

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 126 OF 1989

NAME OF THE PARTIES Intizar Hussain Applicant

Versus

..... @ Supp. of Post Officer Sitapur Respondent

Part A.

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CERTIFICATE

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

Dated ..13/6/2011 File B/C destroyed on 09.5.12

Counter Signed.....

Section Officer/In charge

Signature of the
Dealing Assistant

Central Administrative Tribunal
Lucknow Bench

Cause Title OA 126/89d of 1993

Name of the Parties Intizar Hussain Applicant

Versus

Superintendent of Post Office Respondents.

Part A. B.C

Sl. No.

Description of documents

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Check List

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final Judgement. Dated: 29.1.93

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Petition Copy

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CM NO 182/89
Dated: 28/6/89

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Chaitanya
and
11/2/93

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

A1
Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing: 5.6.1989
Date of Entry in Register: _____

Deputy Registrar (J)

Registration No. 126 of 1989 (L).

APPLICANT(S) Imtiaz Hussain

RESPONDENT(S) Union of India

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 ?	only 2 sets have been filed. yes. unless filed today
3. a) Is the appeal in time ?	yes
b) If not, by how many days it is beyond time?	NA
c) Has sufficient case for not making the application in time, been filed?	NA
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 999134/11 to 999138/11 RS 50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	yes
c) Are the documents referred to in (a) above neatly typed in double space ?	yes
8. Has the index of documents been filed and paging done properly ?	yes
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?	yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	NO

A2

Particulars to be Examined

Endorsement as to result of examination

1st 2 Copies Signed

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

yes

yes

—

NO

NA

yes

NA

yes

yes

yes

yes

yes

yes

dinesh/

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

8/6/89

Heard the learned counsel for the applicant.

Admit. Issue notice to Opp. Parties returnable by 11-7-89. There is also⁹ prayer for interim relief, issue notice to Opp. Ps. to reply by the same date, why the prayer for interim relief be not allowed. List this case on 11-7-89 for orders.

MEMBER (A)

(sns)

11.7.89Hon. D.K. Agrawal - FM

Learned Counsel for the respondents filed counter affidavit. Learned counsel for the applicant wants time to file rejoinder. Let rejoinder be filed within ten days. Fixed 29.9.89 for final hearing.

Member (J)

O/R
12/6/89

Notices issued to opposite parties by Regd. post

12/6

OK
C.O. No. 182/89(L)
application for implied amendment has been filed. No notice has been returned back so far after service submitted for order.

OK
No rejoinder has been filed by the learned counsel for the applicant.

The learned counsel for the applicant has filed C.M. No. 102/04(L) for amendment submitted for order.

on 126-092

AS

29/1/90

Hon. Justice K. Nuth, VC.
Hon. K. J. Raman, Am.

The amendment has not been incorporated despite opportunities. No one is present on behalf of the applicant. The amendment allowed by the order dated 29-5-89 is therefore revoked. Rejoinders, if any, may be filed within three weeks and the case be listed for final hearing on 26/3/90.

VC

Am.

VC

VC

R

26-3-90

No sitting adj to 31-10-90

26/3.

31-10-90

Due to Holiday case is Adjourned to 2.1.90.

2.1.91

No sitting Adj to 15.3.91

15.3.91

No Sitting Adj to 22.5.91

23.5.91

No Sitting Adj to 4.9.91

No RA filed
to
OK

AD

4.9.91

D. R.

Respondent's side is present. Applicant to file Rejoinder by 18/11/91.

R

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH : LUCKNOW

47

ORDER SHEET NO.

O.A./T.A No 126/89

OFFICE REPORT

DATE /

ORDER

24.11.92
D.R

Rejoinder has not been
filed. Applicant is directed
to file rejoinder by 20.1.93.

20.1.93

Rejoinder has
not been filed yet.
Place before the
Hon. B. B. Sen on
20.1.93. R

on
24.11.92
D.R
20.1.93

A8

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 126 of 1989(L)

Intizar Husain Applicant

Versus

Superintendent of Post Office, Sitapur

Division Sitapur and others Respondents

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

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

(By Hon'ble Mr. Justice U.C.Srivastava, VC)

This application is directed against the charge-sheet dated 13.1.1989. The applicant has prayed for quashing of the same. He was sub-post Master at the post office of Rampur Mathura in Sitapur. After having been appointed to the said post after getting certain promotions On inspection by the S.P.O., it was said that a sum of Rs. 10,000/- were said to have not been found in the cash box. The applicant has requested that he may be permitted to find out the relevant Voucher to show the payment to meet the said alleged shortage, but he was not allowed to do so. Later on, it is found out that because of erroneous calculation in the daily account, the said shortage of ten thousands was said to be existing, which was removed. Subsequently, again it was said that the shortage of Rs. 36899.42 was found by the said S.P.O. when the locks were broken on 11.8.1987 at 6.10 P.M. Although, according to the applicant, he was on leave w.e.f. 10.8.1987 to 18.8.87. The case, under section 409 I.P.C. was filed against the applicant, which is said to be pending in the Court of Chief Judicial Magistrate from where, the applicant was ~~bailed~~ bailed out. Against the recovery, which was made against him, the applicant filed a writ petition before the High

Contd..2/-

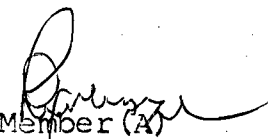
A9

:: 2 ::

Court and the said recovery was stayed by the High Court. It was thereafter, the departmental proceedings started and the charge-sheet was served upon the applicant and in respect of which, this application has been filed on the ground that no departmental proceedings can be conducted during the criminal prosecution and the said departmental proceeding will be prejudice his case.

