

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

INDEX SHEET

CAUSE TITLE O.A. 89 of 1989(C)

Name of the parties

Manoj Kumar Srivastava

Applicant.

Versus.

Zonal of India

Respondents.

Part A.B.C.

S. No.	Description of documents	Page
1.	Check List	A1 - A2
2.	Order Sheet	A3 - A4
3.	Judgment	A5 - A10
4.	Petition	A11 - A21
5.	Affidavit	A22 - A24
6.	Order	A25
7.	S.C. A.	A26 - A29
8.	Suppl. S.C. A.	A30 - A33
9.	Rejoinder to S.C. A. & 2	A34 - A48
	Suppl. S.C. A. - 3.	

Panel copy P1 - P26
C copy C1 - C3

26/4/89

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 89 of 1989

(A)

Termination
of
Service

APPLICANT(s) Manoj Kumar Srivastava

RESPONDENT(s) VOG & others

(A.G.)

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ? yes
2. a) Is the application in the prescribed form ? yes
- b) Is the application in paper book form ? yes
- c) Have six complete sets of the application been filed ? Four ~~1~~ sets.
3. a) Is the appeal in time ? yes but no injunction
- b) If not, by how many days it is beyond time ? —
- c) Has sufficient cause for not making the application in time, been filed ? —
4. Has the document of authorisation/ Vakalatnama been filed ? yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/- yes DD 827994 dt 24.4.89-
4 (50/-)
6. Has the certified copy/copies of the order(s) against which the application is made been filed ? No.
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? No.
- b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? N.A.
- c) Are the documents referred to in (a) above neatly typed in double space ? N.A.
8. Has the index of documents been filed and paging done properly ? yes
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ? N.A.
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ? No.

(A2)

Particulars to be ExaminedEndorsement as to result of examination

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

12. Are extra copies of the application with Annexures filed ?
 a) Identical with the Original ?
 b) Defective ?
 c) Wanting in Annexures
 Nos. _____ pages Nos. _____ ? *—*

13. Have the file size envelopes bearing full addresses of the respondents been filed ? *No.*

14. Are the given address the registered address ? *Y*

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

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

17. Are the facts of the case mentioned in item no. 6 of the application ?
 a) Concise ?
 b) Under distinct heads ?
 c) Numbered consecutively ?
 d) Typed in double space on one side of the paper ? *Y*

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

19. Whether all the remedies have been exhausted. *No representation made at all.*

dinesh/

May be listed before
 Com. on 26.4.89

24/4/89

S.O.(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION NO. O.A. 89 of 1989

APPELLANT
APPLICANT

Manoj Kumar Srivastava

DEFENDANT
RESPONDENT

VERSUS

U.O. I

Serial
Number
of order
and date

Brief Order, Mentioning Reference
if necessary

How complied
with and date
of compliance

26.4.89

Hons. D. S. Misra, A.M.
Hons. D. K. Agarwal, J.M.

None is present for
the applicant, adjourned
to 18.5.89 for admission

De ✓
J.M. A.M.

2) 052
No sitting. The case is adjourned to
6/7/89 for admission.

(sns)
CM

Hon'ble Justice K. Nath, V.C.
Hon'ble Mr. K. J. Ramam, V.M.

6-7-89

Heard the learned counsel for the
applicant

Issue notice to respondent to show cause
why the petition for not admitted.
In particular they will file copy
of the applicant's appointment and also the
order of termination of his services.
List for admission on 4-8-89.

Get
replied before
17-7-89

LSR

W.M.

PL

V.C.

(sns)

Notices were issued
by the rechts through regt
post on 11.7.89
Neither reply nor
any undelivered regt
copy have been return
back so far
delivered for admis
374

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

OF
REGISTRATION NO. 02 of 1989

APPELLANT
APPL. CANT

VERSUS

DEFENDANT
RESPONDENT

Serial
number
of order
and date

Brief Order, Mentioning Reference
if necessary

How complied
with and date
of compliance

25/10/09

Hon. Justice K. Nath, V.C.

(On the request of the learned
Counsel for the applicant
list of the case for admission
on 7/12/09)

Mr
V.C.

OR

Counter &
Reply order has been
exchanged

Care is ready
for admission

Submitted for
admission connected
with OR 03/10/09

7/12/09

Hon. Justice K. Nath, V.C.
Hon. K. T. Ramam, Atm.

Committee & Referees have been
dechaired. The learned
Counsel for the applicant
in OR No. 02/09 is not available.
Both the cases are connected matters.
They may be listed for
admission hearing on 4/1/10 when
the case may be disposed of
finally.

Mr
V.C.

OR

Care is submitted
for admission hearing

L
6/11

3/11/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
A L L A H A B A D

LKO Circuit Bench

O.A. NO. 89 1989(L)
T.A. NO.

DATE OF DECISION April, 1990

Majoj Kumar Srivastava

PETITIONER

Smti S.K. Mishra

Advocate for the
Petitioner(s)

VERSUS

Union of India and ors

RESPONDENTS

Smti D. Chandra

Advocate for the
Respondent(s)

CORAM :

The Hon'ble Mr. Justice Kamleshwar Nath, Vice Chairman

The Hon'ble Mr. K. Obayya, Member Administrative

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether to be circulated to other Benches ? *No*

Dinesh/

Rubengopal *DR*

(AS)

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

O.A. No. 89/1989(L)

Manoj Kumar Srivastava

...Applicant.

Shri S.K. Mishra

..Counsel for Applicant.

versus

Union of India & ors

...Respondents.

Shri D. Chandra

..Counsel for Respondents.

HON. JUSTICE K. NATH, VICE CHAIRMAN.

HON. K. OBAYYA, ADMN. MEMBER.

(Judgment delivered by Hon. K. Obayya, A.M.)

This application under section 19 of the Administrative Tribunals Act, 1985, has been filed by Manoj Kumar Srivastava, challenging his termination from service from the post of Typist in the office of Accountant General (Audit II), U.P., Lucknow. There is also a prayer for regularisation of his services in the said post.

