suresh Chandra Dixit the messenger appointed by Smt. DeepMalika Devi the depositor of late A/C No. 139816 and 139817 for withdrawal of Rs.3180/- and Rs.10450/- respectively. So far as my memory goes Sri Dixit the messenger attended the P.O. Pali at about 1 P.M. and contacted SPM Pali instead of the savings Bank counter as in normal cases where there is heavy amount sought to be withdrawn the party depositor for the most part contacts the incharge of the office to ascertain the cash position. So also in this case Shree Dixit met the SPM Sri Ramlal Dohar in connection with heavy amount of withdrawal. Sri Ram Lal Dohar the then SPM Pali passed on the books & application for withdrawal A/C No. 139816 & 139817 through Sri Dixit to me on receipt of the pass book and withdrawal as laid down in Rule 425 of P&T Man. Vol. VI Part II I examined the entries of withdrawals. I found the forms properly filled and complete. I agreed the specimen signatures with the specimen on record (S.S. Book) but having found slight difference in mode of writing I inserted over the signature of the depositor a remark S.S. differ and then placed the pass books and withdrawal forms alongwith specimen signatures book before the SPM Shri Ram Lal Dohar. The SPM also confirmed the remark with reference to specimen signatures Book and wrote a remark S.S. differ with his dated signature over the signature of the depositor. Sri Ram Lal Dohar SPM then took the attestation of two respectable persons Sri Naresh Singh Principal Bhartiya Inter College Pali and Sri Ganga Vishnu clerk of the same college to establish the identity of the depositor. I identified both the witnesses on questioning by the SPM and returned the Pass Book and withdrawals to the SPM. I got busy with my counter duties

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(47) (A40)

I do not know what was further discussions held between SPM and the messenger in respect of withdrawals and as to how the messenger was dealt with by the SPM afterwards. The SPM did not ask me to stamp the forms for retaining the withdrawal forms in the P.O.

Further as my memory goes on 28.11.77 the messenger Sri Sresh Shandra Dixit attended the P.O. Pali and met the SPM later to ascertain the cash position. I remember that the SPM Pali Sri Ram Lal Dohar took these pass books and withdrawal forms from the messenger and passed on to me for making payment entries the book withdrawal forms and ledger cards and asked me to put up before him for passing the orders for payment. I made the entries in P.O.'s w/ds and ledger cards and put up then before SPM Sri Ram Lal Dohar for his orders for payment. <sup>The SPM</sup> Sri Ram Lal Dohar checked the entries in the relevant records and having been fully satisfied passed the orders for payments under his dated signature on the withdrawal forms. After the voucher was duly passed, I asked the SPM to provide me the funds for payments. The SPM Pali had no funds and the messenger Sri Dixit desired the payments by book adjustment. So SPM advised me to make the payments as was desired by the messenger. Thus I made the payments in cash and Rs.8630/- by book adjustments deposited in the account of Sri Dixit A/C No. 136173.

Thus right from submission of Pass books on 26.11.77 for withdrawals to payments on 28.11.87 I discharged my duties sincerely & honestly in accordance with the provisions of rules 425 of P & T Manual volume VI Part II.

I am really baffled to see that the department did not acknowledge my statements to be true and deliberately served on me a charge sheet vide no. F-5/83-84 dated 16.7.85. In this charge sheet false and concocted charges have been framed against me. In Article 1 of the charge sheet the charge that 'Sri V.K. Agnihotri on 26.11.77 accepted withdrawals after closing of S.B. counter'. I have already refuted the charges in my defence statements dated 26.10.83 forwarded to P.O. that there is nothing specified like this in rule 425 of P&T Mann. Vol. VI Part II that a deposit or withdrawal cannot be accepted after closing of counter by the counter clerk or the Incharge of the office or whosoever does any transaction after closing of

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43 A/c

~~senior~~ senior and responsible man failed to detect the mistake and why did he passed the withdrawal in absence of the signature in specimen signatures book on 26.11.77. Secondly the questions of non-availability of signatures of A/C No. 139816 and 139817 also does not arise because these accounts were received on transfer from Hardoi HO to Pali PO only fifteen days ago viz. on 10.11.77 Besides this the identity of the signature of Smt. Deep Malika devi account no. 139816 & 139817 was established by two respectable witness Sri Naresh Singh and Ganga Vishnu (both are educated and Govt. employee) In their statements both the witness having wrbttten 'Main Deep Malika Devi ko bhali bhati janta pahchanta hoon inhonney veray samney apney hasta ksher kiye'. This is a glaring proof of identity of the sinatures of Deep Malika Devi by the two gentlemen. Now the question arises if there were no signatures on record on 26.11.77 it was open and easy for the SPM Pali to obtain the fresh signature slip of the depositor as under rule b get if attested by the witness already present in the P.O. and get it pasted in S.S. Book. Since the signatures were on record on ~~26.11.77~~ 26.11.77 as such the SPM did not fell its necessity of getting / fresh signatures. I did not know anything about it as I remember these accounts were received on transfer in Pali, I had opened these accounts and pasted these signatures in S.S. Book.

I am sure that these signatures having been tempered with by the department with a view to entrapping me in the allegations because during the visit to Pali it was ~~has been during the visit~~ <sup>shown by me to E.O. a number</sup> of signatures slips lying loose in every page in SS Book and these all were old account. No sig. slips which had given way due to mishandling of SS Book and no attention paid by the SPM to get these old loose slips pasted and also many sig. slips were missing from the record in long span of seven years of enquiry. My defence statement is itself a mirror that speaks the reality of the charges in emphatically refuted by me. If it is gone through minutely it will expose that I have committed no mistake or laxity in discharg- ing my duties and have not violated any provision of rule 425 of P& T Manual vol. VI part III.