2. The respondents in their return pointed out that the various illegalities said to have been committed by the applicant who has also committed certain criminal offences.

It has been pointed out that the criminal cases going on at the instance of the police, but as the department was within its own rights to hold departmental proceedings. Only a charge-sheet was issued against the applicant, obviously, no interference at this stage can be made and the departmental proceeding can not be stayed and the application is somewhat premature. It is for the applicant to approach the criminal court, that the departmental proceedings in the mean time may be concluded and we at this stage will not make any observations in this behalf. In view of the fact that the application is against the charge-sheet and the departmental proceedings have commenced, which have not gone and may be, because of the applicant's own act. Accordingly, the application deserves to be dismissed and it is dismissed. We make also no observations regarding the pendency of the writ petition before the High Court. It is for the parties to decide their own course in the matter. No order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 29.1.1993.

(RKA)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ADDITIONAL
BENCH ALLAHABAD.

Intizar Husain Applicant

Versus

Superintendent of Post Officer,
Sitapur and another Respondents

I N D E X

S.No.	Particulars	Pages
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2.	Annexure No. 1 True copy of the chargesheet	13 - 14
3.	Annexure No. 2 True copy of question and answer dated 18.1.1989 for C.J.M.Sitapur. 20	25
4.	Annexure No. 3 True copy of application dt. 21	26
5.	Annexure No. 4 Letter True copy of the application dt. 22-23 25-5-89	22-23
6.	Power	24

Lucknow:Dated:

June
May 5, 1989

(ISHTIAQ AHMAD)
ADVOCATE
COUNSEL FOR APPLICANT

A10 (1)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985

For use in Tribunal's Office:

Date of filing 5.6.1985

Date of receipt by post

Registration No. O.P. No. 186/89 (12)

SIGNATURE REGISTERAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ADDITIONAL
BENCH ALLAHABAD.

BETWEEN

Intizar Husain aged about 48 years,
son of Mirza Imtiaz Husain, resident of
Mohalla Bazadari Tola Qasba Khairabad,
Distt. Sitapur, U.P.

..... Applicant

Versus

1. Superintendent of Post Office,
Sitapur Division Sitapur.
2. Assistant Superintendent of Post Offices,
(Tours) Sitapur Division, Sitapur.

..... Respondents

Details of application :

1. Particulars of the applicant:

(i) Name of the applicant:

Intizar Husain.

(ii) Name of Father:

Sri Mirza Imtiaz Husain

(iii) Designation and office in which employed:

Sub-Post Office Master at Sub-Post Office Rampur
Mathura Distt. Sitapur.2/

Ansari

(iv) Office address :

Sub Post Office at Rampur Mathura Distt. Sitapur.

(v) Address for service of all notices:

Resident of Bajdari Mohalla Qasba

Khairabad Distt. Sitapur, U.P.

2. Particulars of the respondent :

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

(a) The Superintendent of Post Offices, Sitapur
Division, Sitapur,

(b) Assistant Supdt. of Post Office (Tours)
Sitapur,

(ii) Office address of the respondent:

(a) Office of the Supdt. of Post Offices,
Sitapur Division, Sitapur,

(b) Assistant Supdt. of Post Offices (Tours)
Sitapur.

(iii) Address for service of all notices:

(a) Office of the Supdt. of post Office,
Sitapur Division, Sitapur.

(b) Assistant Supdt. of Post Offices (Tours)
Sitapur.

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

The application is against the following order:

(i) Order No..... F-10/87-88

(ii) Date..... 13.1.1989

(iii) Passed by... The Supdt. of Post Offices
Sitapur Division, Sitapur.

(iv) Subject in brief:

The applicant is sub-post Master at Sub-

M. S. Sam

12 ✓ (3)

Post Office Rampur Mathura, the respondent no. 1 charged to the applicant with the alleged mis-appropriation of Govt. Money of Rs. 46899.42 and filed a criminal case u/s 409 I.P.C. which is still pending in the court of Chief Judicial Magistrate, Sitapur, in the meantime the respondent has initiated departmental enquiry and has served upon the applicant a charge sheet vide office memo no. F-10/87-88 dated 13.1.1989 and departmental proceedings are continuing.

4. Jurisdiction of the Tribunal:

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

5. Limitation :

The application further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act 1985.

