

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

INDEX SHEET

CAUSE TITLE O.A. 95 OF 1989

NAME OF THE PARTIES Amulya Krishan Applicant

Versus

Union of India Respondent

Part A.

| Sl.No. | Description of documents | Page |
|--------|--------------------------|------------|
| 1 | check list | A 1 to 2 |
| 2 | order sheet | A 3 to 4 |
| 3 | Judgement | A 5 to 7 |
| 4 | petition copy | 8 to 27 |
| 5 | power | 28 to 29 |
| 6 | Reply | A 30 to 33 |
| 7 | Annexure | A 34 to 35 |
| 8 | R.A | A 36 to 41 |
| 9 | Annexure | 42 to 47 |
| 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 16/6/2011

Counter Signed.....

Regd/ 16/6/11
Section Officer/In charge

✓
Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause No. MA 95/183 Date 13/10/1992

Name of the parties Anujay Kichns Applicants.

Versus

Union of India & Others

Respondents

Part B.C.

Sl. No. Description of documents Page

FILE A

- (1) Check List - A1 - A2
- (2) Order's sheet A3 - A4
- (3) Judgment A5 - A7
- (4) Petitions with Annexure A8 - A27
- (5) Pet. A28 - A29
- (6) Pet. A30 - A33
- (7) Annexure A34 - A35
- (8) R.A A36 - A41
- (9) Annexure A42 - A47

B48 - B84

FILE B

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

A1

Punishment

Registration No.

95

of 1984(L)

APPLICANT (s)

Anujay Krishna

RESPONDENT(s)

UOG & others (9 CAR)

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent ?
2. (a) Is the application in the prescribed form ?
3. (a) Is the appeal in time ?
4. Has the document of authorisation/Vakalat-nama been filed ?
5. Is the application accompanied by B. D./Postal-Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?

yes

yes

yes

Five Sets.

yes

—

—

yes

yes D.P.O. No. DD 834306

dt. 03-5-89

(50)=)

yes

yes

- (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?

Particulars to be ExaminedEndorsement as to result of Examination

(c) Are the documents referred to in (a) above neatly typed in double space ? *yes*

8. Has the index of documents been filed and paging done properly ? *yes*

9. Have the chronological details of representation made and the outcome of such representations been indicated in the application ? *yes*

10. Is the matter raised in the application pending before any Court of law or any other Bench of Tribunal ? *No*

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

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

(a) Identical with the original ? *yes*

(b) Defective ? *—*

(c) Wanting in Annexures *—*

Nos...../Pages Nos..... ?

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

14. Are the given addresses, the registered addresses ? *yes*

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

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

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*

May be listed
before court on

22-5-89

Debbaran
03/5/89
S.O.(G)

(1) AS
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION NO. 95 of 1989(A)

APPELLANT
APPLICANT

Anujay Krishan

7/11

VERSUS

DEFENDANT
RESPONDENT

Citizen of India

| Serial number of order and date | Brief Order, Mentioning Reference if necessary | How complied with and date of compliance |
|--|---|--|
| 22-5-89 | No Sitting. Adjourned to 7/7/89 for admission. | 22/5 |
| (2) | Hon Mr Justice K. Nath, and V.C. Hon Mr. K. J. Ramam, V.M. | |
| 7/7/89 | <p>Heard the LC/Applicant. Issue notice to respondents to show cause why this application may not be admitted. Respondent No 2 is further directed to produce the entire inquiry proceedings in his record on the date of admission. List this case for hearing on admission on 18-8-89 when the case is likely to be disposed of finally.</p> <p>W.R. A.M.</p> <p>Q.M. R.M.</p> | <p>OR given Notice 8/7/89</p> |
| 3 10/10/89 | <p>(S+8)</p> <p>No Sitting. Ady. 11-X-89. Both Parties are present.</p> <p>W.R. 10/10</p> | <p>OR Reply filed today 10/10</p> |
| 4 11/X/89 | <p>No Sitting. Ady. to 7-11-89. Counsel for applicant is present.</p> <p>W.R. 11/X</p> | <p>OR Reply filed on behalf of the C.P. as duly served on the applicant. No response till submitted for record 6/11/89</p> |

30/3/90

(2)

(4)

OA 95/89(C)

The learned counsel for the applicant & the applicant are present. No 50th
Adj. 14/11/90.

(P)

14/11/90

Hon Mr. Justice K. Roth, V.C.

Hon Mr. M. Y. Brokar, P.M.

Smt. A/C Chaturvedi
files counter notice
for final hearing on
16-11-91.

OR

No RA filed
S. PA
15/11/91

(P)
A.M.

(P)
V.C.

16/11/91

No settled day to 2.4.91.

2/4/91

Hon Mr. Justice K. Roth, V.C.
Hon Mr. A.B. Gothi, A.M.

Smt. L.P. Shukla appears on behalf of
respondents but the vakalatnamas is not
on record. The office may trace it out.

In case it is not found Smt. Shukla
may file another one. The learned
counsel requests for time to file
a supplementary to profile the authority
of B.N.P. Pathak to make the
reply in the case. He is allowed three
weeks time for the purpose and the
case may be listed for final hearing
on 7/5/91.

(P)
A.M.

(P)
V.C.

CA/RA have been
exchanged.

S. P. 4

1/4/91

No power can be held
No Subbly. filed

6/5

Case not reached. Adj. to

31.7.91

O.A. No. 95 of 1989

Dated: 4.2.1993

Hon'ble Mr. Justice U.C.Srivastava, VC

Hon'ble Mr. K. Obayya, Member (A)

This is an application for extension of time to complete the inquiry in terms of the judgement and order dated 27.8.1992. Taking into consideration the application, time is extended upto 31st March 1993 beyond which no time shall be granted. It was only short matter, which is to be disposed of by the respondents, but the respondents are delaying the matter unnecessarily while the applicant has already retired from service.


A.M.


V.C.

Recd/Copy today
Date: 1.2.93
Ans: 1.2.93
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH) -
LUCKNOW.

D.A. NO

95/89

199 (L)

T.A. NO

Date of Decision

Anupay K. Dhas

Petitioner.

Shri A. M. Khan

Advocate for the
Petitioner(s)

VERSUS

Union of India & others

Respondent.

Shri K. Shukla

Advocate for the
Respondents

C O R A M

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

The Hon'ble Mr. K. Bagga, A.M. Member

1. Whether reporter of local papers may be allowed to see the Judgment ?
2. To be referred to the reporter or not ? ✓
3. Whether to be circulated to other benches ? ✓
4. Whether ~~to be~~ their Lordships wish to see the fair copy of the Judgment ? ✓

UK

VICE-CHAIRMAN/MEMBER

RS

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 95/89

Anujay Krishna

Applicant

versus

Union of India & others

Respondents.

Shri A. Mannan

Counsel for Applicant

Shri L.P. Shukla

Counsel for Respondents.

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

Hon. Mr. K. Obayya, Adm. Member.

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

when

At the relevant point of time/the applicant was working as Administrative Officer at Central Institute of Research on Goats, he was served with a charge sheet. The charges against him were that while functioning as Administrative Officer, at C.I.R.G. Makhdoom during the year 1983, tampered with office records regarding orders of the Director, CIRC, about the grant of study leave to Shri G.M. Wani and issued an correigendum granting him study leave upto 15.12.1983 in lieu of 31.3.1983 without the approval of the competent authority and also in utter disregard of the Council (D.G's) orders not to grant extension of study leave of Shri Wani beyond 31.3.1983 and tampered with office record. Tampering with office record is a serious misconduct and the applicant failed to maintain absolute integrity and lack of devotion to duty applicable to the ICAR employees. The enquiry officer was appointed and after conducting the enquiry he submitted the enquiry report, the

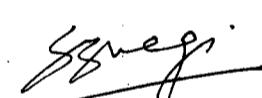
Wherefore , it is most respectfully prayed
that 3 months further time be allowed to Indian Council
of Agricultural Research, Opposite Party to complete
the inquiry against the applicant in terms of the
judgement and order dated 27.8.92.


DIRECTOR
केन्द्रीय विद्युतीय विद्युतीय
COUNCIL OF AGRICULTURE
for the Northern Plains
लखनऊ LUCKNOW

VERIFICATION

I, Dr. S.S. Negi, aged 52 years son of
late Shri C.L. Negi, Director, Central Institute of
Horticulture for Northern Plains, Lucknow, do hereby
verify that the facts as mentioned in Para 1 & 2 of
this application are true to my personal knowledge
and no material has been concealed by me.

DATED 27.1.93
PLACE: LUCKNOW


DIRECTOR
केन्द्रीय विद्युतीय विद्युतीय
COUNCIL OF AGRICULTURE
Central Institute of Horticulture
for the Northern Plains
लखनऊ LUCKNOW

concluding portion of the report is as follows:

"The body of evidences indicate that Shri A. Krishna committed an irregularity by issuing a correigendum granting Dr. G.M. Wani study leave upto December, 5, 1983 in lieu of March, 31, 1983 without obtaining an approval of the competent authority. He also disregarded the council's orders not to grant extention of study leave to Dr. Wani beyond the March, 3, 1983. However, evidence suggest a possibility that his wrong actions could be an outcome of undue pressure exerted on him. Furthermore, the available evidences do not prove that Shri Krishna actually tampered with the of fice records. In this regard he gets the benefit of doubt."

So far as the earlier part is concerned, i.e. tampering of office record, he came to the conclusion that he is entitled to benefit of doubt. In the finding of the enquiry officer there was no action as far as tampering of record is concerned. The disciplinary authority disagreed with the report of the enquiry officer and held that the charges were proved against the applicant and two increments of the applicant for three years with cummulative effect were stopped. The applicant preferred an appeal which was dismissed.