E.O. in his findings has concluded that none of the charges

(42) (A49)

S.B. counter shall be liable for punishment. Since there is no force to sure in this rule the insertion of the allegation is totally baseless and mere to occupy the wider space in the charge sheet. Similarly the allegation that the payment was made by book adjustment to the messenger Sri Dixit also stands nowhere in the rule 425. The fact is that a messenger when authorised by the depositor for payment acquires full rights to act as a depositor & counter clerk is bound to make the payment as his messenger desires. Suppose the counter clerk makes the full payment in cash to the messenger and in turn the messenger having received the payment in case offers some money or in full to the counter clerk to deposit that amount in his own passbook so that there is no right reserved with the counter clerk to refuse such deposit or transaction.

Thus it transpires clearly that this allegation is also nothing but speaks of the intention of the department to victimise me.

Third allegation that V.K. Agnihotri inserted remark S.S. differ though specimen of the depositor in respect of SB account no. 7 139816 & 139817 were not on record is S.S. Book is also not maintainable. I have already widely explained in my defence statement dated 26.10.87 with a stark reality that on 26.11.77 I had compared the signatures of Smt. Deep Malika Devi the depositor of A/C ~~XXXXXXXX~~ No. 139816 & 139817 with the specimen on record (S.S. Book). Since the signatures did not tally I had given a remark S.S. differ over the signature of the depositor and placed these books and withdrawals along with specimen signature book before the SPM Pali Sri Ram Lal Dohar for his checking. Sri Ram Lal Dohar after being fully satisfied gave a remark S.S. differ under his dated signature and then he took my attestation of two respectable persons as already explained in preceding paragraph.

Now the question arises if these were no signatures on record in S.S. Book, how the SPM gave a remark S.S. differ. It transpires that he had seen the signatures with reference to specimen book. If the SPM Pali did not see or check the specimen book for any reason then it is the mistake of SPM and not of mine because I had placed specimen book for his checking. The SPM should be called for by the department to explain the reasons as to why he being a

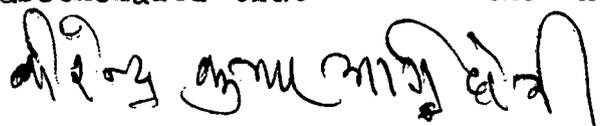
*(Handwritten signature)*

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~~xxxxxx~~ senior and responsible man failed to detect the mistake and why did he passed the withdrawal in absence of the signature in specimen signatures book on 26.11.77. Secondly the questions of non-availability of signatures of A/C No. 139816 and 139817 also does not arise because these accounts were received on transfer from Hardoi HO to Pali PO only fifteen days ago viz. on 10.11.77 Besides this the identity of the signature of Smt. Deep Malika devi account no. 139816 & 139817 was established by two respectable witness Sri Naresh Singh and Ganga Vishnu (both are educated and Govt. employee) In their statements both the witness having wrbttten 'Main Deep Malika Devi ko bhali bhati janta pahchanta hoon inhonney verey samney apney hastaisher kiye'. This is a glaring proof of identify of the sinatures of Deep Malika Devi by the two gentlemen. Now the question arises if there were no signatures on record on 26.11.77 it was open and easy for the SPM Pali to obtain the fresh signature slip of the depositor as under rule b get if attested by the witness already present in the P.O. and get it pasted in S.S. Book. Since the signatures were on record on ~~xxxxxx~~ 26.11.77 as such the SPM did not fell its necessity of getting / fresh signatures. I did not know anything about it as I remember these accounts were received on transfer in Pali, I had opened these accounts and pasted these signatures in S.S. Book.

I am sure that these signatures having been tempered with by the department with a view to entrapping me in the allegations because during the visit to Pali it was ~~xxxxxx~~ <sup>shown by me to E.O. a number</sup> ~~xxxxxx~~ of signatures slips lying loose in every page in SS Book and these all were old account. No sig. slips which had given way due to mishandling of SS Book and no attention paid by the SPM to get these old loose slips pasted and also many sig. slips were missing from the record in long span of seven years of enquiry. Ny defence statement is itself a mirror that speaks the reality of the charges in emphatically refuted by me. If it is gone through minutely it will expose that I have committed no mistake or laxity in discharging my duties and have not violated any provision of rule 425 of P& T Manual vol. VI part III.

E.O. in his findings hasconcluded that none of the charges



(44) (AS)

levelled against me is Article No. 1 and 2 are proved. He himself acknowledged that I was right in accepting the withdrawals and making the payments. E.O. has held me responsible only for a single lapse of not comparing the signatures from the S.S. Book and also charged that specimen signatures were not on record and disciplinary authority stopped my one year's increments on the recommendations of E.O.

On the above charges I have on a full scale refuted this charge quoting the provisions of rule 425 of P&T Mann. Vol VI Pt. III with appealing illustrations that I had compared the signature with the specimen book and placed them before the SPM for checking. The SPM should have been held responsible for this lapse.

Thus I assert that signatures were on record on 26.11.77 and were tallied by me. Thus this charge that specimen signature were not on record is not tenable.

Therefore I request your honour to kindly look into the charges sympathetically and exonerate me from the punishment and regularise my pay.

I shall ever remain grateful to you for the act of kindness and justice.

Enclosures

Dated 8.2.88.

Copy to

SPOS Hardoi for information and also for intimation that copy of this appeal has been forwarded to Director P.O. Lucknow.

Yours faithfully,

Sd/ V.K. Agnihotri,  
PA Hardoi H.O.