2. The case of the applicant is that he applied for the post of English/Hindi Typist in the office of Accountant General (Audit-II), U.P., Lucknow during April, 1987 and was appointed after test as a casual Typist on daily remuneration of Rs 20.00. He joined duty on 11.5.87 and worked without break up to 15.2.88. Thereafter, he was again given appointment on the post of Typist on casual basis from 23.2.88 to 25.2.88 and from 15.6.88 to 31.8.88. It is alleged by the applicant that he was verbally informed that his services are terminated with effect from 30.1.88. His contention is that he

(Pb)

performed his duties to the satisfaction of superiors. There was no complaint or adverse remark against his work, as such his termination is without notice or calling any explanation is arbitrary and illegal. His further contention is that since he has put in more than 240 days of service, his termination/retrenchment without following the provisions of section 25(F) of the Industrial Disputes Act, 1947 is irregular. It is also alleged by the applicant that some of his juniors were allowed to continue while his services were terminated, this amounted to discrimination.

3. The respondents filed counter in which they have denied that the applicant was employed against a regular vacancy. According to them, on account of increased load of work, the applicant was engaged for typing work on casual basis on daily wages of Rs 20.00 from time to time and that during 1987 he worked for a total number of 160 days and in 1988 for 157 days. Their further contention is that the post of Typist is a Group C post for which selection is made by the Staff Selection Commission (S.S.C. for short) and no appointment can be made without such selection. Competitive examinations were held for the post of Clerk/Typist during the period the applicant was engaged on typing job as casual worker and the applicant was never prevented from appearing at the said examination to get regular selection for appointment. The respondents also contended that the applicant was simply a casual worker and was liable to be disengaged without any written orders.

(P)

4. In the rejoinder, the applicant has stated that he was given the work of regular typist due to shortage of regular staff and the post on which he was working, was vacant, as such he was entitled for salary based on principle of equal pay for equal work.

5. We have heard the counsel for the parties and also considered the pleadings on both sides. The learned counsel for the applicant in his lengthy submissions before us urged that the applicant has put in more than 240 days of work in a year, as such, he was governed by the provisions of section 25 (F) of the Industrial Disputes Act, 1947. His termination without following the provisions of this Act was not in order. The respondents contest the statement. According to them the applicant had worked for 160 days in 1987 and 157 days in 1988. Section 25(F) of the Industrial Disputes Act provides safeguards to the workmen in the matter of retrenchment. It lays down that no workman shall be retrenched without one months' notice or wages in lieu thereof, and also compensation of a sum equivalent to 15 days average pay for every completed year of continuous service etc. The learned counsel has also relied on the decisions of the Allahabad High Court (Lucknow Bench) in Narendra Srivastava vs. Scooters India Ltd, 1986 (4) LCD page 427 and also the decision of the Hon'ble Supreme Court in workmen of Americah Express International Banking Corporation vs. Management of Americah Express Banking Corporation AIR 1986 SC 458. The dispute involved in the above cases was with regard to the number of days worked by a workman. In the above cited cases, it was up-held that the workman should have the benefit of not only of the days, he worked, but also of the days on which the industry was closed by compulsion of statute, standing orders etc. The

Hon'ble Supreme Court observed that the expression, " actually worked", does not mean those days only when the workman worked with hammer, sickle or pen, but must necessarily comprehended all those days during which he was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing orders etc. The proposition laid-down in these decisions is well known and accepted and we have no dis-agreement with the learned counsel on this. But the question is whether the applicant is a workman and the Office of Accountant General (Audit) an industry/ industrial establishment for the purpose of Industrial Disputes Act, 1947. The learned counsel has not placed before us any order or decision in this regard.

6. The concept of "workman" and "industry" in the I.D. Act are inter-related. There cannot be a workman without an industry and vice-versa. The definition of workman occurring in section 2(s) indicates that workman means any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. The personnel of armed forces, police and also those employed in managerial or administrative capacity etc. are not workman under this definition. The definition of industry is under section 2 (j) which reads as under:

" "industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not, - "

X

X

X

X

XC

but does not include -

X

X

X

X

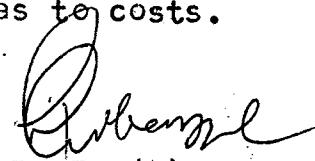
X

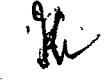
(6) any activity of the Government relatable to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; ^{etc.}

The Hon'ble Supreme Court in Bangalore Water Supply vs. A. Rajappa A.I.R. 1978 - SC. p.550, held that the sovereign functions strictly understood qualify for exemption from the definition of industry. The Accountant General (Audit) is an authority under Auditor and Comptroller General, Government of India which is a constitutional authority, and exercises sovereign powers derived from the provisions of Indian Constitution. In the circumstances, we see no merit in this argument of the learned counsel for the applicant, as the Office of Accountant General (Audit) cannot be deemed to be industry.

7. The next point urged by the learned counsel was on equal pay for equal work, as enunciated in Surendra Singh and another vs. Engineer-in-Chief, C.P.W.D. A.I.R. 1986 SC p. 584. The Department of Personnel, in their letter No. 49014/2/86-Estt(C) dated 7.6.88 issued certain guidelines based on the above decision of the Hon'ble Supreme Court. Departments were strictly instructed not to employ any person on dailywages. Paragraphs 4 & 5 have a bearing in the instant case (Annexures- RA- 1). The stand of the respondents is that the petitioner was never appointed against any vacancy and that he was engaged to do typing work of casual nature and also these guide lines are applicable to cases of casual workers and not to other employees. We have also been shown instructions dated 26.10.84 issued by the Department of Personnel and Administrative Reforms, Ministry of Home Affairs, New Delhi in their letter

No. 49014/19/84-Estt(C) dated 26.10.84. According to this, instructions were given for regular appointment of casual workers in Group 'D' posts provided they have put in 2 years service. A scrutiny of the above instructions of Department of Personnel clearly shows that the instructions were meant for regularisation of daily workers in Group 'D' post provided they satisfy the prescribed period of service etc. In the circumstances, we agree with the learned counsel for the respondents that the payment in cases of non-workers is governed by para 5 of the instructions of Department of Personnel. The last point urged by the learned counsel is for regularisation. Admittedly, the applicant was not posted against any vacancy. Also this is a Group 'C' post for which selections are made through the Staff Selection Commission. Though the examinations were held in the intervening period, it is not known whether the applicant has appeared, but, nevertheless ^{not} he was/deprived of any opportunity to appear for the selection/examination ~~xxxx~~ by the respondents. Since he was not selected from Staff Selection Commission, He cannot claim his right for appointment or regularisation. Taking into consideration, the facts and circumstances of the case, we are of the view that there is no merit in the petition. Accordingly, it is rejected without any order as to costs.