2. On behalf of the applicant it has been contended reasons for that/disagreement with the findings of enquiry report were not given and no show cause or opportunity was given to him and the same violates the provisions of principles of natural justice. In the case of Narain Misra vs. State of

51
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
359
360
361
362
363
364
365
366
367
368
369
369
370
371
372
373
374
375
376
377
378
379
379
380
381
382
383
384
385
386
387
388
389
389
390
391
392
393
394
395
396
397
398
399
399
400
401
402
403
404
405
406
407
408
409
409
410
411
412
413
414
415
416
417
418
419
419
420
421
422
423
424
425
426
427
428
429
429
430
431
432
433
434
435
436
437
438
439
439
440
441
442
443
444
445
446
447
448
449
449
450
451
452
453
454
455
456
457
458
459
459
460
461
462
463
464
465
466
467
468
469
469
470
471
472
473
474
475
476
477
478
479
479
480
481
482
483
484
485
486
487
488
489
489
490
491
492
493
494
495
496
497
498
499
499
500
501
502
503
504
505
506
507
508
509
509
510
511
512
513
514
515
516
517
518
519
519
520
521
522
523
524
525
526
527
528
529
529
530
531
532
533
534
535
536
537
538
539
539
540
541
542
543
544
545
546
547
548
549
549
550
551
552
553
554
555
556
557
558
559
559
560
561
562
563
564
565
566
567
568
569
569
570
571
572
573
574
575
576
577
578
579
579
580
581
582
583
584
585
586
587
588
589
589
590
591
592
593
594
595
596
597
598
599
599
600
601
602
603
604
605
606
607
608
609
609
610
611
612
613
614
615
616
617
618
619
619
620
621
622
623
624
625
626
627
628
629
629
630
631
632
633
634
635
636
637
638
639
639
640
641
642
643
644
645
646
647
648
649
649
650
651
652
653
654
655
656
657
658
659
659
660
661
662
663
664
665
666
667
668
669
669
670
671
672
673
674
675
676
677
678
679
679
680
681
682
683
684
685
686
687
688
689
689
690
691
692
693
694
695
696
697
698
699
699
700
701
702
703
704
705
706
707
708
709
709
710
711
712
713
714
715
716
717
718
719
719
720
721
722
723
724
725
726
727
728
729
729
730
731
732
733
734
735
736
737
738
739
739
740
741
742
743
744
745
746
747
748
749
749
750
751
752
753
754
755
756
757
758
759
759
760
761
762
763
764
765
766
767
768
769
769
770
771
772
773
774
775
776
777
778
779
779
780
781
782
783
784
785
786
787
788
789
789
790
791
792
793
794
795
796
797
798
799
799
800
801
802
803
804
805
806
807
808
809
809
810
811
812
813
814
815
816
817
818
819
819
820
821
822
823
824
825
826
827
828
829
829
830
831
832
833
834
835
836
837
838
839
839
840
841
842
843
844
845
846
847
848
849
849
850
851
852
853
854
855
856
857
858
859
859
860
861
862
863
864
865
866
867
868
869
869
870
871
872
873
874
875
876
877
878
879
879
880
881
882
883
884
885
886
887
888
889
889
890
891
892
893
894
895
896
897
898
899
899
900
901
902
903
904
905
906
907
908
909
909
910
911
912
913
914
915
916
917
918
919
919
920
921
922
923
924
925
926
927
928
929
929
930
931
932
933
934
935
936
937
938
939
939
940
941
942
943
944
945
946
947
948
949
949
950
951
952
953
954
955
956
957
958
959
959
960
961
962
963
964
965
966
967
968
969
969
970
971
972
973
974
975
976
977
978
979
979
980
981
982
983
984
985
986
987
988
989
989
990
991
992
993
994
995
996
997
998
999
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1009
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1029
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049
1049
1050
1051
1052
1053
1054
1055
1056
1057
1058
1059
1059
1060
1061
1062
1063
1064
1065
1066
1067
1068
1069
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1109
1110
1111
1112
1113
1114
1115
1116
1117
1118
1119
1119
1120
1121
1122
1123
1124
1125
1126
1127
1128
1129
1129
1130
1131
1132
1133
1134
1135
1136
1137
1138
1139
1139
1140
1141
1142
1143
1144
1145
1146
1147
1148
1149
1149
1150
1151
1152
1153
1154
1155
1156
1157
1158
1159
1159
1160
1161
1162
1163
1164
1165
1166
1167
1168
1169
1169
1170
1171
1172
1173
1174
1175
1176
1177
1178
1179
1179
1180
1181
1182
1183
1184
1185
1186
1187
1188
1189
1189
1190
1191
1192
1193
1194
1195
1196
1197
1198
1199
1199
1200
1201
1202
1203
1204
1205
1206
1207
1208
1209
1209
1210
1211
1212
1213
1214
1215
1216
1217
1218
1219
1219
1220
1221
1222
1223
1224
1225
1226
1227
1228
1229
1229
1230
1231
1232
1233
1234
1235
1236
1237
1238
1239
1239
1240
1241
1242
1243
1244
1245
1246
1247
1248
1249
1249
1250
1251
1252
1253
1254
1255
1256
1257
1258
1259
1259
1260
1261
1262
1263
1264
1265
1266
1267
1268
1269
1269
1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1329
1330
1331
1332
1333
1334
1335
1336
1337
1338
1339
1339
1340
1341
1342
1343
1344
1345
1346
1347
1348
1349
1349
1350
1351
1352
1353
1354
1355
1356
1357
1358
1359
1359
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1369
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1399
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1409
1410
1411
1412
1413
1414
1415
1416
1417
1418
1419
1419
1420
1421
1422
1423
1424
1425
1426
1427
1428
1429
1429
1430
1431
1432
1433
1434
1435
1436
1437
1438
1439
1439
1440
1441
1442
1443
1444
1445
1446
1447
1448
1449
1449
1450
1451
1452
1453
1454
1455
1456
1457
1458
1459
1459
1460
1461
1462
1463
1464
1465
1466
1467
1468
1469
1469
1470
1471
1472
1473
1474
1475
1476
1477
1478
1479
1479
1480
1481
1482
1483
1484
1485
1486
1487
1488
1489
1489
1490
1491
1492
1493
1494
1495
1496
1497
1498
1499
1499
1500
1501
1502
1503
1504
1505
1506
1507
1508
1509
1509
1510
1511
1512
1513
1514
1515
1516
1517
1518
1519
1519
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1529
1530
1531
1532
1533
1534
1535
1536
1537
1538
1539
1539
1540
1541
1542
1543
1544
1545
1546
1547
1548
1549
1549
1550
1551
1552
1553
1554
1555
1556
1557
1558
1559
1559
1560
1561
1562
1563
1564
1565
1566
1567
1568
1569
1569
1570
1571
1572
1573
1574
1575
1576
1577
1578
1579
1579
1580
1581
1582
1583
1584
1585
1586
1587
1588
1589
1589
1590
1591
1592
1593
1594
1595
1596
1597
1598
1599
1599
1600
1601
1602
1603
1604
1605
1606
1607
1608
1609
1609
1610
1611
1612
1613
1614
1615
1616
1617
1618
1619
1619
1620
1621
1622
1623
1624
1625
1626
1627
1628
1629
1629
1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1639
1640
1641
1642
1643
1644
1645
1646
1647
1648
1649
1649
1650
1651
1652
1653
1654
1655
1656
1657
1658
1659
1659
1660
1661
1662
1663
1664
1665
1666
1667
1668
1669
1669
1670
1671
1672
1673
1674
1675
1676
1677
1678
1679
1679
1680
1681
1682
1683
1684
1685
1686
1687
1688
1689
1689
1690
1691
1692
1693
1694
1695
1696
1697
1698
1699
1699
1700
1701
1702
1703
1704
1705
1706
1707
1708
1709
1709
1710
1711
1712
1713
1714
1715
1716
1717
1718
1719
1719
1720
1721
1722
1723
1724
1725
1726
1727
1728
1729
1729
1730
1731
1732
1733
1734

Orissa (1969 S.L.R. (S.C.) page 657) it was held that where the Punishing authority deferred from the findings of the Enquiry officer and held the official guilty of charges from which he was acquitted by the Enquiry officer and no notice or opportunity given to the delinquent official about the attitude of Punishing authority, the order of removal ^{should be} set aside being violative of principles of natural justice and fair play. The same condition arises in this case. One finding was recorded against the applicant and one in favour of him, the second charge arises out of first. It was a case where the principles of natural justice have been violated. Application deserves to be allowed. The punishment order dated 10/14.12.87 and the order dated 4.5.1988 are quashed. However, it will be open for the disciplinary authority to give reasons for disagreement and notice to the applicant for representation to the applicant and thereafter to proceed with the enquiry. In case a decision is taken to go ahead with the enquiry, the applicant will cooperate with the same. Let it be done within a period of three months from the date of receipt of a copy of this judgment.

No order as to costs.

Adm. Member.

Vice Chairman.

Shakeel/

Lucknow: Dated: 27.8.92

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW

M.P. 90/193
O.A. No. 95/89

ANUJAY KRISHNA VS UNION OF INDIA & OTHERS

Application for extension of time to
complete inquiry in terms of the judgement &
order dated 27.8.92.

1. That in the above O.A. No. 95 of 1989 this Hon'ble Tribunal quashed the punishment order dated 10/14.12.87 & the order dated 4.5.88 on the ground that the principal of Natural justice has been violated. The Hon'ble Tribunal however, held that it will be open for the disciplinary authority to give reasons for disagreement and notice to the applicant for representation and thereafter to proceed with the inquiry. In case a decision is taken to go ahead in the inquiry. The applicant will co-operate the same. Let it be done within a period of 3 months from the date of the receipt of a copy of this judgement.