Attested  
TRUE COPY

*Attested  
M. Duleep*

*M. Duleep  
H.O.*

Annexure A-14

45

A52

INDIAN POSTS AND TELEGRAPHS, DEPARTMENT,  
OFFICE OF THE SUPDT. OF POSTOFFICES, HARDOI DN. HARDOI

Memo No. F.5/83-84  
dt. at Hardoi the 31.12.83

Whereas a disciplinary proceeding against Shri V.K. Agnihotri T.R.C. Hardoi is contemplated.

Now, therefore, the undersigned, in exercise of the powers conferred by Sub rule. (1) of Rule. 10 of the central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby places the said Shri V.K. Agnihotri under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the headquarters of Shri V.K. Agnihotri T.R.C. should be Hardoi and the said Shri V.K. Agnihotri shall not leave the headquarters without obtaining the previous permission of the undersigned.

*[Signature]*

Supdt. Of Postoffices,  
Hardoi Dn. Hardoi.

Page 7AD

Copy to:-

1. Shri V.K. Agnihotri T.R.C. Hardoi. Orders regarding subsistence allowance admissible to him during the period of his suspension will issue separately.

*अनुसंधान*

*Marked  
me copy  
M. Duleer  
Adv*

153

ब अदालत श्रीमान Central Administration Tribunal, Circuit Bench  
Mehow

[ वादी ] अपीलान्त श्री V. K. Agnihotri का

प्रतिवादी [रैस्पाडेन्ट]

# वकालतनामा



VK Agnihotri  
वादी (अपीलान्त) V/s  
UOS & others

बनाम

प्रतिवादी (रैस्पाडेन्ट)

नं० मुकद्दमा ..... सन् ..... पेशी की ता० १६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री B. Solomon, Adv High Court, Mehow

and M. Dubey, Adv, 4th Lane, Nawasiga, बकील  
Ganesh gaur, Mehow महोदय  
एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकैन
बनाम

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

बीरेन्द्र कुमार अभिहोत्री  
हस्ताक्षर

साक्षी (गवाह) ----- साक्षी (गवाह) -----

दिनांक 26 महीना 5 सन् १९४९ ई०

स्वीकृत  
B Solomon  
Adv

(2) M. Dubey  
Adv

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW  
C.M. An. No. 319 (of 1989)  
O.A. NO. 120 OF 1989

1574

V.K. Agnihotri

... Applicant.

-VS-

Union of India and others

... Opp. parties.

APPLICATION OF CONDONATION OF DELAY IN FILING  
COUNTER AFFIDAVIT/REJOINDER AFFIDAVIT (REPLY).

That the opposite parties beg to submit as under:-

1. That in the above noted case the counter affidavit to rejoinder affidavit could not be filed in time inadvertently.

The same is being filed herewith.

2. Wherefore it is most respectfully prayed that the delay in filing the counter affidavit/reply to rejoinder affidavit may kindly be condoned and counter affidavit be taken on record and such other order as are deemed just and proper be also passed.

F.T.  
L  
15/12

(V.K. CHAUDHARI)  
Advocate, Counsel for  
Opp. parties.

Lucknow,  
Dated: 15.12.89

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

155

O.A. No. 120 of 1989(L) .

V.K. ~~Sharma~~ <sup>Sharma</sup>hotri ... Applicant

-vs-

Union of India and others .. Opp. parties.

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.

I, R.S. Khusro, aged about 58 years,  
son of Late Ram chandra  
at present posted as Supdt. of Post Offices,  
Hardoi Division, Hardoi do hereby solemnly affirm  
and state as under:-

COA  
8/8/89



1. That the deponent is opposite party no.3  
and as such he is well conversant with the  
case and he is filing this counter affidavit  
on behalf of the opposite parties.

2. That the deponent has read and understood  
the contents of the application as well as the  
facts given herein under in reply thereof.

3. That before giving parawise comments on the  
application it is pertinent to mention the brief

R.S. Khusro

A.56

history of the case as under:-

(a) That the applicant while working as SECC at Pali SO during the period with effect from 26.11.77 to 28.11.77 accepted the withdrawal forms for the withdrawal in respect of Pali S.B. A/c. No. 139876 and 139817 for Rs. 3180/- and 10450/- respectively presented by Shri Suresh Chandra Dixit the messenger appointed by the depositor Smt. Deepmalika devi resident of VPO Pali (Hardoi) after closing of S.B. counter on 26.11.77. The said S applicant knowing that business hours were over and no transactions were to be made that day, accepted the withdrawal forms and endorsed false remarks 'S.S. differ' on these forms though the signatures of the depositor Smt. Deepmallika Devi were not on record in specimen signature book of Post Office Pali and obtained the identifications of Shri Naresh Singh the then Principala S.B.R. Inter College Pali(Hardoi) and Ganga Vishnu clerk, S.B.R. Inter college Pali(Hardoi) respectively showing his keen interest to favour the messenger Shri Suresh Chandra Dixit but no payment was made on 28.11.77. The said ~~S~~ applicant gave a remark on the withdrawal forms to introduce the identifiers

A circular stamp containing a handwritten signature and the date 20/11/77.

RAH

457

'identifier known to me' on both the withdrawal forms separately.

(b) Further on 28.11.77(27.11.77 being sunday)

Shri Suresh Chandra Dixit the messenger attended PO Pali for payment. The said applicant passed the payment of these withdrawals and made payment of Rs.13630/- partly by depositing Rs. 8630/- in the account No.136173 of the messenger

Shri Suresh Chandra Dixit and partly in cash Rs.5000/- to the messenger, whereas the depositor Smt. Deepmalika devi died on 27.11.77, that is the payments were effected to the messenger after the death of the depositor.