6. Facts of the case :

- 1) That the applicant is sub-post master at Post Office of Rampur Mathura in Distt. Sitapur.
- 2) That the applicant was appointed as packer on 12.6.1960 at Post Office Khairabad, Distt. Sitapur, and so has since been promoted twice to his present post and during his long career in the Post Office of about 28 years, the services of the applicant have been all along spotless and blameless and he has been a most trust worthy and bonafide servant of the

M. S. Saini

B (4)

Deptt. It was because of his sincerity and trustworthiness that he was sent on deputation to Army Postal Service for more than 17 years and after his return from A.P.S. he was posted at Rampur Mathura Post Office in January 1987.

3) That Sri J.M.Sinha, the then S.P.O. who was on empanelled terms and wanted to punish the applicant on account of the applicant's statement in a departmental proceedings against one Bachan Pd. Yadav a Union leader of applicant's Unionⁱⁿ 1986. In his statement the applicant had supported Sri Bachan Prasad Yadav who was a postal Assistant against the Sub-Postmaster Sri D.B.Singh, who was alleged to have misappropriated some Govt. money and as the said Sri J.M.Sinha S.P.O. was siding with said D.B.Singh, no action has so far been taken against him.

4) That in order to take vengeance with applicant and with most malafide intention to harm and take away his service and illegally implicate him in criminal proceedings, the said Sri J.M.Sinha, S.P.O. had made a surprise visit at the Post Office of the applicant on 4.9.1987 and after checking the applicant's daily account of 29.7.1987 and the Cash box in a very hurry and miscalculation declared that there were Rs. 10000/- short in the cash box and when the applicant requested that he should be permitted to find out the relevant

J. M. Sinha

14 (5)

Vouchers to show the payment to meet the said alleged shortage the said S.P.O. flatly said that all right the applicant could show that in unclassified payment and thus no opportunity was given the applicant to explain the matter and virtually the application later on found out the erroneous calculation in the daily account and the alleged shortage of the Rs. 1,0000/- was removed.

5) That the said S.P.O. realizing the correctness of the daily account of the applicant didnot take any further action in the matter until on 11.8.1987 when the said Sri J.M.Sinha, S.P.O. in a primeditated design and conspiracy and in absence of the applicant got broken locks of the Sub-Post Office at Rampur Mathura and allegedly inspected the daily Account and Cash Box of the applicant's post Office in the presence of Police and Sri S.P.Maurya S.D.I. and others and again found a shortage of Rs. 36899.42 and after this alleged inspection on the order of the Sri J.M.Sinha the Sub- Divisional Inspector Sri S.P.Maurya lodged the F.I.R. at 21.30 while allegedly locks were broken on 11.8.1987 at 6.10 P.M.

6) That the applicant was on leave w.e.f. 10.8.1987 to 18.8.1987 and was under treatment of Dr. Mohd. Ismail M.-B.B.S. Musahib ganj, Lucknow, and as such he was not present in the Post Office and as the entire action by the.

[Signature]

15 (5)

said Sri J.M.Sinha, on 11.3.1987 was a hatched conspricy and fake and malafide against applicant and no opportunity to explain has so far been given to the applicant.

7) That the police has filed a Criminal case u/s 409 I.P.C. against the applicant, which is pending in the court of Chief Judicial Magistrate, Sitapur, and after appearing therein the applicant has obtained his bail from Hon'ble High Court, the charge sheet has also been filed in the court.

8) That the said J.M.Sinha, S.P.O. without any enquiry without giving and opportunity of hearing and show couse to the applicant and without actually determining the factum of guilt and default of the applicant regarding the alleged mis-appropriation of Govt. Money had directed the Collector and Tahsildar, Sitapur to recover the amount of Rs.45899.42 from the applicant a s arrears of land revenue u/s 4 of Public Accountants Defaults Act 1850 and the Tehsildar Sitapur had issued a citation for recovery of the amount of Rs.46899.42 from the applicant consequently the applicant filed a writ petition no. 3771 of ~~22~~ 1988 ' Intizar Husain Vs: Collector Sitapur and others ' in the Hon'ble High Court of Judicature at Allahabad Lucknow Bench, Lucknow which had been admitted and the recovery had been stayed by the Hon'ble High

Intizar Husain

court, during the pendency of the said writ petition, wherein the said Sri J.M.Sinha, S.P.O. was the respondent no. 3.

9) That whereafter the said Sri J.M.Sinha, S.P.O. ^{started} departmental proceedings against the applicant in respect of the said Rs. 46899.42 alleged to have been embezzled by the applicant and issued, the a chargesheet dated 13.1.1989 and the departmental proceedings are still continuing against the applicant. (A true photostat copy of the said Chargesheet is Annexed herewith as Annexure No.1 to this application).

10) That it is fact that a criminal case u/s 409 I.P.C. has been pending against the applicant in the court of Chief Judicial Magistrate, Sitapur, in respect of the embezzlement of the aforesaid amount regarding which departmental proceedings had been started against the applicant and the said Criminal case, no. 1760/87 u/s 409 I.P.C. is still pending and is fixed for ¹⁹⁻⁷⁻¹⁹⁸⁹ ~~1.5.1989~~

(The copy of the question and answer dated 19.1.1989 obtained from the C.J.M. Sitapur is filed herewith as Annexure No. 2 to this application.