2. That in view of the aforesaid position the Indian Council of Agricultural Research, Opposite Party No. 1 has decided to proceed with the inquiry. Since the necessary proceeding cannot be completed within the period of three months as indicated in the order, it is necessary in the interest of justice that three months further time be allowed to complete the inquiry after giving requisite notice to the applicant.

निदेशक DIRECTOR

केन्द्रीय उत्तर सैरानी उद्यान संस्थान
Central Institute of Horticulture
for the Northern Plains
लखनऊ LUCKNOW

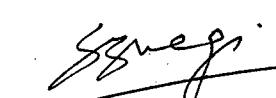
Wherefore , it is most respectfully prayed
that 3 months further time be allowed to Indian Council
of Agricultural Research, Opposite Party to complete
the inquiry against the applicant in terms of the
judgement and order dated 27.8.92.


नियोगीकरण
के द्वारा दिनांक 27.1.93
ON BEHALF OF ICAR
for the Northern Plains
लखनऊ LUCKNOW

VERIFICATION

I, Dr. S.S. Negi, aged 52 years son of
late Shri C.L. Negi, Director, Central Institute of
Horticulture for Northern Plains, Lucknow, do hereby
verify that the facts as mentioned in Para 1 & 2 of
this application are true to my personal knowledge
and no material has been concealed by me.

DATED 27.1.93
PLACE: LUCKNOW


नियोगीकरण
के द्वारा दिनांक 27.1.93
ON BEHALF OF ICAR
Central Institute of Horticulture
for the Northern Plains
लखनऊ LUCKNOW



A2

IN THE COURT OF..... Central Administrative Tribunal Allahabad
Suit/Appeal No. Current Bench Lucknow..... of 19

In re: Anugay Krishna JURISDICTION
versus Piff. or Complaint Petitioner

Union of India

Defdt. or Respdt. Accused

KNOW ALL to whom these present shall come that I/we Dr. G.C. Srivastava
Secty. I.C.A.R.

the above named..... do hereby appoint
Shri B. N. P. Pathak, Legal Adviser, I.C.A.R.
thereinafter called the Advocate/s to be my/our Advocates in the above-noted case and to
authorise him :-

To act, appear and plead in the above-noted case in the Court, or in any other Court in which the same may be tried or heard and also in the appellate Courts including High Court.

To sign, file, verify and present pleadings, replications, appeals cross-objections, or petitions for executions, review, revision, restoration, withdrawal, compromise, or other petitions, replies, objections 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 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 out execution proceedings.

To deposit, draw and receive moneys cheques and grant receipts therefor and 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 case.

To appoint and instruct any other Legal Practitioner authorising him to exercise the power and authority hereby conferred upon the Advocate when-ever 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 acts, done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/we undertake that I/we or my/our duly authorised agent would appear in Court on all hearing & will inform the Advocate for appearance, 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 in consequence of his absence from the Court when the said case is called up for hearing, or for any negligence of the said Advocate or his Substitute.

And I/we the undersigned do hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. If any costs are allowed for an adjournment the advocate would be entitled to the same.

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

Accepted
Anugay Krishna
Advocate
I.C.A.R.

⑧ *G.C. Srivastava*
(DR. G.C. SRIVASTAVA
Secretary I.C.A.R.
Govt of India
Min. of
Krishi Bhawan
Tele. No. 564-65)

AD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT LUCKNOW

Original Appln. No. 95 of 1989 (L)

Shri Anujay Krishna Applicants

Versus

The President, Indian Council of
Agricultural Research, Krishi Bhawan,
New Delhi. Opp-Parties

APPLICATION UNDER SEC 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT 1985

For use in tribunals office

.....
.....

Date of filing

OR

Date of Receipt

By post.....

Registration No.

Signature of the
Registrar.

A8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT LUCKNOW

ORIGINAL APPLN. NO. 95 OF 1989 (L)

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 03-5-89

Date of Receipt by Post.....

List on 22-5-89

Deputy Registrar (J) 03/5/89

Shri Anujay Krishna Applicants

Versus

The President, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi and another Opp-Parties

I N D E X

| <u>Sl. No.</u> | <u>Particulars</u> | <u>Page Nos.</u> |
|----------------|---|----------------------|
| 1. | Memo of appeal | 1 to 12 |
| 2. | Annexure No.1 (Copy of order dt. 12.12.1987) | 13 to 14 4/5/88 |
| 3. | Annexure No.2 (Copy of Order dt. 4th May 88) | 15 to 18 10/12/87 |
| 4. | Postal order (DD834306 10/12/87) | 15 to 18 |
| 4. | Bank Draft No. 04XXXXX8 Dated 1/5/89 for Rs. 50/-only | 15 to 18 5/5/88 |
| 5. | Vakalatnama. | |

Filed today
Notice for
22/5/89
Ranesh Kumar Srivastava
(Adv.)
3/5/89.

Place: Lucknow

Dated: 3/5/89

THROUGH

(A. Mannan)

Advocate

Counsel for the applicant
Avadh Bar Association,
High Court, Lucknow

A10

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH AT LUCKNOW

Original Appln. No. 95 of 1989 (L)

aged about 55 years
Shri Anujay Krishna, s/o Shri Krishna Shahi Saxena,
Administrative Officer A-92 Rajajipuram, Uttar
Pradesh Avas E�am Vikas Parishad Tal Katora
Yojna, Lucknow.

.... Applicant

Versus

1. UNION OF INDIA through President I. C. A. R
~~through~~ The President, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

2. The Director General of Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

.... Respondents

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT. 1985

DETAILS OF THE APPLICATION :

1. PARTICULARS OF THE APPLICANT:-

(i) Name of the applicant : Shri Anujay Krishna

ANUJAY KRISHNA

(ii) Name of father : Shri Krishna Sahai Saxena

(iii) Designation and office in which employed : Administrative Officer Indian Council of Agricultural Research.

(iv) Office Address : Indian Council of Agricultural Research
Krishi Bhawan,
New Delhi.

Central Institute of Horticulture
for Northern plains, B-217 India
Nagar, Lucknow.

(v) Address for service: Shri Anujay Krishna,
all notices Administrative Officer
A-92 Rajajipuram, Uttar
Pradesh, Avas Eevam Vikas
Parishad, Tal Katora
Yojna, Lucknow.

2. PARTICULARS OF THE RESPONDENTS

(1) Name of Designation of the respondents :-

(i) The President, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

(ii) The Director General of Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.

(2) Office Address of the respondents: - As Above.

(3) Address for service of all notices: - As Above.

3. PARTICULAR OF THE ORDER AGAINST WHICH THE IS BEING MADE

ANUJAY KRISHNA

The present application is being directed against the rejection of appellate order of punishment No. 3-29/88-Per. V dated 4th May, 1988 imposing on the petitioner the penalty of withholding of two increments with cumulative effect for a period of three years, rejection the appeal of the appellant. The aforesaid order of appeal has been signed by S. Vasudev, Director (P) for and on behalf of president I.C.A.R and punishment order No. 15-2/81-EE-VIII dated 10/12/1987, signed by Shri C.R. Mahapatra, Dy. Secretary (A S) for and on behalf of the Director General I.C.A.R. The order dated 10/12/1987 and 4th May 1988 are being filed herewith and marked as Annexure 1 and 2 to this writ petition.

4- JURISDICTION OF THE TRIBUNAL :

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

5- LIMITATION:-

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

6- FACTS OF THE CASE:-

The facts of the case are given below;

1. The petitioner was originally appointed as Store Officer in the Indian Grass Land & Fodder Research Institute Jhansi in the year 1972 which is an unit of Indian Council of Agricultural Research (hereinafter

ANUJAY KRISHNA

referred as I.C.A.R.)

2. The petitioner had been promoted to the post of Administrative Officer in the same unit and establishment of I.C.A.R. a combined cadre post.
3. The petitioner was transferred to Jute Agriculture Research Institute, Barrackpore, Calcutta in 1980 which is also an Unit of I.C.A.R.
4. The petitioner was transferred to another unit of I.C.A.R. in Central Institute of Research on Goats at Makhdoom, Farah Disst. Mathura. However in 1984 the petitioner was again transferred to another unit of I.C.A.R. Central Arid Zone Research Institute, Jodhpur and was posted in the sub station of the said Institute as no post of Administrative Officer existed.
5. The petitioner was again transferred to be posted in Central Institute of Horticulture for Northern Planes, Lucknow.
6. The petitioner while working as Administrative Officer at Central Institute of Research on Goats during 2.7.1982 onwards at farah distt. Mathura was issued a charge sheet No. 15-2/81-A.S. (S & G) dated 19.05.84 for and on behalf of Director General I.C.A.R. New Delhi. under rule 14 of the Central Civil Services (Classification control and appeal) Rules 1965 levelling the charge that the petitioner tampered with the office record regarding orders of the Director, Central Institute of Research

NUJAY KRISHNA

- 5 -

on Goats, about grant of the study leave to Sri G.M. Wani and (2) issued a corrigendum granting him study leave upto 5.12.1983 in lieu of 31.03.1983 without the approval of the competent authority and also in utter disregard of the council (D.G.) orders not to grant extension of study leave to Sri G.M. Wani beyond 31.03.1983.

7. A copy of chargesheet is being filed and marked as Annexure No.3 to this petition.

78. The petitioner submitted his reply on 27.12.1984 denying all the charges. After having changed two inquiry officers namely Dr.K.L Saini and Dr.S.P.Mahrotra the third nominated inquiry officer Dr.A.N. ~~Max~~ Lahiri, thereafter, conducted the oral inquiry. The witnesses on behalf of the punishing authority i.e. (D.G., I.C.A.R.) were examined. However the petitioner also insisted ~~max~~ for Sri.V.P.Kunwar as defence witness (an officer of I.C.A.R. New Delhi) but he was not summoned inspite of the demands by the petitioner.