(c) That due to negligence and apathy of the said applicant in confirming the availability of the specimen signature of the depositor from the specimen signatures book of Pali SO gave an opportunity to the said messenger

Shri Suresh Chandra Dixit

to make a fraudulent withdrawal of Rs.13650/-

from sub post office Pali (Hardoi) for the lapses on the

part of the applicant PA Pali, he was served with the memo of chargesheet vide office Memo No.F.5/83-84 dated 13.12.83 under

Rule 14 of CCS(CCA) Rules, 1965 Shri VK Dwivedi denied all

the charges framed against him vide his letter dated 24.7.85.

Shri Vijai Verma, Office of PMG UP Circle Lucknow and

Shri SB Gupta accountant D.O. Hardoi were appointed as

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(A-50)

enquiry officer vide office memo of even no. dated ~~22.~~ '85 to enquire into the charges and to present the case against the said applicant. The enquiry officer submitted his report on 21.12.87.

(d) That the case was decided on the merits of the case and the accused was awarded with punishment of (penalty of) reduction of his pay by one stage in the same scale of pay for a period of one year with specific directions that increment of pay will not be admissible during the period of reduction and that the reduction will not effect future increments of pay which remained unchanged on appeal preferred by the said appoicant to Director of Postal Services, Lucknow Regiona , Lucknow vide No.RDL/App.56/88-89 dated 20.5.88.

(e) That the said applicant being aggrieved with orders passed by the answering deponent and appallete orders of Director of Postal Service Lucknow , took the shelter of this Hon'ble Tribunal.

4. That the contents of paras 1 & 2 ~~xxx~~ of the application are formal, hence needs no comments.

5. That in reply to the contents of para 3 of the application it is submitted that the applicant made a false declaration that his application is within the limitation period as prescribed in section 21-A of the Adminstratrative Tribunal Act ~~xxxxx~~ The section 21 of the said Act clearly envisages that in case where a final order such as mentioned in caluses A of sub section 2 of 21 has been made in co nnection with the grievance,

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*[Handwritten signature]*

~~unless the application is made within one year from~~

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unless the application is made within one year from the date on which such final orders have been made whereas clause 'A' of sub section 2 of section 20 describes if a final order has been made by the Government or other authority or officer other person competent to pass such order under such rule rejecting any appeal preferred or representation made by such person in connection with the grievance. Here in this very case the applicant preferred an appeal to the Director of Postal Services Lucknow Region Lucknow which was decided by the defendant no.2 on 20.5.88 and as such the period of one year expired on 19.5.89 and the applicant preferred in Tribunal much after that date so such the application is liable to be dismissed on this score only.

6. That the contents of para 4(i) of the application are matter of records as such needs no comments.

7. That in reply to the contents of para 4(ii) of the application it is submitted that the applicant gave a false remark 'S.S, differ' on the application for withdrawals without tallying with specimen signature on record. Actually the specimen signatures of the depositor were not available at all in the record and this fact was proved in the oral enquiry under Rule 14 of CCS(CCA Rules 1964 against the applicant. It is also not admitted that the applicant gave a remark introducing the identifiers on the instructions of the SPM, Pali, Vertually the

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 xxxxxxxxxxxx

AGC

the applicant had got the identification accepted by introducing the identifier on his own accord. It is also not true ~~with~~ <sup>that</sup> withdrawals were not effected on 26.11.77 due to paucity of funds but ~~the~~ fact is that the application for waithdrawals were presented after the close of counter.

8. That the contents of para 4(iii) of the application need no comments.

9. That the contents of para 4(iv) of the application are incorrect, hence denied and in reply it is stated that the appointment of Shri Vijai Verma as EO was not irregular as stated in the application. At the time <sup>he</sup> ~~was~~ working as I.I. in the office of the PMG, UP, Lucknow which is a separate Unit.

10. That the contents of para 4(v) of the application are incorrect as stated, hence denied and in reply it is submitted that there is no provision in the rules to intimate the Supdt of Posts (SPS) as to how and when the case came to light. The applicant was charge sheeted and punished for the lapses on his own part.

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11. That in reply to the contents of para 4(vi) of the application it is submitted that the statements of S/Shri Jagroop, Sri Naresh Singh, H.P. Singh has no

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(Ad)

relevancy with this stage, as the applicant was awarded punishment only for giving false remarks 'S.S. differ' on the application for withdrawals and the charge was proved with the help of record which is primary evidence in the case and on the basis of statements of state witnesses S/Shri H.L. Gupta, and R.L. Dehar who had finally deposed in their statement that S.S. were not on record. The statement of Shri H.L. Gupta and R.L. Dehar are annexed to this counter affidavit as Annexures CA-1 and CA-2.

12. That the contents of para 4(vii) of the application are incorrect, hence denied and in reply it is submitted that the applicant interpreted incomplete instructions contained in Memo No.F.30/5/6 AVD Act dated 26.5.81 issued from Ministry of Home Affairs. The para 6 of the aforesaid memo clearly envisages that the reports made after preliminary enquiry or report made by police after the investigation other than those referred to in clause 'A' of sub Section I of section 173 of (Cr. PC) the code of criminal procedure of 1898 are usually confidential and intended only to satisfy the competent authority whether further action in the nature of regular departmental enquiry or any other action is called for. These reports are not usually made use of or considered in the

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A62

enquiry. It was why ~~that~~ the documents entered at Sl. No.1 to 5 in the application were not allowed for inspection. Remaining documents were allowed and called for from the Disciplinary authority declared documents at sl. No.6 and 7 as irrelevant. The documents entered at sl. Nos. 8 to 12 could not be shown due to their non-availability.