11) That after the service of the aforesaid chargesheet the applicant applied on 30-5-89 to the respondent no. 1 requesting him to

* 2 *

stop the ~~departmental~~ departmental action till the criminal case is determined (A true copy the said application dated 30-5-89 bearing the official seal of the ~~respondent~~ Sri J.M. Sinha is filed herewith as Annexure No. 3 to this application.) But the respondents paid no heed.

12) That again the ~~applicant~~ ^{respondents} have ~~issued~~ ^{issued} a letter ~~application~~ ^{application} on 25.5.1989 to the ~~Sri J.M. Sinha~~ ^{applicant} requesting him to ~~drop~~ ^{participate in} the departmental proceedings ~~till the conclusion of~~ ^{totally disregarding} the criminal case (A true photostat copy of the said ~~application~~ ^{letter} is Annexure No. 4 to this application.

13) That at that time the respondents without conducting any enquiry had directed to Collector and Tehsildar, Sitapur, to recover the amount from the applicant straightaway as the respondents were quite aware of the legal position that criminal proceedings and departmental proceedings could not simultaneously be proceeded within the case of applicant, but after the stay of recovery by the Hon'ble High Court in the aforesaid writ petition, the respondents again illegally and out of sheer vengeance and malafide in order to prejudice the case of applicant in the criminal court started the departmental action ignoring all the place and requests made by the applicant at very outset.

14) That the chargesheet issued vide letter

Johny

No. F-10/87-88 dated 18.1.1989 is prima facie illegal and against the provisions of law and unless the Departmental proceedings are stayed the applicant shall suffer a great prejudice and his criminal case would adversely be affected and he shall suffer an irreparable loss.

150 That the applicant being aggrieved by the said chargesheet and the departmental proceedings the applicant is filing this application before this Hon'ble Tribunal on the following inter alia grounds:-

G R O U N D S

- I) Because no Departmental Proceedings can be conducted during the pendency of the criminal prosecution in court of law in view of provisions of para 80 of Posts and Telegraphs, Manual Volume-III.
- II) Because the impugned chargesheet is unwarranted in law and is without jurisdiction.
- III) Because the impugned departmental action would illegally prejudice the criminal case of the applicant and would in effect hold him guilty even without the trial of prosecution case in appropriate court of law which is grossly unwarranted in law.
- IV) Because the respondents have acted with malafide intention in order to cause wrongful loss to the applicant by initiating the

Sharma

impugned departmental proceedings which is illegal and uncalled for and is arbitrary.

- V) Because the impugned chargesheet is also erroneous in law and is liable to be quashed.

7. Relief(s) sought:

In view of the facts mentioned in para 6 above, the applicant prays for the following reliefs:-

(i) That by issue of a writ, order or direction in the nature of certiorari by any other appropriate writ, order or directions, this Hon'ble court/Tribunal may kindly be pleased to quash the chargesheet dated 13.1.1989 (contained in Annexure No.1) to this application

(ii) That the cost of this application may kindly be granted to the applicant.

(iii) That any other reliefs which this Hon'ble ~~xxx~~ Tribunal may deem just and proper in the circumstances of the case may also be granted to the applicant.

8. Interim order, if prayed for:

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

That the Departmental proceedings ^{on} the basis of chargesheet dated 13.1.1989 contained in Annexure no. 1 to the application may kindly be

Ames

20 (11)

stayed during the pendency of the application,
and in the mean time ad-interim stay to the same
effect may kindly be passed.

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. In fact there is no remedy
available to the applicant against the impugned charge
sheet.

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 or any other Bench of the Tribunal.

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

1. Number of Indian Postal Order No. 06-999134 to 999130
2. Name of the issuing Post Office: High Court Branch Post Office
3. Date of issue of Postal order: 5.6.89
4. Post office at which payable: G. P. O. Lko

12. Details of Index:

In index in duplicate containing the details of
the documents to be relied upon is enclosed:

13. List of enclosures:

- Sharma*
- 1) Annexures no. 1 to 4 of the applicants,
 - 2) Indian Postal Order No. 06 999134 to 999138
(five of Rs 10/- each)
issued by High Court Branch Post Office,

21 (12)
Lucknow for Rs. 50 payable at General Post
Office, Allahabad/Lucknow.

3) Index of document.

4) Vakalat nama.

Lucknow:Dated:

~~May~~ June
, 1989

Husain
Applicant

VERIFICATION

I, Intizar Husain son of Imtiaz Husain aged about
43 years working as Sub- Post Master, at Rampur
Mathura, Distt. Sitapur, resident of Mohalla Bazdari
Tola, Qasba Khairabad, Distt. Sitapur, do hereby
verify that the contents from 1 to 13 are true to
my personal knowledge and belief and that I have
not suppressed any material facts.

Lucknow:Dated:

~~May~~ June
, 1989

Husain
Applicant

To

The Registrar,

Addl. Central Administrative Tribunal,

Allahabad.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ADDITIONAL
BENCH ALLAHABAD (CIRCUIT BENCH) LUCKNOW.