79. The ~~exquiry~~ report was submitted without examination of the said defence witness and the ~~exquiry~~ report findings were made Annexure No.4 of this writ petition.

80. That though the petitioner acted beyond his jurisdiction due to the pressure exerted on him (Petitioner) and therefore the petitioner

ANUTAY KRISHNA

is entitled to the benefit of doubt.

9. The available evidences do not prove that the petitioner actually tampered with the office records.

10. That, Here it may pointed out that the petitioner was not furnished with the copy of inquiry report before passing the punishment report before passing the punishment order nor the petitioner was given any opportunity to make any submission before the punishing authority pertaining in the inquiry report.

11. That the petitioner was furnished with the inquiry report alongwith the punishment order no. 15-2/81-EE-VIII dated 10/14.12.1987. A copy of the same is Annexure No.2 imposing punishment.

12. The petitioner submitted an appeal to the president of the I.C.A.R. within the time limit which was rejected by the president by non speaking order No. 3-29/88-per V dated 4.5.1988 signed for and on behalf of the President by Sri S. Vasudeva Director (P). A copy of the ~~appeal~~ ^{rejection order} is annexed herewith as Annexure No.1. The defence witness Sri. V.P.Kanwar was not called for examination and secondly the inquiry officer exonerated the petitioner. The report of the premilinary inquiry was never furnished to the petitioner but the same was relied upon by the opposite parties.

ANUJAY KRISHNA

7- RELIEF SOUGHT:-

The impugned order No.15-2/81-EE-VIII dated 10/14.12.1987 and the order No. 3-29/88 Per V dated 4.5.1988 are liable to be quashed being arbitrary and illegal on the following amongst other grounds

I) Because the witness was not called for and the inquiry against petitioner was one sided in violation of the provisions of Natural Justice also.

II) Because the impugned orders of punishment and appellate orders are non speaking and without reasons pertaining to the defence of the petitioner were given.

III) Because preliminary inquiry report was not furnished but the same was relied upon.

IV) Because non supply of the inquiry report before passing the punishment order was also in violation of the principle of natural justice and the law laid down by the Hon'ble Supreme Court in A.I.R. 1980 page 1000

V) Because the inquiry was also taken up against Dr. G.M. Warni for over stay beyond 31.3.1983 in utter disregard of competent authorities order but he has been exonerated and also the leave portion as contained in corrigendum has been regularised but the petitioner has been punished for.

NUJAY KRISHNA

VI) Because the charge sheet, punishment order of 10/14.12.1987 and rejection of appeal dated 4.5.1988 are without authority and jurisdiction as well as without application of mind.

VII) Because the guilt of the petitioner has not been proved in the departmental inquiry and the petitioner has been exonerated by providing benefit of doubt and that in agreement of the inquiry report the disciplinary authority can not impose penalty on the petitioner under rule 14 of C.G.A. Rules 1965 as punishment order dated 10/14.12.1987 is illegal and not signed by the competent authority himself.

Ref: G.I.M.HA, Deptt. of personnel & A.R.D.M.
No. 134/1/81-ADV-1 dated 13.7.1981.

VIII) Because in disagreement with inquiry report no fresh inquiry was set up by appointing another inquiry officer and the petitioner did not get an opportunity of being heard and therefore the disciplinary authority has not followed the laid down procedure and in agreement of the findings of the inquiry officer punishment should not have been imposed on the petitioner by the disciplinary authority in violation of the providing of Art. 311 of the Constitution of India and provisions of Natural justice as well as Rule 14 and Rule 15 of C.G.A. (CGS) Rules 1965 have also been violated.

ANUJAY KRISHNA

IX) Because the petitioner has been treated with inequality before law and he has been discriminated and therefore Article 14 and 16 of the Constitution of India have been violated as administrative orders are routed from the level of dealing Assistant to higher authorities and therefore charge-sheeting exclusively and an officer in intermediate stage is utterly discriminatory and unjust as Discipline Rule 67 of P.T. manual clearly lays down the responsibility of higher authorities. The letter of I.C.A.R. dated 19.2.1983 addressed to competent authority i.e. Director, C.I.R.C. Farah and therefore the Director is responsible.

Because

X) The issue of corrigendum was initiated by the delaing Assistant Sri. P.K.Sharma, prosecution witness on the instructions of competent authority Dr.P.N.Bhat again another prosecution witness. The appellant being intermediary in in the hierarchy & charge sheeting him alone is discriminatory in the yes of justice as joint proceeding would have been good in law/justice. The corrigendum was issued for and on behalf of the Director and copies of the same were forwarded to all concerned as such the corrigendum had the approval of the competent authority i.e. Director Dr.P.N.Bhat. The issue of the corrigendum signed for Director was never questioned by the competent authority i.e. Director, Dr.P.N.Bhat even upto the time of cancelling leave in June.

ANUJAY KRISHNA

As the applicant will be suffering by ~~es~~ stoppage of increments about Rs. 30,000/-

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 as an appeal was filed before the President, Indian Council of Agricultural Research against the punishment order dated 10/14.12.1987 and the same has been rejected by the appellate authority on 4.5.1988 which was received by the appellant on 10.5.88

10. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

The applicant further declares he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other bench of the tribunal and nor any such application, writ petition or suit is pending before any of them.

ANUTAY KRISHNA

XI) Because the charge sheet is not based on any financial loss incurred by the Indian Council of Agricultural Research Krishi Bhawan, New Delhi.

XII) Because the appellant has been penalised financially to the tune of Rs. 30,000.00

XIII) Because the statement of witnesses as well as statement of Shri P.N. Bhatt have also not been considered by the punishing authority. The petitioner is innocent in the case and punishment made is without jurisdiction as well as against the provisions of Law and Rules.

XIV) Because the disciplinary authority has agreed with the findings of the Enquiry Officer therefore punishment could not be passed as no charge has been passed as no charge has been proved and the petitioner has been given benefit of doubt.

XV) Because the charge sheet issued is without jurisdiction, and therefore whole inquiry has illegally been conducted, and enquiry as well as punishment order are against the provisions of natural justice and also bad in Law and against Rule 14 and 16 of C.C.A. Rules

INTERIM RELIEF

That the petitioner is suffered by stoppage of increments so the impugned orders may be stayed till pending disposal of this application.

ANUJAY KRISHNA

As the applicant will be suffering by estoppagement of increments about Rs. 30,000/-

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 as an appeal was filed before the President, Indian Council of Agricultural Research against the punishment order dated 10/14.12.1987 and the same has been rejected by the appellate authority on 4.5.1988 which was received by the appellant on 10.5.88

10. MATTER NOT PREVIOUSLY FILED OR PENDING
WITH ANY OTHER COURT

The applicant further declares he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other bench of the tribunal and nor any such application, writ petition or suit is pending before any of them.

ANUJAY KRISHNA

DETAIL OF INDEX

Index in duplicate with details of document be relied upon as enclosed with this application.

12

LIST OF ENCLOSURES

and 2

Memo of application alongwith 1 to 3 annexures vide index as enclosed alongwith postal order.

13

PARTICULARS OF POSTAL ORDER

Bank Draft Postal Order No. DD 834306 Dated 3/5/89
9 P.M.
Postal Order No. 07/11/89 Dated 3-5-89
for Rs. 50/- only.

Verification

I, Anujay Krishna, son of Shri Krishna Sahai Saxena, Administrative Officer A-92 Rajajipuram, Uttar Pradesh Avas Evar Vikas Parishad, Tal Katora Yojna, Lucknow, do hereby verify that the contents of paras 1 to 13 of this application are true to my personal knowledge and belief and that I have no suppressed any material facts.

Place: Lucknow:

Dated: 3/5/89

ANUJAY KRISHNA

SIGNATURE OF THE APPLICANT

Through

A. Mannan
Advocate
Counsel for the Petitioner/
Applicant

p22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT LUCKNOW

Original Appln. No. of 1989

Shri Anujay Krishna Petitioner

Versus

The President, Indian Council of
Agricultural Research, Krishi Bhawan,
New Delhi and another Opp-Parties

Annexure No.1

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAWAN NEW DELHI

No. 3-29/88-Per. V

Dated 4th May, 1988

O R D E R

WHEREAS Shri A. Krishna, Administrative Officer, C.I.R.C., Hakhdoom preferred an appeal dated 24th January, 1988 against the order No. 15-2/81-EE. VIII dated 10.1.87 by the Director, NDRI, imposing on him the penalty of withholding of two increments with cumulative effect for a period of three years.

Amrit Singh (Adv.)

WHEREAS the Appeal to Authority viz., the President, ICAR after careful consideration of facts circumstances of the case, has come to the conclusion that no new material or evidence has been brought out by Shri A. Krishna, in the Appeal, which was not available at the time of passing the order by the Disciplinary Authority. The President, ICAR is of the opinion that the Disciplinary Authority has not

Anujay Krishna

disagreed with the Inquiry Officer as mentioned in the Appeal there is no violation of principles of Natural Justice and that there is no violation of the prescribed procedure and as such there is no justification to interfere with the orders already passed by the disciplinary authority.

Now therefore the President, ICAR rejects the Appeal preferred by Shri A. Krishna.

(S. VASUDEV)
DIRECTOR (P)

for and on behalf of President, ICAR

Shri A. Krishna,
Administrative Officer,
Central Institute of Horticulture
for Northern Plains,
Near Bhootnath Mandir, Indira Nagar,
Lucknow (U.P.)

Copy forwarded to Dr. R.P. Srivastava, the
Director, Central Instt. of Horticulture for
Plains, near Bhoothnath Mandir, Indira Nag
Lucknow (U.P.)

2. Copy to C.R. Cell, ICAR Krishi Bhavan, N
3. Personnel III Section.
4. The Director, C.I.R.C., Makhdoom. Farrash
5. Vig. Section, ICAR.
6. Copy for guard file.