13. That the contents of para 4(viii) <sup>(ix)</sup> of the application are incorrect as stated, hence denied and in reply it is submitted that ~~the applicant~~ after closing the case on behalf of Disciplinary authority, the SPS (applicant) stated his defence in writing as required under sub rule 16 of Rule 14 of C S(CCA) Rules, 1965. As there were no defence witnesses the enquiry officer examined the applicant in continuation to his defence submitted in writing.

*The E.O. submitted his report as per Rules.*  
~~The defence state that the applicant is innocent.~~

14. That the contents of para 4(x) of the application are incorrect as stated, hence denied and in reply it is submitted that the order of punishment were issued on the merit of the case after considering all the facts and circumstances and after going through all relevant records by the

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163

by the opp. party no.3.

15. That the contents of para 4(xi) of the application are incorrect as stated, hence denied and in reply it is submitted that the appallete authority viz. opposite party no.2 rejected the appeal of the applicant after thorough consideration of the case.

16. That the contents of para 4(xii) of the application are incorrect as stated, hence denied and in reply it is stated that the charges levelled against the applicant were ~~not~~ substantiated. The charge that the applicant gave a false remarks 'S.S. differ' is undoubtedly proved.

17. That the contents of para 4(xiii) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant has twisted the interpretation of communication No.43/56/64/AVD dated 22 Oct. 1964. The preliminary enquiry has revealed that a prima facie case is made out which would justify dismissal/removal or compulsory retirement from service. This probably also stemmed from the memo of charges against the applicant as such the suspension of the applicant was neither unwarranted nor uncalled for. As regards continuat on of suspension for more than six months, it is also not against the rules framed on the subject. D.G. instructions referred to

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XXXXXXXXXX

124

in the application are only the guidelines and circumstances may compel the Government servant to remain under suspension for more than 6 months.

18. That the contents of para 4(xiv) of the application are not disputed.

19. That the contents of para 5(i) of the application are incorrect as stated in view of the facts stated in the preceding paragraphs.

20. That the contents of para 5(ii) of the application are incorrect as stated, hence denied, and in reply it is submitted that the suspension ordered and charge sheet were issued as and when departmental enquiries were completed. There is no such provision in the rule which lay down any bindings or limitations for the purpose.

21. That the contents of para 5(iii) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was awarded with the punishment on merits of the case.

22. That the contents of para 5(iv) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was afforded reasonable opportunities of defence as required under the rules.

165

23. That the contents of para 5(v) of the application are incorrect as stated, hence denied and in reply it is submitted that the findings of enquiry officer are based on the evidence adduced during the course of enquiry.

24. That the contents of para 5(vi) of the application are incorrect as stated, hence denied and in reply it is submitted that the orders of punishment by the opposite party no.3 and rejecting the appeal by opp. party no.2 were issued after considering the whole case.

25. That the contents of para 5(vii) of the application ~~is~~ are incorrect as stated, hence denied and in reply it is submitted that the orders of suspension ~~and punishment~~ by opposite party no.3 and ~~rejecting the~~ its continuance was neither unwarranted or unjust, ~~not~~ the denial of full pay and allowances for the suspension period is wrong as explained under <sup>reply to</sup> para 4 of the application.

26. That the contents of para 5(viii) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was given an opportunity to choose his best which he may like.

27. That the contents of para 5(ix) of the

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Page

application are incorrect as stated, hence denied and in reply it is submitted that the justification of disciplinary proceedings has already been discussed in reply to para 4 of the above application as above.

28. That the contents of para 6 and 7 of the application need no comments.

29. That the contents of para 8 of the application are incorrect as stated because disciplinary proceedings and the action taken by the opposite parties against the applicant were legal and just.

30. That the contents of para 9 to 12 of the application need no comments.

31. That the reliefs sought by the applicant are not tenable in the eyes of law.

32. That in view of the facts, reasons and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs to the Opp. parties.

21/08/89

Handwritten signature of the deponent.

Deponent.

Lucknow,

Dated: 8 Aug. 1989.

Handwritten signature for verification.

Verification.

I, the above named deponent do hereby verify that the contents of paragraphs 1 & 2 are true to my personal knowledge,

Handwritten signature of the verifier.

AGF

and those of paragraphs 3 to 2843<sup>a</sup> are believed to be true on the basis of perusal of office records as well as information gathered and those of para 29, 31, 32 are believed to be true on the basis of legal advice. Nothing material fact has been concealed and no part of it is false.

*AS*  
Deponent.

Lucknow,

Dated: 8<sup>th</sup> Aug. 1939.

I identify the above named deponent who signed before me is the same person.

*AS*

(V.K. Chaudhari)  
Counsel for the Opp. parties.

Lucknow,

Dated: 8<sup>th</sup> Aug. 1939.

*8/10/39*

*AS*

I solemnly affirmed before me  
who is identified  
Clerk to the  
I  
I solemnly affirm  
this affidavit  
signed by me

*V.K. Chaudhari*  
*M. Chaudhari*

*S. G. Chaudhari*

Commissioner of  
District Court  
Lucknow

*8/10/39*

In the Central Administrative Tribunal,

Circuit Bench Lucknow

C.M. No 53/90(S)

D.A. No 126 of 1989

(H&D)

Nivendra Kumar Agnihotri - - - - Applicant

Versus

Union of India & others - - - - Respondents.

FF. 21.2.90.

The humble applicant respectfully states as

under :-

- (1) That due to personal and unavoidable reasons of his counsel, the applicant could not file the rejoinder affidavit in time and the delay is liable to be condoned.

It is, therefore, most respectfully prayed that the delay in filing the rejoinder be condoned and the same be taken on record.