MEMBER (A)


VICE CHAIRMAN

(sns)

April 23, 1990

Lucknow.

Before the Central Administrative Tribunal

Lucknow

O.A. NO. 29 OF 1989 (C)

26/4/89

Manoj Kumar Srivastava

...Applicant

V e r s u s

Accountant General (Audit)-I,

UP, Allahabad, & Others

...Respondents

I n d e x

Sl. No.	Description	Page No.
---------	-------------	----------

1-	Memo of Application	1 to 10
----	---------------------	---------

2-	Affidavit	11 to 12
----	-----------	----------

3-	Order against which case is filed - order no. and date. n.n.	NIL
----	---	-----

LUCKNOW:

DATED : 18/4/89


(S.C. MISRA)
ADVOCATE
COUNSEL FOR APPLICANT

Before the Central Ad ministrative Tribunal, Lucknow

CA No. 89 of 1989 (L)

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing ... 24.4.89

Date of Receipt by Post.....

List before Court on 26.4.89

Deputy Registrar (I) : 24/4/89

Filed today
Noted for 26.4.89
Signature of Advocate
24/4/89

Application U/s 79 of the Administrative
Tribunals Act, 1985

For use in Tribunal's Office:-

Date of Filing.. 24.4.89
or
Date of Receipt.....
By Post.....
Registration No. 89/101

Signature
Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, LUCKNOW

B E T W E E N

Manoj Kumar Srivastava

...Applicant

V e r s u s

1- Accountant General, (Audit)-I,
UP, Allahabad,

2- Senior Deputy Accountant General, (Audit)-II,
UP, Commercial Audit Wing,
IIInd Floor Sahkarita Bhawan,
14-Vidhan Sabha Marg, Lucknow.

...Respondents

DETAILS OF APPLICATION:

1- Particulars of the applicant:-

i) Name of the applicant : Manoj Kumar Srivastava

ii) Name of Father/Husband : Sri Harish Kumar Raizada

iii) Designation & Office in which employed : English/Hindi Typist on causal basis in the Office of Senior Dy. Accountant General(Audit)-II, UP, Lucknow.

iv) Office Address :- -do-

v) Address for service of all notices : 288/114, Arya Nagar, Lucknow.

2- Particulars of the Respondent No. 1:-

i) Name and/or designation of the respondent:-

Accountant General (Audit)-I, UP, Allahabad.

ii) Office address of the respondent:-

-do-

iii) Address for service of all notices:-

-do-

Particulars of the Respondent no.2:-

i) Name and/or designation of the respondent:-

Senior Dy. Accountant General (Audit)-II, UP,
Commercial Audit Wing, IInd Floor Sahakari ta Bhawan,
14-Vidhan Sabha Marg, Lucknow.

ii) Office address of the respondent:-

-do-

Manoj Kumar Srivastava

Atm

(P.U.)

- :3 :-

iii) Address for service of all notices :-

-do-

3- Particulars of the order against which application is made:-

The application is against the following order-

i) Order No. :

ii) Date :-

Against the impugned order of termination dated 31.8.83 but till date the said order has not been given to the applicant.

iii) Passed by : The Respondent No. 2

iv) Subject in brief:-

By the present application the applicant seeks the writ ordirection from this Hon'ble Court thereby quashing the order of termination by which he is not been allowed to work w.e.f. 31.8.88.

4- Jurisdiction of the Tribunal:-

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

5- Limitation:-

Applicant

The application further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

... :4 :...

Manoj Kumar Srivastava

HC
RJ

6- Facts of the case:-

The facts of the case are given below-

- 1- That in the month of April, 1987 certain posts of English/Hindi Typist had fallen vacant in the Office of Accountant General (Audit)-II, UP, Lucknow.
- 2- That the applicant had also applied for the selection of the said post after completing the necessary formalities.
- 3- That thereafter a type test was conducted by the Respondent no.2 and the applicant alongwith the other candidates had appeared in the said Type test.
- 4- That it is pertinent to mention herein that the applicant had passed the said Type test with flying colours and thereafter the opposite party no.2 had given appointment to the applicant on the causal basis on the said post.
- 5- That in pursuance of the above said appointment the applicant joined his duties on the post of Hindi/English typist in the Office of the Respondent no.2.
- 6- That the applicant is being paid Rs.20/- per day.
- 7- That the applicant after joining his duties on the post of English/Hindi typist on 11.5.87 worked

continuously and without any break upto 15.2.88 and thereafter he was again given appointment on 23.2.88 in pursuance to which he worked upto 23.5.88 on the causal basis.

- 8- That lastly he was given appointment by the respondent no.2 on the said post on 15.6.88 and in pursuance to it he worked upto 31.8.88 without any break.
- 9- That throughout the above said period of service the applicant discharged his duties to the best of his capability and capacity and to the entire satisfaction of his superior authorities and till date no adverse entry or remark has been passed by any superior authorities against him, nor any complaint has been made by anyone against his work and conduct.
- 10- That it is not out of place to mention herein that the opposite party no.2 after 31.8.88 did not allow the applicant to work and terminated his services inspite of the fact that the work against the post held by the applicant is still available in the Office of the respondent no.2 and the post is also lying vacant.
- 11- That on an enquiry made by the applicant, from the respondent no.2 that's why he is not being allowed to the work on the post of Typist (English/Hindi) in the Office of the respondent no.2 when the work

Monoj Kumar Srivastava
L.P.
A.R.

- :6 :-

is still available the applicant was verbally told that his services have been terminated w.e.f. 31.8.88, though no order of termination has been given to the applicant till date.

12- That experience certificate issued by the concerned authority certifying that the petitioner has been working as causal typist in the Office of the respondent no.2 for the said period is being annexed herewith as ANNEXURE NO.1.

13- That the applicant has been subjected to hostile discrimination and his services have been terminated from the post of English/Hindi typist on causal basis when the work is still available and the persons junior to him namely Sri Jagbir Singh has been re-employed and then retained. This action of the respondent no.2 is in violative to Article 14 & 16 of the Constitution of India.