Endt. No. PA/88/1089

Dated: 11.

Copy to Mr. A. Krishna, Admin. Officer,
for information

Alleged
Ramesh Kumar Srivastava
(Advocate)

ANUJAY KRISHNA

17/11

In the Central Administrative Tribunal,
Circuit Bench at Lucknow

T.A. No. of 1989 (T)

Anujay Krishna Applicant/
Petitioner

Versus

The President, Indian Council of
Agricultural Research, Krishi Bhawan,
New Delhi. Opp-Parties

Annexure No.2

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAWAN, NEW DELHI -1

No.15-2/81-EE-VIII

Dated the 10th Dec, 1987

ORDER

WHEREAS an enquiry under Rule 14 of CCS
(CCA) Rules, 1965 as extended to ICAR employees,
was held against Shri A.Krishna, Administrative
Officer, C.I.R.C., Makhdoom, in respect of the
following Articles of charges framed against him
and communicated to him vide ICAR Memo. No. 15-2/
81-AS (S&G) dated the 19th May, 1984.

ARTICLES OF CHARGES

THAT the said Shri A.Krishna, while
functioning as Administrative Officer, at C.I.R.C.
Makhdoom during the year 1983 tampered with office
records regarding orders of the Director, CIRC, about

Alleged by
Ramesh Kumar Srivastava
Advocate

ANUJAY KRISHNA

the grant of study leave to Shri G.M.Wani and issued a corrigendum granting him study leave upto 5.12.1983 in lieu of 31.3.1983 without the approval of the competent authority and also in utter disregard of the Council (D.G.'s) orders not to grant extension of study leave of Shri Wani beyond 31.3.1983. Tampering with office records is a serious mis-conduct and by his said act, Shri A.Krishna has failed to maintain absolute integrity and shown lack of devotion to duty, He applicable to the ICAR employees.

WHEREAS the Inquiry Officer in his report held as under

"The body of evidences indicate that Shri A.Kris committed an irregularity by issuing a corrigendum granting Dr. G.M.Wani study leave upto December 5, 1983 in lieu of March 31, 1983 without obtaining an approval of the competent authority. He also disregarded the council's orders not to grant extension of study leave to Dr. Wani beyond the March 3, 1983. However, evidences suggest a possibility that his wrong act could be an outcome of undue pressure on him.

Furthermore, the available evidences prove that Shri Krishna actually tampered with the office records. In this regard, benefit of doubt."

WHEREAS the Director-General, after careful consideration of the Inquiry report (enclosed) and the records of inquiry

Answered by
Ramesh Kumar Srivastava
Advocate

ANUJAY KRISHNA

relevant facts, find that the documentary evidences are clear enough to prove that there has been a manipulation of records on the part of Shri A. Krishna by tampering with the notesheet of the relevant file in the G.I.R.C. Makhdoom.

NOW, THEREFORE, having regard to the findings of the Inquiry Officer as stated above and taking into consideration other relevant facts, records and circumstances of the case, the Director-General ICAR is satisfied that good and sufficient reasons exist for imposing on Shri A. Krishna, Administrative Officer, the penalty of withholding of two increments with cumulative effect for a period of three years.

ACCORDINGLY, a penalty of withholding of two increments with cumulative effect for a period of three years is imposed on Shri A. Krishna, Administrative Officer.

(C. R. Mo ARATRAO
DEPUTY SECRETARY (AS)

FOR AND ON BEHALF OF D. G. ICAR

Shri A. Krishna,
Administrative Officer,
Central Instt. of Horticulture for
Northern Plains
Near Bhoothnath Mandir, Indira Nagar,
Lucknow (U.P.)

REGISTERED POST/AD

CONFIDENTIAL

1. Copy forwarded to Dr. R. P. Srivastava
The Director Central Instt. of Horticulture for
Northern Plains, Near Bhoothnath Mandir, Indira
Nagar, Lucknow (U.P.) alongwith a copy of this

Allied by
Ramesh Kumar Srivastava
(Adm)

ANUJAY KRISHNA

Memorandum meant for Shri A. Krishna, Administrative Officer. It is requested that the same may please be get delivered to him after obtaining his date acknowledgement/signature which may please be forwarded to the undersigned.

ANUJAY KRISHNA 4.

- 2. Copy of CCR Dossier (Cr Cell), ICAR Krishi Bhavan, New Delhi-110001
- 3. Personnel-III Section.

The Director, CIRG, Makhdoom- Farrah, Mathura (U.P.)

(C. R. NOHAPATRA)
DEPUTY SECRETARY (AS)

FOR & ON BEHALF OF DG, I.C.A.R.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

(Registration No. 95 of 1989(L))

Anujay Krishna Applicant

Vs.

Union of India & Others Respondents

PT
10/10
Reply on behalf of the respondents to the application under section 18 of the Administrative Tribunal Act filed by the applicant above named.

Respectfully showeth :

1. That paras 1 to 4 are matter of records and hence need no reply.
2. That in reply to para 5 it is submitted that the final order rejecting the appeal of the applicant in this case was passed on 4.5.88. Hence according to the provisions made in Clause(a) of Sub-Section(1) of Section 21, the applicant should have filed the application within a period of one year from the date of final order as prescribed thereunder. The applicant has not shown sufficient cause for not making the application within a period of one year from 4.5.88 and hence the application deserves to be rejected on the ground of being barred by limitation alone.
3. That para 6(1) to 6(5) are matter of record.
4. That in reply to para 6(6) it is submitted that it is a mere repetition of charge levelled against the applicant. It is further submitted that the disciplinary action was initiated against the applicant as ordered by the competent authority i.e. the Director General, ICAR.
5. That in reply to para 8 it is submitted that on receipt of written statement of defence from the applicant denying the charges Dr. K.L. Saini was appointed as Enquiry Officer. Since Dr. Saini was transferred to Indian Veterinary Research Institute, Izatnagar, Sh. S.P. Mahrotra from CAZRI, Jodhpur was appointed as the Enquiry Officer in his place. However, a Sh. Mahrotra was on leave on medical ground and was hospitalized.

Before Central Administrative Tribunal
Circuit Bench at Lucknow

1829

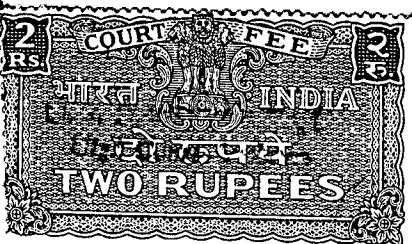
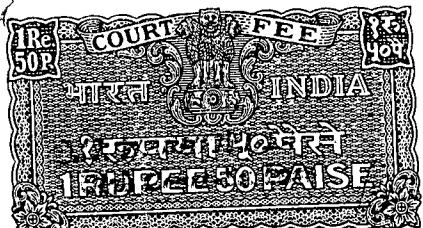
ब अदालत श्रीमान्

[गावी] वपीक्षान्त

प्रतिवादी (रेस्पाडेन्ट)

महोदय

वकालतनामा



बादी (अपीक्षान्त)

Anujay Krishna बनाम President Indian Council
of Agriculture Research,
प्रतिवादी (रेस्पाडेन्ट)
मं० मुकद्दमा सन् पेशी की ता० ११ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

A. Mannan, S. K. Srivastava, A. K. Chatterjee
R. K. Srivastava, B. S. Sinha ए महोदय
एडवोकेट

बनाम
अदालत
मुकद्दमा नं० ११
ताम फरारीका

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देही व प्रश्नोत्तर करें वा कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी बारो करावे और रुपया बसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जसा 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 मी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं वा किसी अपने परोक्तार को भेजता हूँ या अगर मुकद्दमा अदम पैरवी 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।

हस्ताक्षर Anujay Krishna

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

२५/८/१९

महीना

सन् १९

ई०

स्वीकृत

खलीखली

Dr. Lahiri, Head of the Division, CAZRI, Jodhpur was appointed as Enquiry Officer. It is further submitted that the request of the applicant to summon Sh. V.P. Kanwar as defence witness was not agreed because he had conducted preliminary enquiry in this case.

6. That in reply to para 10, it is submitted that the answering respondents ~~are~~ is not aware of any pressure exerted on the applicant. However, as admitted by him he has acted beyond his competence and he is not entitled for the benefit of doubt as contended by him at all because he has been found guilty by the Enquiry Officer of committing an irregularity by issuing corrigendum granting Dr. G.M. Wani study leaves upto 5.12.83 instead of 31.3.83, without obtaining approval from the competent authority. The Enquiry Officer has also found him guilty of disregarding the Council's order not to grant extension of study leave to Dr. Wani beyond 31.3.83. It is further submitted that in the disciplinary proceedings the standard of proof required is preponderance of probability and not the establishment of the guilt beyond reasonable doubt as in the criminal cases. In view of this the question of granting benefit of doubt to the applicant did not arise.

7. That Para 11 is denied, it is however, submitted that the evidence available on records is sufficient to prove the charge against the applicant.

8. That in reply to para 12 it is submitted that the orders to supply a copy of the Enquiry Report before passing the punishment order have been issued recently by the Govt. of India, Dept. of Personnel and Training vide letter no. 111012/13/85-Est.(A) dt. 26.6.89, copy enclosed Annexure R-I and this procedure was not applicable at the time when the penalty was imposed on the applicant.