Lucknow  
14-1-90

M. Dubeey  
Adv  
Counsel For Applicant.

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L  
23/1/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH  
LUCKNOW

169

O.A.No. 120 of 1989

Virendra Kumar Agnihotri ..... Applicant

Versus

Union of India & others ..... Respondents

F.F. 21.2.90

REJOINDER AFFIDAVIT

I, Virendra Kumar Agnihotri, aged about 52 years s/o late Shri Har Dayal Agnihotri, r/o Village & P.O. Pali, Distt. Hardoi, do hereby state on oath as under :-

1. That the deponent is the applicant in the above noted case and he is fully conversant with the facts deposed to in this rejoinder affidavit.
2. That the deponent has read the counter - affidavit submitted by the respondents, understood its contents and is replying to the same.
3. That the contents of paras 1 & 2 of the counter affidavit need no reply except that the opposite party no. 3 has not furnished any authority to file reply on behalf of other respondents.
4. That in reply to the contents of para 3(a), it is denied that Shri Suresh Chandra Dixit, the messenger appointed by the depositor Smt. Deep Malika Devi, presented the withdrawal in respect of two SB A/cs after closing of SB counter on 26.11.77. The contention of the respondents <sup>is wrong</sup> and malicious. The Inquiry Officer in his report has catagorically

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A78

stated that the Presenting Officer on behalf of the Disciplinary Authority could not succeed to prove that the applications for withdrawal were presented and accepted beyond working/counter hours and none of the witnesses corroborated the contention of the charge. It is also wrong to say that the deponent gave false remarks, "S.S. differ" on these withdrawal forms though the signatures of the depositor Smt. Deep Malika Devi were not on record in specimen signature book of the Post Office. Had it been so, the Sub-Postmaster could have challenged the remark given by the deponent. As per practice the withdrawal form and the specimen signature were placed before the SPM to verify the genuineness of the signature and when he was satisfied that the signature on the application differed from the specimen signature, then only the necessity of identification arose. In this case, the SPM was satisfied that the remark "S.S. differs" given by the deponent was correct and then only he asked for identification and accordingly identification from two responsible persons who were well known to the deponent was taken. It is wrong and malicious to say that the deponent showed his keen interest to favour the messenger Shri Suresh Chandra Dixit and it is emphatically denied. The deponent acted in the ordinary course of business and in the manner in which any other person of ordinary prudence would have done in similar circumstances.

(b) That the contents of para 3(b) are denied as stated. The payment was not passed by the deponent but it was passed by the Sub-Postmaster and due to paucity of funds in the P.O. only Rs. 500/- in cash was paid and the rest deposited in the account of

दीपिका देवी

A71

messenger on the basis of the authority and as per his instructions. It was not known to the Post Office that the depositor Smt. Deep Malika Devi died on 27.11.77.

(c) That in reply to the contents of para 3(c), it is denied that there was negligence and apathy of the deponent in confirming the availability of the specimen signature. The deponent acted in the normal course and finding that the signatures on the withdrawal forms did not tally with the specimen signature on record, gave the remark "S.S.differ". Had the deponent been negligent in any way as wrongly alleged, the Sub Postmaster would have challenged it immediately not after lapse of long time on a second thought. It is malicious and prejudicial to say that the deponent gave an opportunity to the messenger Shri Suresh Chandra Dixit to make a fraudulent withdrawal of Rs. 13650/-. This allegation is denied as fallacious and baseless. The incidence of withdrawal occurred on 28.11.77 and the applicant was served with a charge sheet in December, 1985, after more than 8 years which in itself shows the prejudices of the authorities against the applicant. The Inquiry Officer submitted his report after more than 2 years, while the applicant had been placed under suspension by memo dated 31.12.83 (Annexure A-14 to the application) against the instructions of the DG P&T contained in his letter no. 201/43/76 Disc.II dated 15.7.1976. The whole proceeding was malicious, arbitrary, prejudicial and illegal.

(d) Needs no comment. It is however, stated

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A72

that the action of the respondents in suspending the applicant, taking departmental proceeding and punishing him ~~him~~ without any fault on his part, were/are malicious, prejudicial against fact and law and hence null and void. It may be stated that the deponent was initially in Bareilly Division and while posted in Registration Import Branch in 1975 in Shahjahanpur Head Post Office, he intervened and saved the Government property at the risk of his life, when the college boys came in and struggled with the Postmaster. The deponent was injured during scuffle and was admitted in the District Hospital, Shahjahanpur for about a week. The then PMG Shri S.L. Rajan saw him personally, granted Rs. 1000/- from Welfare fund and ordered his transfer to their Sitapur Division to be posted at his native place 'Pali' on compassionate ground. The deponent has always been sincere, faithful, devoted to his duty and to the Government work.

5. That para 4 of the counter/WS needs no reply.

6. That in reply to the contents of para 5 it is denied that the applicant made a false declaration that the application is within the limitation period as prescribed in Section 21-A of the Administrative Tribunal Act. As stated in Para 1(ii) and 4(xi) the order dated 20.6.88 passed by the appellate authority was received by the applicant on 16.11.88 through the SDI North Sub-Division Hardoi and a remark to that effect was recorded on the copy of order (Annexure A-12) by the applicant immediately thereafter. In view of this fact, the application filed before this Hon'ble Tribunal is within time and any averment made to the contrary is false, malicious and motivated to cause injury to the applicant and the same is vehemently denied.