CLAIM NO....126..... OF 1989 (L)

Compilation No. II

INTIZAR HUSAIN APPELLANT

VERSUS

SUPRINTENDENT POST OFFICER

SITAPUR AND ANOTHER RESPONDENTS

Pr2 (13)

Annexure No. 1

OFFICE OF THE

Memo No. F 10/87-88 / 9. (Jugan) Disc.
Dated at Sitapur the, 13-1-89.

The President/undersigned proposes to hold an enquiry against Sri Sutrar Jugan SPM R.P. Mathura under rule 14 of the Central Civil Services (Classification Control and appeal) rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charges are proposed to be sustained are also enclosed (Annexure III and IV).

2. Sri Sutrar Jugan SPM R.P. Mathura is directed to submit within 10 days of the receipt of this memorandum a written statement of his defence and also to state whether he desires to be heard in person.

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

Sri Sutrar Jugan SPM R.P. Mathura is further informed that if he does not submit his written statement of defence, on or before the date specified in para 2 above or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of rule 14 of the CCS (CCA) rules, 1965 or the orders/directions issued in pursuance of the said rule the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Sri Sutrar Jugan SPM R.P. Mathura is invited to rule 20 of Central Civil Services (Conduct) rules, 1964 under which no Govt. servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Govt. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings will be presumed that Sri Sutrar Jugan SPM R.P. Mathura is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 20 of the CCS (Conduct) rules, 1964.

6. The receipt of the Memorandum may be acknowledged.

Name and Designation
Competent Authority

To: Sri Sutrar Jugan

SPM R. P. Mathura (under suspension)

23

14

Statement of articles of charge framed against Shri
Intizar Husain SPM R.P.Mathura (Under Suspension).

ARTICLE-I

That Shri Intizar Husain while working as SPM R.P.Mathura on 29.7.87 struck the closing balance of SO Rampur Mathura by Rs. 23,469.07 instead of Rs.33,469.07 and reduced the balance by Rs. 10,000/- defaulting the same by infringing the provision of Rule 84A, & 99 of P.O. Manual volume VI Pt.III and thereby failed to maintain integrity and devotion to duty as required of him under Rule 3(1)(i)(ii) of CCS(Conduct) Rules 1964 and caused loss of Rs. 10,000/-.

ARTICLE-II

That Shri Intizar Husain while working as SPM R.P.Mathura left the station on 9.8.87 by connivance with Shri Lalla Ram ED Packer after preparing the BO slips for 10.8.87 and left the office without taking any permission to leave the station and without sending report of any inability to work on awaiting relief and without making over charge to anybody on 11.8.87 in Police search by breaking locks of rooms boxes and Almirah in the presence of witnesses a sum of Rs. 36,899.42P. was found short and defaulted by Shri Intizar Husain who is alleged to have infringed the provisions of Rule 84 A and 99 of P.O. Manual Volume VI Part III, Rule 62,162,152,153 of P&T Manual Volume III Rule 7(1) and 19(5) of CCS(Leave) Rule 1972 and thereby failed to maintain integrity and devotion to duty as required of him under Rule 3(1)(i)(iii) of CCS(Conduct) Rules 1964 causing loss of Rs. 36,899.42.

ARTICLE-III

That Shri Intizar Husain while working as SPM R.P.Mathura SO during the aforesaid period detained excess cash balance without submitting ECB memo on the dates mentioned below and infringed the provisions of Rule 58(4) and 59(2) of P.O. Manual VI Volume Part III D.G.Post communication No. 27-40/55-69 dt. 6.2.86 and thereby failed to maintain devotion to duty as required under Rule 3(1)(ii) of CCS (Conduct) Rules 1964.

Months

Dates

Jan.87 = 1st to 3th, 5th to 10th, 12th to 17th, 19th to 24th
27th to 31th.

Feb.87 = 2nd to 7th, 9th to 14th, 16th to 21th, 23th to
28th.

• • • 2/-

March 87 = 2nd to 7th, 9th to 15th, 17th to 21th, 23th to 28th, 30th to 31th,
 April 87 = 1st to 4th, 6th to 11th, 13th to 18th, 21th to 25th, 27th to 30th,
 May 87 = 1st to 2nd, 4th to 9th, 11th to 14th, 15th to 16th, 18th to 23th, 25th to 27th,
 June 87 = 1st to 6th, 8th to 13th, 15th to 20th, 22th to 28th, 30th,
 July 87 = 1st to 4th, 6th to 11th, 12th to 18th, 20th to 25th, 26th, 28th to 31th,
 Aug. 87 = 1st, 2nd to 8th.

ANNEXURE-II

Statement of Imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri Intizar Husain SPM R.P. Mathura (Under Suspension).