9. That para 13 is admitted.

10. That in reply to para 14 it is submitted that the appeal submitted by the applicant was rejected by the President, ICAR after careful consideration of facts and circumstances of the case on the ground that no new material or evidence has been brought out by the applicant in the appeal, which was not available at the time of passing the order by the disciplinary authority. The President, ICAR was of the opinion that the disciplinary authority has not disagreed with

AB2

RECORDED
11/10/71

the Enquiry Officer as mentioned in the appeal that there is no violation of principles of natural justice and that there is no violation of prescribed procedure and as such there was no justification to interfere with the order already passed by the disciplinary authority. It would thus be seen that the order passed by the President, ICAR and authenticated by Sh. S. Vasudeva, Director(P) on his behalf is speaking order and not non-speaking one as alleged by the applicant. As for the allegation that Sh. V.P. Kanwar, was not summoned as defence witness and secondly that the Enquiry Officer exonerated the applicant, it is submitted that as already mentioned hereinabove Sh. Kanwar was not allowed to be examined as defence witness by the Enquiry Officer because he had conducted the preliminary enquiry in this regard and the latter allegation is denied being against the findings of the Enquiry Officer. It is further submitted that it was not obligatory to furnish the report of the preliminary enquiry to the petitioner because the same was a fact finding enquiry in order to decide whether a *prima facie* case was made out against the applicant or not?

11. That Para 7(I) to (XIV) need no reply in view of the submissions made hereinbefore.

12. It is further submitted that the Enquiry held against the applicant has been conducted in accordance with the procedure prescribed under the law and is perfectly valid, proper and legal.

In view of the submissions made above it is respectfully prayed that the applicant is not entitled for any relief prayed for by him in para 7. He is also not entitled for any interim relief as prayed for and the application deserves to be dismissed in limine with cost to the respondent.

Respondents through

B.N.Pd. Pathak

(B.N.Pd. Pathak)
Legal Adviser
I.C.A.R.
Krishi Bhavan
New Delhi.

Verification

Verified at New Delhi on 16th of August, 1989 that the reply in para 1 to 12 are true to my knowledge based on the facts derived from the ~~notices~~ ^{records} and no part of its is false and nothing has been concealed therefrom.

Respondents through

B.N.Pd. Pathak 16/8/89
(B.N.Pd. Pathak)
Legal Adviser
I.C.A.R.
Krishi Bhavan
New Delhi.

Annexure R-1

1934

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI -1

F.No. 21(28)/89-CDN

Dated the 29th July, 1989

ENDORSEMENT

A copy each of the undermentioned papers is forwarded for information, guidance and necessary action to all officers as mentioned below. The Directors of Research Institutes are requested to make available copy of orders/instructions to the staff side officials of the JCM of their Institute.

I. ICAR RESEARCH INSTITUTES ETC.:

1. The Directors/Project Directors of all Research Institutes.
2. The Project Coordinators of all Coordinated Research Projects.
3. The Accounts Officers of all Research Institutes/ Coordinated Projects.

II. ICAR HEADQUARTERS:

1. P.S. to President, ICAR
2. P.S. to D.G., ICAR/P.S. to Spl. D.G., ICAR/P.S. to Chairman, ASRB/P.S. to Secretary, ICAR
3. All Officer, ICAR
4. All Sections, ICAR
5. Under Secretary (Pub.) for publication division (15 copies)
6. A.S.R.B. (15 copies)
7. D.A.R.E. (10 copies)
8. Secretary (non-official) Central Joint Staff Council (5 copies)
9. The Section Officer, Engineering Cell, Krishi Anusandhan Bhawan, Pusa, New Delhi-12.
10. The Information System Officer, Agricultural Research Information Centre, Krishi Anusandhan Bhawan, Pusa, New Delhi-12.


(N. SOMAN)
DEPUTY DIRECTOR (CDN)

LIST OF PAPER FORWARDED:

O.M. No. 11012/13/85-Estt. (A) dated 26th June, 1989 received from the Department of Personnel and Training

MS

17.7.89

450

COPY

No. 11012/13/85-Estt. (A)
Government of India
Department of Personnel & Training

North Block, New Delhi-110001
Dated the 26th June, 1989.

OFFICE MEMORANDUM

Subject:- Rule 15 of CCS(CCA) Rules, 1965-Supply of copy of inquiry report to the accused Government servant before final orders are passed by the disciplinary authority.

1. The undersigned is directed to state that the issue as to whether in cases, where the disciplinary authority itself is not the inquiry officer, a copy of the inquiry report should be furnished to the accused Government servant to enable him to make his submissions, if any, before the disciplinary authority in regard to the findings of the report, before such authority passes its final orders, has been examined. The constitutional requirements laid down in Article 311 (2) of the Constitution of India, and the provisions of Rule 15 and 17 of the CCS(CCA) Rules, 1965 and rulings of the various benches of the Central Administrative Tribunal and of various courts on the matter have been kept in view.

2. The full bench of the Central Administrative Tribunal in the case of Prem Nath Sharma Vs. Union of India (represented by Ministry of Railways) have held that to fulfil the constitutional requirement of affording a reasonable opportunity, it is necessary that in all cases where the disciplinary authority is itself not the inquiry authority, a copy of the inquiry report shall be furnished to the accused Government's servant to enable him to make his submissions in regard to the findings of the inquiry, before the disciplinary authority passes its order imposing the penalty. While giving its verdict, the full bench had taken into account rulings of the various courts pronounced earlier on this issue. Although the special leave petition filed by the Ministry of Railways against the aforesaid judgement has been admitted for hearing and a stay order has been granted by the Supreme Court against its operation, the various benches of the Tribunal continue to follow the ratio laid down by the full bench. The special leave petitions filed by the concerned Ministries and Departments in some of the subsequent cases have not been admitted by the Supreme Court. In another similar

Before Central Administrative Tribunal
Bench at Lucknow

Rejoinder Affidavit of Shri Anujay Krishna, son of
Shri Krishna Sahai Saxena, aged about 55 years,
resident of A-92 Rajaji Puram, Lucknow.

In

Registration No. 95 of 1989 (L)

Shri Anujay Krishna Petitioner
Versus
Union of India & others.

Rejoinder Affidavit of Shri Anujay
Krishna, son of Shri Krishna Sahai, Saxena, resident
of A-92, Rajaji Puram, Lucknow.
..... deponent.

I aforesaid deponent hereby solemnly
affirm and state on oath as under :-

That the deponent is the petitioner in
the above noted case and as such he is fully
conversant with the facts deposed to herein below :-

1. That the deponent has read over the
contents of counter reply signed by Shri B.N. Pathak,
Legal Adviser, Indian Council of Agricultural Research
New Delhi, are denied unless expressly admitted
herein after. It is submitted that Shri B.N. Prasad
Pathak Legal Adviser is not a party in the aforesaid
case and he could not file reply under his signatures
and he is not competent to sign the reply on behalf of

Shri Anujay Krishna

the opposite parties. It is submitted that the reply filed by Shri B.N. Pathak is liable to be rejected and case be proceeded Ex-Parte against the opposite party.

2. That contents of para 1 to 4 of the petition are reiterated.
3. That the contents of para 2 of the counter affidavit are denied. It is pertinent to mention here that under provision clause (a) of Sub-section (1) of section 21, the application should have been filed within a period of one year from the date of final order. It is here to be stated that the present application has been filed within time because the appeal of the applicant was rejected by the opposite parties on 4.5.1988 and application has been filed on 3.5.1989. So the application is within time and may not be rejected on this ground.
4. That the contents of para 3 of the counter affidavit are denied and contents of para 6 (i) to 6(v) of the application are reiterated as correct.
5. That the contents of para 4 of the counter affidavit are denied. It is here to be stated that order of punishment, findings of the punishing authority as well as enquiry officer

M. S. Krishnan
(ANUJAY KRISHNA)

and order of appellate authority are perverse and the available evidence, which are on record if any does not prove any case against the petitioner. Appellate order as well as punishment order have been passed without application of mind and are non-speaking order and against the provision of natural justice as well as against the rule of 14, 15 and 17 of C.C.A. (C.C.S.) rules.

6. That the contents of para 5 of the counter affidavit are denied and contents of para 8 of the application are reiterated as correct. It is pertinent to mention here that applicant ~~has~~ also demanded Shri V.P. Kunwar as defence witness because he had full knowledge of the case of the applicant but Inquiry Officer ~~has~~ in very casual manner arbitrary and illegally denied to summon Mr. V.P. Kunwar as defence witness. It is again pointed out that arbitrary denied of the defence witness Shri V.P. Kunwar is violative of the principle of natural justice.

7. That the contents of para 6 and 7 of the counter affidavit are denied and contents of para 10 and 11 of the application are reiterated as correct. That is pertinent to mention here that no inquiry report has been given to the applicant before passing the order however by the officer ^{the applicant} has been exonerated. Inquiry has very clearly held that the application was beyond his jurisdiction and that it was not within his jurisdiction and that he has been exonerated.

officer held that available evidence do not prove that the applicant actually tampered with the office record. Thus it is now crystal clear that the punishment order as well as appellate order both are non-speaking order and once applicant has been exonerated by the Inquiry Officer then before passing the punishment order, the applicant should have been given an opportunity to place his submission before the authority which could have been only possible if Inquiry Report would have been made available prior passing the punishment order to meet the ends of justice.

8. That in reply to the contents of para 8 of the counter affidavit ^{by} are denied and contents of para 12 of the application are reiterated as correct. Further it may be pointed out that applicant has not been given enquiry report before passing the punishment order nor applicant was given any opportunity to make any submission before the punishing authority pertaining in the enquiry report and his defence, if at all punishment order was to be passed. It is pertinent to mention here that their lordship of the Supreme Court held in the case of Union of India Vs. Bashyan A.I.R. 1988 S.C. Page 1000 that before passing the punishment order enquiry report should be given to delinquent and if the same has not been done naturally it will be the ~~violation~~ of natural justice.