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A73

6. That in reply to the contents of para it is denied that the applicant made a false declaration that the application is within the limitation period as prescribed in section 21 A of the Administrative Tribunal Act. As stated in para 1(ii) and 4(xi) the order dated 20.6.88 passed by the appellate authority was received by the applicant on 16.11.88 through the SDI North Sub Division, HarDOI and a remark to that effect was recorded on the copy of of order (Annexure A-12) by the applicant immediately thereafter. In view of this fact, the application filed before this Hon'ble Tribunal is within time and any averment made to the contrary is false, malicious and motivated to cause injury to the applicant and the same is vehemently denied.

7. That para 6 of the counter/CA needs no reply.

8. That the contents of para 7 of the counter/WS are denied. It is wrong to say that the applicant gave a false remark 'SS differ' on the application for withdrawal without falling with specimen signature on record. Even otherwise, it was open to the Sub Postmaster to challenge the action of the applicant immediately if it was wrong and not in accordance with the Rules. It is false to say that actually the specimen signatures of the depositor were not available at all in the record. Had it been so, how could the SPM accept the remark given by the applicant, which warranted introduction of identifiers to substantiate genuineness of the applications and the signature of depositor on them. It is also wrong to say that during enquiry it was proved that the specimen signature were not on record. It is a common practice that when the S.S.differ, all concerning records are placed before the SPM

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and on his instructions further action is taken. As the S.S. differed, the identifiers were introduced on the oral instructions of the Sub Postmaster Pali. It is denied that the applicant did so on his own accord. It is also denied that it is not true that withdrawals were not effected on 26.11.77 due to paucity of funds. It is pointed out that the respondents have maliciously stated that the application for withdrawals were presented after the close of the counter. There was no such evidence during enquiry nor there is any such finding by the appellate authority and allegation was brushed aside by the Inquiry Officer as unsubstantiated and baseless. The contents of para 4(II) are re-asserted.

9. That para 8 needs no reply.

10. That in reply to the contents of para 9 of the counter/WS it is pointed out that the designation of Shri Vijay Verma in office of the PMG UP has not been disclosed. Besides, he was subsequently transferred to Hardoi Division under the Administrative control of the disciplinary authority, respondent no. 3 and being under direct subordination he was not expected to do anything against the will and wishes of the respondent no. 3 who had wrongly, maliciously and arbitrarily suspended the applicant with intention to cause him harm and injury. The continuance of Shri Vijai Verma as I.O., even after his transfer to Hardoi Division was prejudicial to the interest of the applicant and against the spirit of instructions issued by the DG P&T in the matter of Inquiry Officer. The rest of the contents of para under reply is denied and those of para 4(iv) of the application are reiterated.

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475

11. That in reply to the contents of para 10 it is stated that it is very material to know how the case was started after a lapse of five years. If there was any complaint, who was the complainant and why the complaint was not produced during enquiry. It has been held judicially by CAT Ahmedabad (ATLT) II (1989 (November 1989 Part 5 Vol. II) that withholding complainant's name from the petitioner is prejudicial to the delinquent. Not bringing the complaint on record and not disclosing the name of the complainant caused a great prejudice to the applicant. It may be pointed out that there should be a basis for any action and no basis for enquiry was divulged which amply suggests that the respondents were highly prejudiced against the applicant and the entire proceedings being vitiated is illegal and null & void. The contents of para 4(v) of the application are re-asserted.

12. That the contents of para 11 of the counter/WA are denied as stated. It is wrong to say that the statements of S/s Jagroop, Naresh Singh and HP Singh has no relevancy at this stage as the applicant was awarded punishment only for giving false remarks 'SS differ' on the basis of evidence of S/Shri HL Gupta and RL Dohar. It may be pointed out that Shri RL Dohar who was the Sub-Postmaster at the relevant time on 26.11.77 to 28.11.77 did not raise any objection about the remark "SS differ" and his statement dated 10.1.87 and the certificate dated 11.12.82 after much lapse of time is an after-thought and an attempt to shake off his own responsibility as Sub-Postmaster. He being an interest witness and involved in the case personally, his statement cannot be relied upon and no credence can be placed

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A76

on him. Shri HL Gupta conducted enquiry in 1982/83 and he being not a witness of fact cannot say about the specimen signatures existing on the relevant time in 1977. The applicant performed his duty in accordance with rules and procedure without any lapse on his part and the allegation made against him is totally false and motivated. It may be pointed out that the Annexures CA-1 and CA-2 as referred to in this para have not been enclosed with the copy of CA/WS given to the applicant. The contents of para 4(vi) of the application are re-iterated.

13. That the contents of para 12 of the counter/ QA are denied as stated. Neither the requisitioned additional documents as detailed in para 4(vii) of the application were made available to the applicant for putting his proper defence nor any written order was passed for their non-production and thereby the defence was highly prejudiced and the enquiry proceeding was vitiated. It is wrong to say that FIR and Final Report of the Police are confidential records and they cannot be shown to the defence. The applicant relied on Government orders dated 25.8.1961 while the respondents have referred to Government orders dated ~~XXXXXXXXXXXX~~ 26.5.81 without furnishing copy thereof and the same could not be available for referencê and reply. It was wrong on the part of the respondents to say that the documents at serial 6 & 7 were irrelevant and the documents at s/nos. 8 to 12 were not available. The defence was prejudiced by the action of the respondents. Denial of right of access to documents for preparing defence vitiates the enquiry as held

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by judicial pronouncement in case Surat Singh and others versus S.R.Bakashi and others AIR 1971 Delhi 133. The contents of para 4(vii) of the application are re-asserted.