ARTICLE-I

While working as S.P.M. Rampur Mathura (Single-handed SO/ during 24.1.87 to 10.8.87 Sri Intizar Husain, rendered account of 29.7.87 as:-

<u>Receipt</u>	<u>Head</u>	<u>Payment</u>
34,152.47	O.B. of 28.7.87	-
-	Unpaid	1-20
3.60	Taxed	1228.00
43.50	M.O	100.00
464.70	RD	-
-	SB	935.00
-	NSC	159.00
<u>34,664.27</u>		<u>1195.20</u>

Balance = 23,469.07

and struck incorrect balance of Rs. 23,469.07 instead of Rs. 33,469.07. On succeeding days he carried forward the account with the incorrect balance of Rs. 23,469.07 as O.B. of 30.7.87 and kept office balance short by Rs. 10,000/-. On receipt of XP/1250 dated 3.8.87 from P.M. Sitapur the S.P.O's and ASPO's visited this office on 4.8.87 but no payment or remittance was found unaccounted for to which this discrepancy could be attributed. The amount was deemed to be loss and got charged to unclassified payment under provisions of Rule 55 of Financial Hand Book Vol.I.

Thus it is alleged that while working in the aforesaid office during the aforesaid period, the aforesaid Sri Intizar Husain defalcated a sum of Rs. 10,000/- and kept office balance short by Rs. 10,000/-

...3/-

which has yet not been made good by him, and thus he is alleged to have infringed the provisions of Rule 84 B and 99 of P.O. Man. Vol. VI Part III and failed to maintain integrity as required vide Rule 3(1)(i) of CCS (Conduct) Rules 1964.

ARTICLE II

While working in the aforesaid office during the aforesaid period, the aforesaid Sri Intizar Husain, prepared to leave station with the connivance of Sri Lalla Ram ED Packer on 9.8.87 Sunday, and prepared B.O. slips, for the 10.8.87 Monday. He sorted out the slips in the B.O. Sorting case. On 10.8.87 he left the station without obtaining any leave or permission to leave station and without awaiting for substitute or handing over charge of office to anybody. He left one letter and keys of office gate lock with the child of Sri Lalla Ram and left the station. In presence of the Mail O/S Sri Bhagwati Prasad, Sri Lalla Ram opened the office gate and exchanged bags with the previously prepared lock B.O slips with ED Mail carriers of the B.O till Sri Pratap Narain Shukla, EDR Keora BO objected to receive lock B.O slips. By this time the SDI Central Sri S.P. Maurya alongwith Sri Jaikaran P. Yadav R.P.A. reached there, as also Shri Tanveer Ahemad C.I. They challenged the act of Sri Lalla Ram in exchanging B.O. mails to cancel the unauthorised absence of Sri Intizar Husain and contacted Police Station who told that they would not register the absence or previous shortage of cash unless documents were handed over to them. The S.D. is informed the Divisional Office and the ASPO's. informed the S.S. Police who have written instructions to S.H.O., P.S. R.P. Mathura. On 11.8.87 the SDI Sri S.P. Maurya and Tanveer Ahemad Inspector reached R.P. Mathura. The S.H.O. could be available at about 6 P.M. and then in the presence of Independent witnesses S/Sri Jagdeo P. Dhiraj Prasad, Ram Pratap Misra all R/O the R.P. Mathura Officers of the Department, & above Sri B.B. Singh S.I. Police got all the locks of doors, Almirah and boxes of the Post Office broken by Sri Swamideen, Lohar R.P. Mathura and entire house searched an inventory of all cash, stamps and valuables found in the office was prepared and only cash and stamps as detailed below were found:-

Cash	13.03
PS	1301.55
Rev.	533.40
Unpaid	1.20
	<u>1849.18</u>
Sent for BO 10105	.62
Net Balance	<u>11,954.80</u>

While, the balance as per last days amount in S.O. Account ought to be Rs. 48,854.27 with details as given below:-

Cash	36,891.90
PS	1,323.50
Rev.	532.20
Unpaid	1.20
BO	<u>10,105.62</u>
Total	<u>48,854.22</u>

The net shortage noticed was Rs. 36,899.42P, which was not found in P.O. This money was thus defalcated by Shri Intizar Husain.

It is, therefore alleged that during the aforesaid period and while working to the aforesaid office, the aforesaid Shri Intizar Husain absented unauthorised by from 10.8.87, leaving station without permission and leaving duty without making over proper charge infringing the provisions of Rules 62, 162, 152, 153 of P&T Man. Vol. III, Rule 84 B & 99 of P.O. Man. Vol. VI Part III and Rule 7(1) & 19(5) of CCS(Leave) Rules 1972, and also defalcated a sum of Rs. 36,899.42P. Out of the last balance failing to maintain absolute integrity and devotion to duty infringed the provision of 3 (1) and 3(1)(iii) of CCS(Conduct) Rule and by all these acts presented a conduct which is quite unbecoming of a Govt. Servant and thus contravene Rules 3(1)(iii) of CCS (Conducts) Rules 1964.

ARTICLE-III

While working in the aforesaid office and during the aforesaid period, the aforesaid Sri Intizar Husain, retained excess cash on various days as given below:-

<u>Months</u>	<u>Dates</u>
Jan.87	= 1st to 3th, 5th to 10th, 12th to 17th, 19th to 24th, 27th to 31th.
Feb.87	= 2nd to 7th, 9th to 14th, 16th to 21th, 23th to 28th.