7- Relief(s) sought:-

In view of the facts mentioned in paragraph-6 above, the applicant prays for the following relief(s);-

i) To issue a writ order or direction in the nature of certiorari thereby quashing the order of termination by which the applicant is not being allowed to work w.e.f. 31.3.88 on the post of English/Hindi typist after summoning the same from the respondent no.2.

Manoj Kumar Srivastava
M
K
SK

ii) To issue a writ order or direction in the nature of mandamus thereby commanding the opposite parties/respondents to allow the applicant to work on the post of English/Hindi typist during the pendency of the present application.

iii) To issue a writ order or direction in the nature of mandamus thereby commanding the respondents to regularise the services of the applicant on the post of English/Hindi typist and to pay him his regular salary and other allowances each and every month as and when the same falls due.

iv) To issue any other writ order or direction which this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.

v) To award the cost of this application in favour of the applicant and against the opposite parties.

GROUND:-

(a) Because the impugned action of the opposite parties/respondents of terminating the applicants services after 31.8.88 when the work & post is still available is totally illegal, arbitrary without jurisdiction and also amounts to unfair practice, as before terminating his services nor any explanation has been called from him and without affording any opportunity whatsoever

most abruptly and malafidely his services have been terminated. The said action of the opposite parties/respondents is wholly discriminated and violative of Articles 14, 15 & 21 of the Constitution of India.

(b) Because as undisputedly the applicant has worked on his post since 11.5.87 when he joined his services in pursuance of the appointment and his completed more than 240 days of continuous service as contemplated under the Industrial Disputes Act, so his services could not be terminated without following the provisions of retrenchment as provided U/s 25(f).

(c) Because the services of the applicant could not have been retrenched even on the ground of financial stringency without following the provisions of retrenchment as contained in the Industrial Disputes Act. In his case none of the provisions of retrenchment has been followed neither prior ~~Commission~~ provision of the Govt. has been obtained nor any retrenchment allowance has been paid as such the impugned action of the respondents of verbally terminating the services of the applicant w.e.f. 31.8.88 is totally bad and illegal in the eyes of law.

(d) Because even other ~~wise~~ ^{selection} retrenchment could not have been made in the case of the applicant without following the criteria of last come first go, which has been totally ignored in the case of applicant as several persons junior to him have been retained in services.

Manoj Kumar Srivastava
L.K.R.S.

(e) Because the applicant has been subjected to hostile discrimination and his services have been terminated from the post of English/Hindi typist on causal basis when the work is **still** available and the persons junior to him namely Sri Jagbir Singh has been re-employed and then retained. This action of the respondents is in violation to Article 14 & 16 of the Constitution of India.

8- Interim order, if prayed for:-

Pending final decision on the application, the applicant seeks issue of the following interim order:

That in view of the facts stated above it is expedient in the interest of justice that the respondents may be directed to allow the applicant to work on the post of English/Hindi typist during the pendency of the present application otherwise the applicant shall suffer an irreparable loss and injury as the post which is held by the applicant is still available in the Office of respondent no. 2 and the post is also lying vacant.

9- Details of the remedies exhausted:-

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

10- Matter not pending with any other court, etc:-

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

Manoj Kumar Srivastava

(A2)

- : 10 :-

or any other Bench of the Tribunal.

11- Particulars of Bank Draft/Postal order in respect of the Application Fee:-

1- Name of the Bank on which drawn :

2- Demand Draft No. :

O R

1- Number of Indian Postal Order(s) : DD 827994

2- Name of the issuing Post Office: Post Office High Court Lucknow.

3- Date of issue of Postal Order(s) : 24-4-89

4- Post Office at which payable: Allahabad.

12- Details of Index:-

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13- List of enclosures : One NIL.

In verification:-

I, Manoj Kumar Srivastava, S/o Sri Harish Kumar Raizada age 22 years working as English/Hindi typist, R/o 288/1.1.4,..
Arya Nager, Lucknow..... do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief that I have not suppressed any material facts.

LUCKNOW:

DATE : 24/8/89

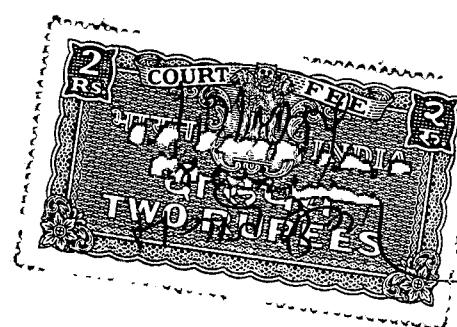
Manoj Kumar Srivastava
Signature of applicant

Manoj Kumar Srivastava

(P2)

Before the Central Administrative Tribunal,
Lucknow

O.A. No. of 1939



1989
AFFIDAVIT
53/102
HIGH COURT
ALLAHABAD

Manoj Kumar Srivastava ... Applicant

V e r s u s

Accountant General (Audit)-I,
UP, Allahabad & Others ... Respondents

A f f i d a v i t

✓
18.4.1989
I, the deponent, Manoj Kumar Srivastava, aged about
22 years, S/o Sri Harish Kumar Raizada, R/o 28.8/114, ...
.. Agra Nagar, Lucknow, do hereby solemnly affirm and
state on oath as under:-

1- That the deponent is applicant in the present application and as such he is fully conversant with the facts and circumstances of the case deposed herein after.

... :12:...

Manoj Kumar Srivastava

- :12:-

2- That the contents of paragraphs..1.....to...13.. of the application are true to my own knowledge and belief and that I have not suppressed any material facts.

3- That the deponent verifies that annexure no. 1 of the application is photocopy of the original duly compared.

LUCKNOW:

DATED 18/4/89 ✓

Monoj Kumar Srivastava
DEPONENT

VERIFICATION

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

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

LUCKNOW:

DATED 18/4/89 ✓

Monoj Kumar Srivastava

DEPONENT

I identify the deponent
who has signed before me.
He is personally known
to me. *B.N. Gade*
(ADVOCATE)

Solemnly affirmed before me on 18.4.89 at 9:00 AM/PM
by the deponent Sri Monoj Kumar Srivastava who is identified
by Sri ~~Surinder~~ ^{Surinder}, Advocate.