14. That the contents of para 13 are denied as stated. It is wrong to say that the enquiry officer examined the applicant in continuation of deponent's defence submitted in writing. The enquiry Officer had/has no power to examine the SPS (Suspected Public Servant) on his defence statement. The defence statement is required to be submitted under Rule 14(16) of the CCS (CCA) Rules 1965 and this Rule does not provide examination on the defence statement. The action of the Inquiry Officer in examining the deponent on his defence statement as stated was incompetent, without jurisdiction, arbitrary, biased and illegal which shows the prejudicialness and vitiates the proceeding. It is denied that the Inquiry Officer submitted his report as per rules. The contents of para 4(viii) and 4(ix) of the application are re-asserted.

15. That the contents of para 14 are denied as stated and the contents of para 4(x) of the application are re-iterated.

16. That the contents of para 15 are denied as stated. The appellate authority did not consider the case objectively by application of his mind to the facts and circumstances as required under Rule 27 of the CCS (CCA) Rules 1965 and he acted mechanically on surmises and conjectures. The contents of para 4(xi) are re-asserted. It may be pointed out that there is no reply from respondent no. 2 and the respondent no. 3 has no authority to hold brief on his behalf in the matter of statutory power and duty.

17. That the contents of para 16 are denied and those of para 4(xii) of the application are re-stated.

18. That in reply to the contents of para 17 it is denied that the deponent has twisted the interpretation of communication no. 43156/64 AVD dated 22.10.1964. It is also denied that the preliminary enquiry has revealed that a prima facie case is made out which would justify dismissal/removal or compulsory retirement from service. The very fact that the deponent was suspended by order dated 31.12.83 (Annexure A-14) to the application and charge-sheet was issued by memo dated 16.7.85 (Annexure A-2) after more than 1.1/2 years makes it abundantly clear that there was no material at all before the competent authority to suspend the deponent and he took action in hot haste without applying his mind and without considering the facts and circumstances of the case, the instructions issued by the Government and DG P&T in this regard. The action of the respondent no. 3 in suspending the deponent was highly prejudicial and unwarranted. It has been held by the Government that even though suspension may not be considered as a punishment, it does ~~not~~ constitute a very great hardship for a Government servant. In fairness to him, it is essential to ensure that this period is reduced to the barest minimum. It has repeatedly been ordered by the Government that the entire proceeding from suspension should be finalised within 6 months and the charge-sheet served within 3 months and in case of delay it should be considered whether the suspension order should be revoked and

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the officer permitted to resume duty. If the presence of the officer is considered detrimental to the collection of evidence ~~Ag~~ or if he is likely to tamper with the evidence, he may be transferred on revocation of the order (GI CS Department of Personnel GM No. 39/39/70 Ests(A) dated 4.2.71 read with OM No. 39/33/72 ESTS(A) dated 10.12.72). The DG P&T letter no. 201/43/76-Disc.II dated 15.7.1976 (para 1(a) (c), under Government of India's instructions (2) as contained in Swamy's complication on CCS(CCA) Rule 1965, clearly lays down that while placing an official under suspension the competent authority should consider whether the purpose cannot be served by transferring the official from his post to a post where he may not respect the misconduct or influence the investigation, if any, in progress. If the authority find that the purpose cannot be served by transferring the official from his post to another post then he should record reasons therefor before placing the official under suspension. It may be stated that the alleged incidence occurred at Pali Post Office and the deponent was working at Hardoi and in view of this there was no justification for suspension after a long lapse of time of over 7 years. Besides, no reason was recorded by the competent authority before placing the deponent under suspension in terms of aforesaid instructions. The rest of the contents of para under reply are denied and those <sup>of</sup> para 4(xiii) are re-iterated.

- 19. That para 18 needs no reply.
- 20. That the contents of paras 19 to 27 are

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180

denied and those of paras 5(i) to 5(ix) of the application are re-iterated. The entire proceeding from suspension to the end has been wrong, malicious, prejudicial and against rules and instructions of the Government and DG P&T and hence illegal and void.

21. That para 28 needs no reply.

22. That the contents of para 29 are denied and those of para 8 of the application are re-asserted. The entire proceedings were wrong, baseless, malicious, unjust, against rules and instructions. Hence illegal and void and liable to be quashed.

23. That para 30 calls for no reply.

24. That the contents of para 31 are denied. The relief sought for by the deponent are just and tenable on the facts and circumstances of the case and in view of the rules and instructions issued by the Government and liable to be sustained.

25. That the contents of para 32 are denied. The application filed by the deponent is sound, based on merit and is liable to be allowed with costs and damages against the respondents.

LUCKNOW

*[Handwritten Signature]*  
Deponent

Dated : 14 .1.90

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 19, 21, 23 are true to my personal knowledge and those of paras 20, 22, 24 & 25 are believed to be true. Nothing material has been suppressed, So help me GOD.

LUCKNOW

*[Handwritten Signature]*  
Deponent

Dated : 14 .1.90

I, identify the deponent who has signed before me.

*[Handwritten Signature]*  
(M. Dubey)  
Advocate 14/1/90

# VAKALATNAMA

AD/1

In the Hon'ble ~~High Court~~ <sup>CAT</sup> of Judicature at Allahabad

At  
Lucknow Bench

*Shri. Kameshwar Kumar Agnihotri* Plff./Applt./Petitioner/Complainant

Verses  
*Commissioner of Police and others* Defent./Respt./Accused

KNOW ALL to whom these presents shall come that I/We.....  
the above-named..... *off. Nishu*.....do hereby appoint

Shri V. K. CHAUDHARI, Advocate, *Step. Cont. Lucknow*.....  
.....High Court, Lucknow Bench

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

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

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

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

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

To take execution proceedings.

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

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

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

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

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

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

Accepted subject to the terms of fees.

Client

Advocate

Client

*R. S. KHUSRO* 8/8/85  
( R. S. KHUSRO )  
Superintendent Post Offices  
Hardoi Division Hardoi-241001