March 87 = 2nd to 7th, 9th to 15th, 17th to 21th, 23th to 28th, 30th to 31th.
 April 87 = 1st to 4th, 6th to 11th, 13th to 18th, 21st to 25th, 27th to 30th.
 May 87 = 1st & 2nd, 4th to 9th, 11th to 14th to 16th, 18th to 23th, 25th to 27th.
 June 87 = 1th to 6th, 8th to 13th, 15th to 20th, 22th to 28th, 30th.
 July 87 = 1st to 4th, 6th to 11th, 12th to 18th, 20th to 25th, 26th, 28th 31th.
 Aug. 87 = 1st, 2 to 6 to 8th.

But he never submitted E.C.B. memo as required vide rule 58(4) 59(2) of PO Manual VI Part III and D.G. P.O General letter No. 27-40/83-69 dt. 6.2.86.

Thus, it is alleged that during the aforesaid period and while working in the aforesaid office, the aforesaid office, the aforesaid Sri Intizar Husain infringed the provision of Rules of PO Man. Vol. VI Part III read with D.G. P.O. General letter No. 27-40/83-69 dt. 6.2.86 and thereby also failed to maintain devotion to duty as required vide Rule 3(1)(ii) of CCS (Conduct) Rules 1964, ~~circulated vide SPO's Sitapur vide No.~~ dt.

ANNEXURE-III

List of documents by which the articles of charge framed against Shri Intizar Husain SPM R.P. Mathura (Under Suspension) are proposed to be sustained.

- 1- PM Sitapur XP/1250/3 (3.8.87)
- 2- R.P. Mathura daily A/C dt. 29.7.87, 10.8.87
- 3- R.P. Mathura SO a/c dt. 29.7.87, 10.8.87
- 4- Application of Shri Intizar Husain dt. 10.8.87
- 5- BO Summary of R.P. Mathura dt. 29.7.87 and 10.8.87
- 6- Inventory report dt. 11.8.87
- 7- SO Summary dt. 31.7.87 and 13.8.87
- 8- SO slip of R.P. Mathura dt. 31.7.87 and 13.8.87
- 9- W/S of Shri Lalla Ram ED Packer R.P. Mathura dt. 11.8.87
- 10- W/S of Shri J.K. Yadav PA Sitapur HO dt. 10.8.87
- 11- W/S of Mohan Murari Mail O/S M.M. Bad dt. 10.8.87
- 12- W/S of Shri Pratap Singh LR Group 'D' R.P. Mathura dt. 10.8.87
- 13- W/S of Shri Pratap Narain EDMP Keora dt. 10.8.87
- 14- W/S of Shri Raghunath Pd. EDR Para Ram Nagra Sitapur dt. 10.8.87 and 11.8.87.
- 15- W/S of Shri Bhagwati Prasad Mail Overseer R.P. Mathura dated dt. 10.8.87

- 16- W/S of Shri Suresh Chand Awasthi C.P. Chowkidar R.P. Mathura dt. xxxx
- 17- W/S of Shri Nand Kishore Srivastva EDDA R.P. Mathura dt. 11.8.88
- 18- W/S of Shri Moti Lal S/O Shri Shyam Lal R/O Vill Gyadeen P.O.-Godha- EDMP Godha dt. 11.8.87
- 19- W/S of Shri Pyarey Lal S/O Shri ~~Shyam~~ chandi R/O VPO- Bhagipur- EDMP Bhagipur dt. 11.8.87.
- 20- W/S of Shri Lalta Prasad S/O Shri Golhey R/O Vill Nauan bag PO-Ataura- Sitapur-EDR Ataura-Sitapur dt. 11.8.87
- 21- W/S of Shri Krishna Kumar S/O Shri Vishambhar Dayal R/O Vill. Gayachapa PO.-Bahadurganj-Sitapur-EDDA- Bahadurganj-Sitapur dt. 11.8.87
- 22- W/S of Shri Ram Bahadur S/O Shri Shiv Charan R/O Vill. Nauanbagh PO- R.P. Mathura- Sitapur-EDR Rampur Mathura dt. 11.8.87
- 23- W/S of Shri Ram Nareesh R/O Vill. Tulsipur PO-Lohiya- Nagar Sitapur dt. 11.8.87

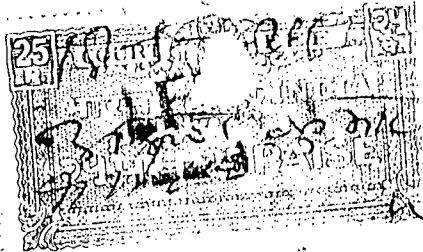
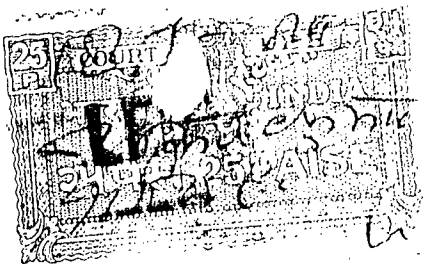
ANNEXURE-IV

List of witnesses by which the articles of charges framed against Shri Intizar Husain (Under suspension) R.P. Mathura are proposed to be sustained.