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

Meene Panely
OATH COMMISSIONER
High Court, Lucknow Bar
53/102
18.4.89

Before the Central Administrative Tribunal
Lucknow

(13)
AP24

C. I. NO. of 1979

Manoj Kumar Srivastava
versus
Accountant General (Audit) - I,
UP, Allahabad & Others

...Applicant

...Respondents

Annexure No. 1

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT) - II U.P.,
COMMERCIAL AUDIT WING
11ND FLOOR SAHKARITA BHAWAN
14, VIDHAN SABHA MARG
LUCKNOW.

TO WHOM IT MAY CONCERN

This is to Certify that Shri Manoj Kumar Srivastava, has worked in this office as 'Casual Typist' from 11.5.87 to 15.2.88, 23.2.88 to 23.5.88, 15.6.88 to 31.8.88. To the best of my knowledge and belief he bears a good moral character.

I wish Shri Manoj Kumar Srivastava all success in future.

SS/174
21/3/88
(S. S. MISRA),

AUDIT OFFICER/ADMN.

केन्द्रीय खाताधारक विभाग - II
कानूनी नियम (एनीजा) - I
कानूनी नियम.
कानूनी नियम.

NY
K
K
K

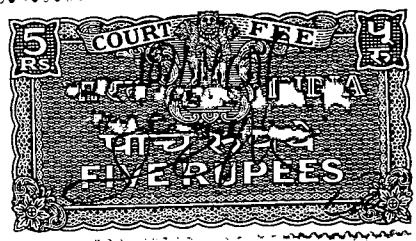
(A25)

मुकदमे के उद्देश्य प्राप्ति के लिए वकालत का दस्तावेज़

Before the Central Administrative Tribunal:

✓ वादी
प्रतिवादी का वकालत कार्यालय

O.A. no 189.



Manoj Kumar Srivastava
v/s.

वादी

Free Rent General Audit बनाम
Others

प्रतिवादी

ऊपर लिखे मुकदमे में अपनी ओर से श्री सतीश चन्द्र मिश्र एडवोकेट
१२, मकबरा कम्पाउन्ड, हजरतगंज, लखनऊ एवम् अधिकारी कुमार

एडवोकेट महोदय
को अपना एडवोकेट नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिख देता हूं
इस मुकदमे में एडवोकेट महोदय स्वयं अथवा अन्य एडवोकेट द्वारा जो कुछ पैरवी
व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें वा लौटावें या
हमारी ओर से डिग्री जारी करावें और रूपया बसूल करें या सुलहनामा या
इकबाल दावा, तथा अपील, निगरानी व रिट याचिका हमारी ओर से हमारे या
अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई
रूपया जमा करें या हमारी या विपक्षी का दाखिल किया रूपया अपने या हमारे
हस्ताक्षर-मुक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें - एडवोकेट महोदय
द्वारा की गई कार्यवाही हमको सर्वथा स्वीकार है और होगी इसलिए यह वकालतनामा
लिख दिया कि प्रमाण रहे और समय पर काम आवे।

ACCEPTED

ADVOCATE

Manoj Kumar Srivastava
हस्ताक्षर

साक्षी

दिनांक २५/५/१९

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

(P26)

Short Counter-affidavit on Behalf of Respondents

Case No. of 1989 (L)

Manoj Kumar Srivastava .. Applicant

Versus

A.G. (Audit). I U.P. & others .. Respondents

Short Counter-Affidavit

I, **Mala Sinha**, aged about 31 years
D/O Sri K.C. Sinha. Dy. A.G. O/O the A.G. (Audit)-II
Sahkarita Bhawan, Vidhan Sabha Marg, Lucknow do hereby
solemnly affirm and state as under :-

1. That the deponent is the Dy. Accountant General in Office of the A.G., 14, Vidhan Sabha Marg, Lucknow and is fully conversant with the facts of the case deposed hereinafter.
2. That the deponent has read the application filed by the applicants and has understood the contents thereof.
3. That the present counter-affidavit is filed to oppose the admission of the said application and the respondents reserve the right to file a detailed counter-affidavit in case the application is admitted.
4. That on account of the increased load of work the applicant was ~~never~~ engaged from time to time, for typing work and for short duration, not exceeding five days in a week.



माला सिंह
उप महालेखाकार (वारपाल)
कायानी महालेखाकार (लैप्पा)
उत्तर प्रदेश, उत्तर प्रदेश

(P27)

5. That the applicant was engaged on a purely casual basis and was paid daily wages @Rs. 20/- only.

6. That the appointment to the regular post of a typist which is a Group C post is made on the recommendations of the Staff Selection Commission and the respondents are not competent to make appointments for Group C posts without such recommendations from the Staff Selection Commission.

✓ 7. That the applicant was engaged for doing typing work as casual worker.

8. That the post of a typist falls under the category of Group C posts.

✓ 9. That the applicant was employed for spells of short duration and for the work of casual nature on daily wages. As such no appointment letters were issued to the applicant. Neither any termination orders were issued whenever his services were no longer required.

10. That the applicant was not employed against any regular vacancy of Group C post. The applicant was simply casual worker liable to be disengaged at any time without any written order.

That the applicant namely Sri Manoj Kumar Srivastava worked as casual typist for 160 days in 1987 and for 157 days in 1988. His engagement was for broken period and there was no continuity in service.



Manoj Kumar
Srivastava
उत्तर प्रदेश महानगरपालिका (वाराणसी)
उत्तर प्रदेश, भारत
11.

32

12. That the applicant has not exhausted departmental remedies available to him. No representation against the subject matter of the petition was made to higher authorities of the department.

13. That under the position explained above, the application is not liable to be admitted.

Dated: 4-8-89

Lucknow.

Deponent

माला सिन्हा

उष महालेखाकार (वाक्तव्य)

Verification शायदी महालेखाकार (ल.प.०) द्वारा
उत्तर प्रदेश, लखनऊ

I, the deponent above named do hereby solemnly affirm and verify that the contents of paras 1 to 3 are true to my personal knowledge and those of paras 4 to 13 are based on records are believed to be true. No part of is false and nothing material fact has been concealed. So help me God.

Deponent शायदी

I identify the deponent who is personally known to me and has signed before me. कायदाय महालेखाकार (ल.प.०), द्वारा
Advocate

Solemnly affirmed before me on 4/8/89 at 9.30 am/pm by the deponent Mala Sinha who has been ~~identified~~ identified by Dr. Dinesh Chandra, Advocate, High Court, Lucknow Bench.