Yashwant
(ANUJAY KRISHNA)

9. That in reply to the contents of para 10 of the counter affidavit ^{it is} are denied and contents of para 14 of the application are reiterated as correct. It may be pointed out that appeal of the applicant was rejected by the president by non-speaking order signed for and on behalf of the president by Shri S. Vasudeva in violation of the C.C.S. Rule 27 Sub-rule (2) and Govt. of India's decisions. A copy of the Govt. of India decisions and rule 27 Sub-rule (2) is being annexed as Annexure No. R-1 and R-2 of this rejoinder affidavit. It may be further pointed out that appellate order is in violation of C.C.A. (C.C.S.) Rules and against the provision of natural justice. That under section 27 of the C.C.A. Rules it has been very clearly provided that appellate order will be speaking order and all the grounds and evidence which have been raised in appeal by the applicant should have been discussed in the order by the appellate authority. Thus in view of Section 27 of the C.C.S. Rules, appellate order is not speaking order and punishment order has been passed without giving any opportunity ^{but} on the basis of records, evidence and circumstances, if any which were not brought out by the prosecution officer for and on behalf of the punishing authority during the enquiry and thus is an act at the back of the delinquent and it is also the violative of the natural justice.

Anujay Krishna
(ANUJAY KRISHNA)

10. That in reply to the contents of para 11 of the counter affidavit ^{by} are denied and contents of para 13 and 14 and the grounds of the petition are reiterated as correct.

11. That the contents of para 12 of the Counter affidavit are denied and the application is full of merits and deserve to be allowed in the interest of justice.

Dated: Lucknow:
16-11-90
~~October, 1989~~

M. Krishnan
(ANUJAY KRISHNAN)
Deponent

Verification

I the above named deponent do hereby verify that the contents of paras 1 to 11 of the affidavit are true to my own knowledge. Nothing is wrong in it and nothing material has been concealed so help me God.

Dated: Lucknow:
16-11-90
~~October, 1989~~

M. Krishnan
(ANUJAY KRISHNAN)
Deponent

I know the above named deponent, identify him and he has signed before me.

Dated: Lucknow:
16-11-90
~~October, 1989~~

Asit Kumar Chaturvedi
Adv
Clerk to Shri A. Mannan, advocate

(I) Self-contained, speaking and reasoned order to be passed and to issue over signature of prescribed disciplinary/appellate reviewing authority:- As is well known and settled by courts, disciplinary proceedings against employees conducted under the provisions of C.C.S. (C.C.A.) Rules, 1965, or under any other corresponding rules, are quasi-judicial in nature and as such, it is necessary that orders in such proceedings are issued only by the competent authorities who have been specified as disciplinary/appellate/reviewing authorities under the relevant rules and the orders issued by such authorities should have the attributes of a judicial order. The Supreme Court, in the case of *Mahavir Prasad v. State of U.P.* (A.I.R. 1970 S.C. 1302) observed that recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy or reached on ground of policy or expediency. The necessity to record reasons is greater if the order is subject to appeal.

2. However, instances have come to the notice of his this Department where the final orders passed by the competent disciplinary/appellate authorities do not contain the reasons on the basis whereof the decisions communicated by that order were reached. Since such orders may not conform to legal requirements, they may be liable to be held invalid, if challenged in a court of law. It is, therefore, impressed upon all concerned that the authorities exercising disciplinary powers should issue self-contained, speaking and reasoned orders conforming to the aforesaid legal requirements.

3. Instances have also come to notice where, though the decisions in disciplinary/appellate cases were taken by the competent disciplinary/ appellate authorities in the files, the final orders were not issued by that authority but only by a lower authority. As mentioned above, the disciplinary/appellate/reviewing authorities exercise quasi-judicial powers and as such, they cannot delegate their powers to their subordinates. It is, therefore, essential that the decisions taken by such authorities are communicated by the competent authority under their own signatures, and the order as issued should comply with the legal requirements as indicated in the preceding paragraphs. It is only in those cases where the President is the prescribed disciplinary/appellate/reviewing authority and where the Minister concerned has considered the

T. C.
Atit Kumar Chaturvedi

Amulya Krishnan

case and given his orders that an order may be authenticated by an officer, who has been authorised to authenticate orders in the name of the President.

In spite of the above instructions it has come to notice that speaking orders are not issued while passing final orders in disciplinary cases. It has been essential legal requirement that, in the case of decisions by quasi-judicial authorities, the reasons should be recorded in support thereof. As orders passed by disciplinary authorities are in exercise of quasi-judicial powers. it is necessary that self-contained, speaking and reasoned orders should be issued while passing final orders in disciplinary cases.

(Govt. of India, Ministry of Home Affairs)
(Administrative Reforms)
(Administrative Reforms)

G.I.M.H.A, Deptt of Personnel & A.R. O.M.

No. 134/1/81-ADK-I dated the 13th July 1981.

Aranyak Krishnan

T.C

Abit Kumar Chaturvedi
Addo

R-2

Annexure R-2

Sub-rule (2) of Rule 27 clearly lays down that the appellate authority shall consider:-

- (a) whether the procedure laid down in the C.C.S. (C.C.A) Rules has been complied with and if not whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) whether the findings of the disciplinary authority are warranted by the evidences on the record; and
- (c) whether the penalty is adequate, inadequate or severe.

Thus the rule requires that even if the appellant has not brought out any new points in the appeal, it is obligatory on the part of the appellate authority to discuss how there has been no procedural flaw or denial of opportunity of defence and that the findings of the disciplinary authority are based on evidence and are just. This is rarely done and the result is obvious. It has also created a feeling (though may not be quite correct) that the decisions of the appellate authority are arbitrary and summary in nature. The appellate authorities should bear this in mind and issue the appellate orders in such a way that such unjust feelings or impressions are not created. This is possible only if the appellate orders discuss thoroughly the following points:-

- (i) the procedural aspects as well as the justness of the findings of the disciplinary authority with reference to the admissible evidence;
- (ii) a proper discussion of the points raised in the appeal; and
- (iii) any objective assessment of the lapse on the part of the punished official with a view to coming to a decision that the charge(s) had been established and that the penalty is appropriate/adequate and does not require to be either toned down or enhanced.

Amayay & Vishwa

T. C.
Brij Kumar Chaturvedi
Adv.

before Central Administrative Tribunal

Branch at Lucknow

Rejoinder affidavit of Shri Anujay Krishna, son of Shri Krishna Jethi Verma, aged about 55 years, resident of No. 92, Rojaji Puram, Lucknow.

In

Registration No. 95 of 1989 (L)

Shri Anujay Krishna petitioner

versus

Union of India & others.

Rejoinder affidavit of Shri Anujay Krishna, son of Shri Krishna Jethi Verma, resident of No. 92, Rojaji Puram, Lucknow.

..... deponent.

I, Anujay Krishna, do solemnly affirm and state as follows under :-

That the deponent is the petitioner in the above noted case and as such he is fully conversant with the facts deposed to herein below :-

1. That the deponent has read over the contents of counter reply signed by Shri B. S. Chaturvedi, Legal Advisor, Indian Council of Agricultural Research, New Delhi and denied unless expressly admitted herein after. It is submitted that Shri B. S. Chaturvedi Legal Advisor is not a party in the aforesaid case and he could not file reply under his signatures and he is not competent to sign the reply on behalf of

the opposite parties. It is submitted that the reply filed by Shri S.N. Pathak is liable to be rejected and case be proceeded *Ex-Carte* against the opposite party.

2. That contents of para 1 to 4 of the petition are reiterated.

3. That the contents of para 2 of the counter affidavit are denied. It is pertinent to mention here that under provision clause (a) of Sub-section (1) of section 21, the application should have been filed within a period of one year from the date of final order. It is here to be stated that the present application has been filed within time because the appeal of the applicant was rejected by the opposite parties on 4.5.1988 and application has been filed on 3.5.1989. so the application is within time and may not be rejected on this ground.

4. That the contents of para 3 of the counter affidavit are denied and contents of para 6 (1) to 6(v) of the application are reiterated as correct.

5. That the contents of para 4 of the counter affidavit are denied. It is here to be stated that order of punishment, findings of the punishing authority as well as enquiry officer

and order of appellate authority are perverse and the available evidence, which are on record if any does not prove any case against the petitioners. Appellate order as well as punishment order have been passed without application of mind and are non-speaking order and against the provision of natural justice as well as against the rule of 14, 15 and 17 of Subordinate Courts rules.

6. That the contents of para 5 of the counter affidavit are denied and contents of para 6 of the application are reiterated as correct. It is pertinent to mention here that application also demanded that Mr. Munwar as defence witness be given full knowledge of the case of the applicant and Inquiry Officer have in very essential manner arbitrary and illegally denied to summon Mr. Munwar as defence witness. It is again pointed out that arbitrary denial of the defence witness Mr. Munwar is violative of the principle of natural justice.

7. That the contents of para 6 and 7 of the counter affidavit are denied and contents of para 10 and 11 of the application are reiterated as correct. It is pertinent to mention here that no inquiry report is been given to the applicant before passing the order however by the inquiry ^{been exonerated} ~~been exonerated~~ Inquiry Officer has earlier has very clearly held that petitioner acted beyond his jurisdiction due to the pressure exerted on him and therefore the applicant is entitled to the benefit of counsel and again enquiry

officer held that available evidence do not prove that the applicant actually tampered with the office record. Thus it is now crystal clear that the punishment order as well as applicants order both are non-speaking order and once applicant has been exonerated by the Inquiry Officer then before passing the punishment order, the applicant should have been given an opportunity to place his submission before the authority which could have been only possible if Inquiry Report would have been made available prior passing the punishment order to meet the ends of justice.

8. That in reply to the contents of para 8 of the counter affidavit are denied and contents of para 12 of the application are reiterated as correct. Further it may be pointed out that applicant has not been given enquiry report before passing the punishment order nor applicant was given any opportunity to make any submission before the punishing authority pertaining in the enquiry report and his defence if at all punishment order was to be passed. It is pertinent to mention here that their lordship of the Supreme Court held in the case of Union of India Vs. Baslyan A.I.R. 1988 S.C. Page 1000 that before passing the punishment order enquiry report should be given to delinquent and if the same has not been done naturally it will be the violation of natural justice.