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

Oath Commissioner

671125
No. 671125
U-8-89



(A21)

Copy of D.M. NO.49C14/19/84-Estt(C) dt. 26th October
1984, from Government of India, Ministry of Home Affairs, Deptt.
of Personnel & Administrative Reforms New Delhi

OFFICE MEMORANDUM

SUBJECT:- Implementation of the instructions relating to regularisation of services of casual workers in Group 'D' posts, in the organisations observing five day week.

The undersigned is directed to say that as per the general instructions issued by this Department, the services of a casual worker may be regularised in a Group 'D' post, provided inter-alia, he has put in two years as a casual worker, with 240 days or more of service as such, during each year. The number of 240 days was worked out with reference to 6 day week being observed in Central Government offices. It has been brought to the notice of this Department that there are certain organisations which have adopted the instructions issued by this Department about regularisation of service of casual workers, but who are observing a five day week. A question has been raised whether even in the organisations observing five day week, the recruitment of 240 days or more of service during each of the two years may be enforced as it is, or whether the requisite number of days may be brought down proportionately.

2. The matter has been considered in this Department and it has been decided that in the organisations observing five day week, casual workers may be considered for regular appointment to Group D posts, if otherwise eligible, if they have put in 2 years of service as casual workers, with 206 days of service during each year (as against the usual 240 days). This may please be brought to the notice of all concerned.

sd/-
(MISS MANJULI SUBRAMANIAM)
DY. SECRETARY TO THE GOVT. OF INDIA.

(A3)

In the Central Administrative Tribunal at Allahabad
Circuit Bench, Lucknow

Case No. 89 of 1989 (L)

Manoj Kumar Srivastava ...

Applicant

Versus

Union of India & others ...

Respondents

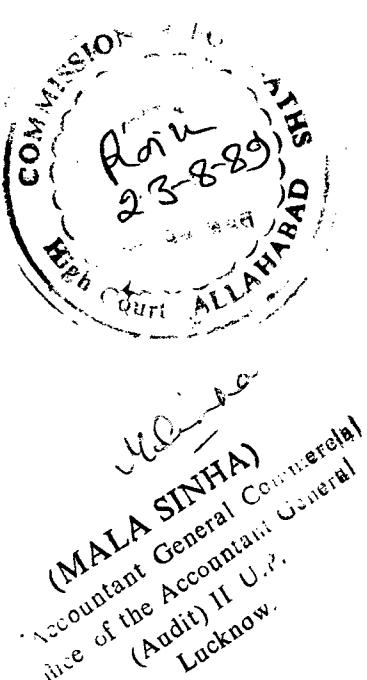
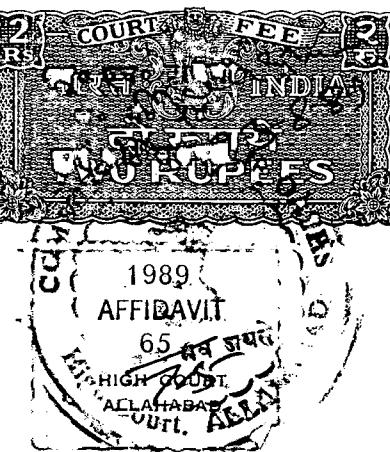
.....

Supplementary Short Counter-affidavit on behalf of
respondents

I, (Km.) Mala Sinha, aged about 31 years, daughter of Shri K.C. Sinha, Deputy Accountant General, (Audit)-II, Sahkarita Bhawan, Vidhan Sabha Marg, Lucknow do hereby solemnly affirm and state as under:-

1. That the deponent is the Dy. Accountant General, (Audit)-II, 14 Vidhan Sabha Marg, Lucknow and is well conversant with the facts deposed hereinafter.
2. That the present supplementary counter-affidavit is filed to oppose the admission of the said application and the respondents reserve the right to file a detailed counter affidavit in case the application is admitted.
3. That the contents of paras 3 to 11 of the Counter-affidavit filed on 4.8.1989 before the Tribunal are reiterated. It is, however, submitted that the engagement of the applicant was for broken period and there was no continuity as is evident from the month-wise yearly statement for 1987 and 1988 showing the date on which the applicant was not engaged on the job (ANNEXURE-I & II).

4. That the recruitment for the post of clerk/typist is done by the Staff Selection Commission and during the period when the applicant was engaged on typing job as a casual worker, the Commission had held competitive examinations for the posts of clerk/typist and the applicant was never prevented from appearing in the said competitive examination.



5. That the petitioner applicant has not worked for the required no. of days each year for 2 consecutive years. In fact he has worked for less than 2 years in all.

6. That in view of the averments made in the preceding paragraphs, the application filed by the applicant is not liable to be admitted.

Lucknow

Dated: August 23, 1989

Deponent
(MALA SINHA)

Verification Dy. Accountant General Comm.
Office of the Accountant General
(Audit) II U.P.

I, the deponent above named do hereby solemnly affirm and verify that the contents of paras 1 to 2 are true to my personal knowledge and those of paras 3 to 5 are based on records are believed to be true. No part to is false and nothing material facts has been concealed. So help me God.

(MALA
Deponent
Accountant General
Commercial
General

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

D. Chandra
Advocate

Solemnly affirmed before me on 23-8-89 at 11-10 am/pm by the deponent (km) Mala Sinha who has been identified by Dr. Dinesh Chandra, Advocate, High Court, Lucknow Bench

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

Oath Commissioner

For me Mala Sinha
Date of Commission
H. C. No. Allahabad
Lucknow Bench
No. 65117-S
Date 23-8-89

ANNEXURE-I

A32

Statement of days during which daily wage typist
not required to attend the office.

M. K. Srivastava

1987

5/87	13, 16, 17, 23, 24, 29, 30, 31	= 8
6/87	6, 7, 13, 14, 16, 20, 21, 25, 26, 27, 28	= 10
7/87	4, 5, 11, 12, 18, 19, 25, 26, 28	= 9
8/87	1, 2, 5, 8, 9, 16, 22, 23, 29, 30	= 10
9/87	5, 6, 12, 13, 19, 20, 26, 27, 30	= 9
10/87	3, 4, 10, 11, 17, 18, 22, 24, 25, 31	= 10
11/87	1, 5, 7, 8, 14, 15, 21, 22, 28, 29	= 10
12/87	5, 6, 12, 13, 19, 20, 25, 26, 27	= 9



M. Sinha

(MALA SINHA)

Dy. Accountant General Commercial
Office of the Accountant General
(Audit) II U.P.
Lucknow.