10. That in reply to the contents of para 11 of the counter affidavit are denied and contents of para 13 and 14 and the grounds of the petition are reiterated as correct.

11. That the contents of para 12 of the Counter affidavit are denied and the application is full of merits and deserve to be allowed in the interest of justice.

Dated: Lucknow:

October , 1989

Deponent

Verification

I the above named deponent do hereby verify that the contents of para 1 to 11 of the affidavit are true to my own knowledge. Nothing is wrong in it and nothing material has been concealed to help me out.

Dated: Lucknow:

October , 1989

Deponent

I know the above named deponent, identify him and he has signed before me.

Dated: Lucknow:

October , 1989

Clerk to Shri A. Mannan, Advocate

9. That in reply to the contents of para 10 of the counter affidavit are denied and contents of para 14 of the application are reiterated as correct. It may be pointed out that appeal of the applicant was rejected by the president by non-specific order signed for and on behalf of the president by Shri S. Venkatese in violation of the section 27 sub-rule (2) and Govt. of India's decisions. A copy of the Govt. of India decisions and rule 27 sub-rule (2) is being annexed as Annexure No. A-1 and A-2 of this rejoinder affidavit. It may be further pointed out that appellate order is in violation of section 27 sub-rule (2) and against the provision of natural justice. That under section 27 of the U.C.C. rules it has been very clearly provided that appellate order will be speaking order and all the grounds and evidence which have been raised in appeal by the applicant should have been discussed in the order by the appellate authority. Thus in view of section 27 of the U.C.C. rules, appellate order is not speaking order and judgment order has been passed without giving any opportunity on the basis of records, evidence and circumstance if any which were not brought out by the prosecution officer for and on behalf of the punishing authority during the enquiry and this is an act at the back of the delinquent and it is also the violative of the natural justice.

10. That in re.ly to the contents of para 11 of the counter affidavit are denied and contents of para 13 and 14 and the grounds of the petition are reiterated as correct.

11. That the contents of para 12 of the Counter affidavit are denied and the application is full of merits and deserve to be allowed for the interest of justice.

Dated: Lucknow:

October , 1989

Deponent

Verification

I the person named deponent do hereby verify that the contents of para 1 to 11 of the affidavit are true to my own knowledge. Nothing is wrong in it and nothing material has been concealed so help me god.

Dated: Lucknow:

October , 1989

Deponent

I know the above named deponent, identify him and he has signed before me.

Dated: Lucknow:

October , 1989

Clerk to Shri A. Mannan, Advocate

(I) Self-contained, speaking and reasoned order to be passed and to issue over signature of prescribed disciplinary/appellate reviewing authority:- As is well known and settled by courts, disciplinary proceedings against employees conducted under the provisions of C.C.S. (C.C.A.) Rules, 1965, or under any other corresponding rules, are quasi-judicial in nature and as such, it is necessary that orders in such proceedings are issued only by the competent authorities who have been specified as disciplinary/appellate/reviewing authorities under the relevant rules and the orders issued by such authorities should have the attributes of a judicial order. The Supreme Court, in the case of *Malavir Prasad v. State of U.P.* (A.I.R. 1970 S.C. 1302) observed that, recording of reasons in support of a decision by a quasi-judicial authority is obligatory as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy or reached on ground of policy or expediency. The necessity to record reasons is greater if the order is subject to appeal.

2. However, instances have come to the notice of this Department where the final orders passed by the competent disciplinary/appellate authorities do not contain the reasons on the basis whereof the decisions communicated by that order were reached. Since such orders may not conform to legal requirements, they may be liable to be held invalid, if challenged in a court of law. It is, therefore, impressed upon all concerned that the authorities exercising disciplinary powers should issue self-contained, speaking and reasoned orders conforming to the aforesaid legal requirements.

3. Instances have also come to notice where, though the decisions in disciplinary/appellate cases were taken by the competent disciplinary/appellate authorities in the files, the final orders were not issued by that authority but only by a lower authority. As mentioned above, the disciplinary/appellate/reviewing authorities exercise quasi-judicial powers and as such, they cannot delegate their powers to their subordinates. It is, therefore, essential that the decisions taken by such authorities are communicated by the competent authority under their own signatures, and the order as issued should comply with the legal requirements as indicated in the preceding paragraphs. It is only in those cases where the President is the prescribed disciplinary/appellate/reviewing authority and where the Minister concerned has considered the

case and given his orders that an order may be authenticated by an officer, who has been authorised to authenticate orders in the name of the President.

In spite of the above instructions it has come to notice that speaking orders are not issued while passing final orders in disciplinary cases. It has been essential legal requirement that, in the case of decisions by quasi-judicial authorities, the reasons should be recorded in support thereof. As orders passed by disciplinary authorities are in exercise of quasi-judicial powers, it is necessary that self-contained, speaking and reasoned orders should be issued while passing final orders in disciplinary cases.

(Govt. of India, Ministry of Home Affairs)
(Administrative Reforms)
G.I. M.H.A, Deptt of Personnel & A.R. O.M.
No. 1341/81-ADX-I dated 13th July 1981.

A.M

Sub-rule (2) of Rule 27 clearly lays down that the appellate authority shall consider:-

- (a) whether the procedure laid down in the C.C.S. (C.C.A) Rules has been complied with and if not whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) whether the findings of the disciplinary authority are warranted by the evidences on the record; and
- (c) whether the penalty is adequate, inadequate or severe.

Thus the rule requires that even if the appellant has not brought out any new points in the appeal, it is obligatory on the part of the appellate authority to discuss how there has been no procedural flaw or denial of opportunity of defence and that the findings of the disciplinary authority are based on evidence and are just. This is rarely done and the result is obvious. It has also created a feeling (though may not be quite correct) that the decisions of the appellate authority are arbitrary and summary in nature. The appellate authorities should bear this in mind and issue the appellate orders in such a way that such unjust feelings or impressions are not created. This is possible only if the appellate orders discuss thoroughly the following points:-

- (i) the procedural aspects as well as the justness of the findings of the disciplinary authority with reference to the admissible evidence;
- (ii) a proper discussion of the points raised in the appeal; and
- (iii) any objective assessment of the lapse on the part of the punished official with a view to coming to a decision that the charge(s) had been established and that the penalty is appropriate/adequate and does not require to be either toned down or enhanced.

Registered A/D

O/C B/1

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

Gandhi Bhawan, Opp. Residency
Lucknow - 226 001

(Registration No. 95 of 1987)(1)

No.CAT/LKO/Jud/CB/ 1834 + 1536 dated 17.7.89

Anujay Krishner APPLICANT(S)

VERSUS

Union of India

RESPONDENT(S)

Please take notice that the applicant above named has prescribed an application a copy whereof is enclosed herewith which has been registered in this Tribunal and has fixed 18 day of 8 1989 for hearing on said date.

If, no appearance is made on your behalf, your pleader or by some one duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 17 day of 7 1989.

Dinesh

Dinesh
For DEPUTY REGISTRAR

To

① Union of India through President of India, Central Board of Statistics, New Delhi

② The President, Indian Council of Agricultural Research, New Delhi

③ The Director, Council of Indian Institute of Agricultural Research, New Delhi

Enclosed copy of order dt 7.7.89
dated this on -

Central Administrative Tribunal
Lucknow Bench, Lucknow.

M.P. 90/93
in
O.A.No. 95/89 (L)

Anujay Krishna ----- Applicant.
versus

Union of India & others. ---- Respondents.

DATED : ~~05/02/93~~ 04-02-1993.

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

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

This is an application for extension of time to complete the inquiry in terms of the judgment and order dated 27-8-1992. Taking into consideration the application, time is extended upto 31st March 1993 beyond which no time ~~is~~ extension shall be granted. It was only short matter which is to be disposed of by the respondents,

but the respondents are delaying the matter unnecessarily while the applicant has already retired from service.

sd/-
A=M.
sd/-
V.C.

Behandlungen 4/3

Fixado 6/4/93

189/93

Latin

१५८२ रमेश

३५१२

କିମ୍ବା କୋ ଫିଲ୍ମ୍ସିନ୍ସର ପାଇଁ

2093

Point:- OA No 95 of 89 INRE M.P. No 90 of 1993 ~~17/1~~
के दिन 6/2/93 के आदेश के सहित इसके अलावा
के संबंध में जानकारी

ମାତ୍ରାମାତ୍ରା

3422 अ० १९९२ २७.८.९२ ३१३२८

पांडित श्री देवेश वा-पर्शुराम अंडेरा के विवर के
प्रतिशब्द के बारे में ~~प्राची~~ प्राची के उक्त वाच में अंडरा के पात्राना
सम्म बदली के लिए अंडेरा आदलय के संक्षेप-प्रश्न
की विस्तृत M.P No 90 of 1993 है।

બુન્દી શી માનવી આજ કુમણી રિમ.ર નં.૧૦-૧૩૫
~~બુન્દી~~ પારી આદેર વી સુન્દર પ્રાચીન માધ્યમ
ની રૂપોત્તમાન એવી એવી પ્રાચીન રૂપોત્તમાન કે આદેર એવી

क्रियालय साह ने विद्यार्थी
रोपन के लिए नियम बनाये

No 420450523 = 5/oo only

113793

11

ग्रन्थ

କୁରୁକ୍ଷେତ୍ର ପିଲାଗାସିଙ୍କ ପାଇଁ
ମୁଖ ଶିଳ୍ପ କେନ୍ଦ୍ର, ପିଲାଗାସିଙ୍କ
୧୯୬୫