(PSS)

ANNEXURE-II

Statement of days during which daily wage typist was not required to attend office.

M.K.Srivastava

Calender year 1988

Days.

1/88 2, 3, 9, 10, 16, 17, 22, 23, 24, 30, 31 = 11

2/88 6, 7, 8, 9, 10, 11, 12, 13, 14, 20, 21, = 13
27, 28,

3/88 6, 12, 13, 19, 20, 26, 27, 28, 29, 30, 31, = 11

4/88 1, 2, 8, 9, 10, 16, 17, 23, 24, 30 = 10

5/88 1, 7, 8, 14, 15, 17, 18, 19, 20, 21, 22, 23, 28
29, = 14

6/88 4, 5, 11, 12, 18, 19, 25, 26 = 8

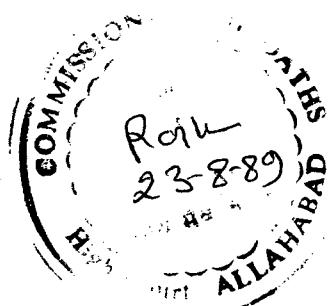
7/88 2, 3, 9, 10, 16, 17, 23, 24, 25, 30, 31 = 11

8/88 6, 7, 13, 14, 20, 21, 24, 27, 28 = 9

Mala Sinha

(MALA SINHA)

Dy. Accountant General Commercial
Office of the Accountant General
(Audit) II U.P.
Lucknow.



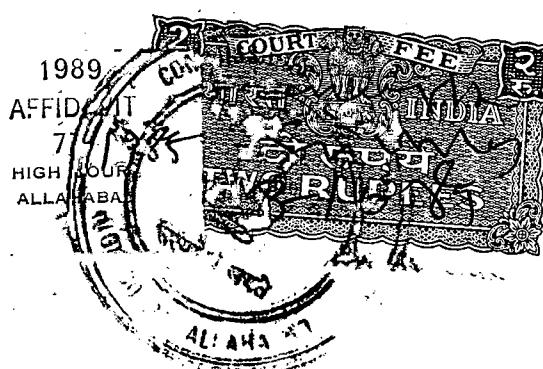
In the Central Administrative Tribunal at Lucknow,
Circuit Bench Lucknow.

RAJU

Short Rejoinder Affidavit.

In re:

O.A. No. 89 of 1989.



Manoj Kumar Srivastava.

-----Applicant

Versus

A.G (Audit) I, U.P. & others.

-----Respondents

filed
20/10

Rejoinder Affidavit to the short counter affidavit and supplementary short counter affidavit filed on behalf of the respondents.

I, Manoj Kumar Srivastava, aged about 22 years, son of Sri Harish Kumar Raizada, resident of 114, Arya Nagar, Lucknow, the deponent, do hereby solemnly affirm and state on oath as under :-



Manoj Kumar Srivastava

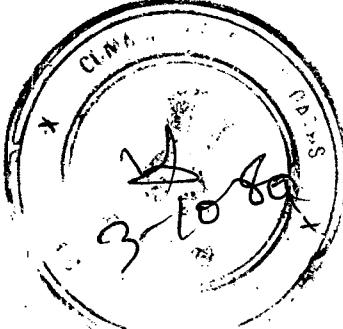
1. That the deponent is applicant in the above noted case and has gone through the contents of short counter affidavit and has read and understood the same. Moreover he is fully conversant with the facts and circumstances of the case deposed hereunder.
2. That the contents of paragraphs 1, 2 and 3 of the short counter affidavit need no comments.

(P25)

3. That the contents of paragraph 4 of the short counter affidavit are incorrect and wrong and as such the same are denied. It is further stated that the deponent was given appointment on the post of English/Hindi Typist in the office of the respondent to discharge the work, which is to be done by the regular employee due to the shortage of regular staff. Moreover it is prayed that the Hon'ble Court may be pleased to direct the respondent to produce the position shown in staff case, prepared by the office and sent to the A.G.U.P. (Audit), Allahabad. From the report, it is crystal clear that the various post of LDCs on which the deponent is working were vacant and, as such, the deponent was engaged on the said vacant post on temporary basis. The necessary budget provision was made accordingly. It is further stated that in the Central Government Offices there is only five days working in a week and during his tenure of service, the deponent was discharging his duties in all the five days in a week. The Attendance Register provided to deponent may confirm this fact.

4. That the contents of paragraph 5 of the short counter affidavit, it is stated that although the deponent is appointed on temporary basis on the post in question but he was discharging his duties for regular nature of work against regular post vacant in the office. Keeping in

Manoj Kumar Srivastava



A36

view judgment of Supreme Court, Department of Personnel & Training, Government of India vide his O.M. No.49014/2/86 dated 7.6.1988 (Annexure & 'A') has issued order that casual workers may be paid at the rate of 1/30th of the pay scale (at minimum stage of the scale) plus D.A. Hence by paying Rs. 20/- per day department has exploited the deponent. So department is liable to pay difference for entire period and full amount of the days which remained unpaid.

5. That in reply to the contents of paragraph 6 of counter affidavit, it is stated that the Staff Selection Commission was established about 8 years back whereas Government order for approving casual workers against regular posts was issued after Staff Selection Commission coming into existence. Hence it is clear that the Staff Selection Commission is in no way a hinderance for such appointments. There are instances in other Central Government Departments where casual workers were appointed against regular vacancies. It may also be mentioned that Staff Selection Commission has issued 'No Objection' Certificate to other departments, if necessary.

6. That in reply to the contents of paragraph 7 of short counter affidavit, it is stated that although, the deponent even since his appointment has been discharging the work against regular and permanent post besides discharging the work

Manoj Kumar Srivastava

of the post of Hindi/English Typist, the deponent has also worked on the post of Receipt and Despatch Clerk from time to time.

7. That in reply to the contents of paragraph 8 of the short counter affidavit, it is stated that the post of Typist in the Office of the A.G.U.P. (Audit) Allahabad falls under the category of Group 'C' post but the Accountant General (Audit) U.P. is fully competent to appoint a person who is working on the post in question on temporary capacity as permanent employee after seeking 'no objection certificate' from the Staff Selection Commission, Allahabad. It is further stated that the above said practice is followed in other Central Government Offices in which if a person is working on a temporary post, he is therefore appointed on regular post after obtaining no objection certificate from the Commission. This position can be very well ascertained from the Staff Selection Commission, Allahabad.

8. That the contents of paragraph 9 of the short counter affidavit to the extent that the deponent was appointed for the work of casual nature is incorrect and wrong. It is further stated that the deponent is appointed after passing the written type test on the post in question in temporary capacity but he has discharged his work against the regular post. It has been



admitted that the respondents neither issue an appointment order nor issue a termination order, thus leaving a scope to act in a most arbitrary and whimsical manner. The policy of the respondents to terminate the services of the deponent without passing any termination order and not to issue any appointment order is totally illegal and arbitrary and malafide and also in violation to the fundamental right as guaranteed under the Constitution of India, specially Article 14 of the Constitution.

9. That the contents of paragraph 10 of the short counter affidavit are incorrect and wrong and/such the same are denied. It is further stated that when the applicant with other casual typists was employed so many regular posts were vacant and in the absence of regular staff the deponent was continuously doing the work of regular nature. No undertaking was obtained by the department for such termination. The deponent was employed after obtaining application from him. A test was taken and result was finalised and apprised to the D. A. G. (Administration) with a note of Audit Officer (Administration) and D. A. G. (Administration) approved to employ the deponent.

10. That the contents of paragraph 11 of short counter affidavit are incorrect and wrong and as such the same are denied. It is further stated that the deponent has worked in the office of respondent

Manoj Kumar Srivastava

ASQ

during the tenure which are as follows :-

- a) From 11.5.1987 to 15.2.1988.
- b) From 23.2.1988 to 23.5.1988.
- c) From 15.6.1988 to 31.8.1988.

This fact is also evident from the experience certificate issued by the respondent as contained in Annexure No.1 to the claim petition.

11. That the contents of paragraph 12 of the short counter affidavit are incorrect and as such the same are denied. During last spell of service repeated efforts were made to submit representation to the officer concerned but all the deponent was told that the office is itself trying to regularise his services alongwith his other counter-parts. Necessary correspondance, in this connection is in process with C.A.G. of India and fruitful results are expected shortly.

12. That the contents of paragraph 13 of the short counter affidavit are incorrect and wrong and as such the same are denied. It is further stated that the present case deserves to be admitted and also deserves to be allowed with cost.

13. That the contents of paragraph 3 of supplementary short counter affidavit are incorrect and wrong and as such the same are denied. It is further stated that the deponent attended office in all 8 working days for more than 270 days in

Manoj Kumar Srivastava



PLD

first spell continuously for other spells position may be known from office records viz. Pay Bill and Attendance Register. The Attendance Register may confirm the facts.

14. That the contents of paragraph 4 of supplementary short counter affidavit, it is stated that the position has already been explained vide paragraph 5 above.

15. That the contents of paragraph 5 of supplementary short counter affidavit are incorrect and as such the same are denied.

16. That the contents of paragraph 6 of supplementary short counter affidavit are incorrect, wrong and as such the same are denied. It is further stated that the present case deserves to be admitted and also deserves to be allowed with cost.

Lucknow, dated,
3rd 10.89

Manoj Kumar Srivastava
Deponent.

Verification.

I, the deponent abovenamed do hereby verify that the contents of paras 1 - 15 are true to my own knowledge and those of paras 16 are believed by me to be true on legal advice and no part of it is false.

Signed and verified this 3rd day of October, 1989 at Lucknow.

I identify the deponent who has signed before me.

Manoj Kumar Srivastava
Deponent.
Advocate.

ANNEXURE 'A'

(a)

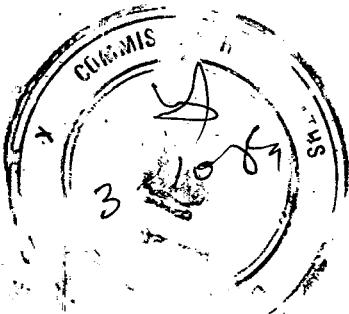
pull

Copy of Department of Personnel and Training's O.M.
No. 49014/2/86-Estt(C), dated the 7th June, 1988.

Subject:- Recruitment of casual workers and persons
on Daily wages - Review of policy.

The policy regarding engagement of casual workers in Central Government Offices has been reviewed by Government keeping in view the judgement of the Supreme Court delivered on the 17th January, 1986 in the Writ Petition filed by Shri Surinder Singh and other Vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of Casual workers on daily wage basis :-

- (i) Persons on daily wages should not be recruited for work of regular nature.
- (ii) Recruitment of daily wagers may be made only for work which is of casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.
- (iii) The work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised, if considered necessary.
- (iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the day at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.
- (v) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.



(vi) The casual workers may be given one paid weekly 'off' after six days' of continuous work.

(vii) The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly 'off' as mentioned at (vi) above. They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.

(viii) In cases where it is not possible to entrust ~~all the items of work now being handled by the casual workers to the existing regular~~ staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.

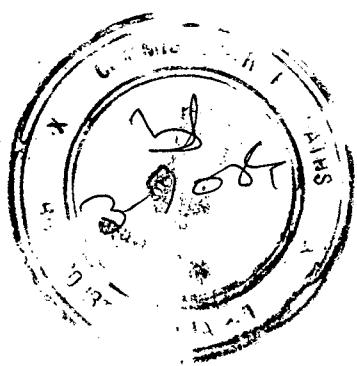
(ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.

(x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.

(xi) If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training.

All the administrative Ministries/Departments should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved :

(a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.



(P)

(P)

(b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.

(c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/ Departments :-

(a) Ministry of Railways	.. 2 years
(b) Department of Posts, Department of Telecommunications and Department of Defence Production	.. 1 year
(c) All other Ministries/ Departments/Offices	.. 6 months

Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (proper) and all Attached/Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10th October, 1986.

3. By strict and meticulous observance of the guidelines by all Ministries/Departments, it should be ensured that there is no more engagement of casual workers for assignments of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which he is being employed to determine whether the work is of causal nature or not.

4. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the culprits.