- 1- Shri S.P. Maurya SDI (C) Sitapur.
- 2- " Lalla Ram ED Packer R.P. Mathura.
- 3- " Tanveer Ahmed CI Sitapur.
- 4- " Swamidaan Lohar R/O R.P. Mathura.
- 5- " Jagdeo Pd. Misra R/O VPO-R.P. Mathura.
- 6- " Dheeraj Prasad R/O Vill. Tulsipur PO-Kharaila R.P. Mathura.
- 7- " Ram Pratap Misra R/O VPO-Rampur Mathura.
- 8- " Mohan Murari O/S M.M. Bad.
- 9- " Pratap Singh Group 'D' LR R.P. Mathura Line-Sitapur)
- 10- " Pratap Narain EDMP Kora-Sitapur.
- 11- " Raghu Nath Pd. EDR Para Ram Nagra-R.P. Mathura.
- 12- " Bhagwati Prasad Mail O/S R.P. Mathura.
- 13- " Suresh Chandra Awasthi C.P. Chowkidar R.P. Mathura.
- 14- " Nand Kishore Srivastva EDDA R.P. Mathura.
- 15- " Moti Lal EDMP Godha.
- 16- " Pyarey Lal EDMP Godha-Sitapur.
- 17- " Lalta Prasad EDR Ataura-Sitapur.
- 18- " Krishna Kumar EDR Bahadurganj-Sitapur.
- 19- " Ram Bahadur EDR Rampur Mathura.
- 20- " Ram Nareesh EDR Lohiya Nagar.
- 21- " J.K. Yadav O.A.D.O. Sitapur.

SUPDT. OF POST OFFICES,
SITAPUR DN. 261001.

Annexure No. 3
प्रपत्र ३



सूचनार्थ प्राप्त करने का आवेदन-

(नियम १९६० (१))
मूल-वाद - याचालय अमान मुरम्य - अधिक दंडाधिकारी मुरम्य
Case No. 1760/87. Cr. No. 51/87. धना - ~~रामपुर मधुरा~~
अपील से १६ इन्तजार हुसेन के सम्बन्ध में जो
सरकार बनाम इन्तजार हुसेन
पुनरोक्षर वेणी - 1/5/88
- मुरम्य न्यायालय में विचारधीन है। धारा - 409
..... सरकार बनाम इन्तजार हुसेन

प्राची निम्नलिखित प्रश्नों के सम्बन्ध में सूचना चाहता है।

प्रश्न	उत्तर
प्रश्न नं. १- उपरोक्त वाद में किस तारीख को आरोप-पत्र न्यायालय में प्राप्त हुआ?	आरोप पत्र न्यायालय में दिनांक 14-9-87 को प्राप्त हुआ।
प्रश्न नं. 2- उपरोक्त वाद में अग्रिम तारीख क्या है?	अगली तारीख दिनांक 1-5-88 को अगले अग्रिम मुकदमे के लिए है। निष्पत्ति है। दिनांक 18/1/88

दिनांक 18/1/88 उत्तर देने वाले अधिकारों का हस्ताक्षर व पद

पक्ष या वकील का हस्ताक्षर
10/1/88

टिप्पणी-(१) यह पत्र उत्तर के साथ उसी दिन लौटा दिया जायेगा। यदि अभिलेख कभी बाहर तो ये बात बता देना चाहिए और प्राची से निर्दिष्ट दिनांक को फिर से आने के लिए कह देना चाहिए।
(२) यदि एक से अधिक प्रश्न पूछे जाय तो प्रत्येक अतिरिक्त प्रश्न के लिए दो आने के अतिरिक्त शुल्क अवश्य लगा देना चाहिये।

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Annexure no 3

To,
Sri Badri Prasad (Enquiry officer)
ASPOs (Investigation)
O/o Director Postal Services
Lucknow Region, Lucknow-226007

Sub: Enquiry under Rule 14 of the CCS (CCA) Rule 1965
against Intizar Husain SPM Rambar Mathura
(Under Suspension)

Sir,

Reference your memo No. PE-1/88-89 dated Lucknow
25-5-89.

2. Vide my application dated 28/4/89 I have informed
to you that I am not feeling well physically and mentally.
Since 6-4-89 and going under treatment continuously so far.
Hence I am not in position to attend the enquiries till my
fitness. In this connection medical certificates has already
been submitted to your honour. Doctor has been advised
for complete rest. After all these circumstances you are
fixing the enquiries. In this conditions I am unable to attend
the enquiry on 3-6-89 to 8-6-89 which is fixed by you in
your above cited memo.

3. The same case under 409 IPC which was filed by
SPOs Sitapur (Previous Sri T.M. Sinha) is still under hearing
in the Honorable Chief Judicial Magistrate Sitapur. There is
no any ~~any~~ provision in court of Law that before the
decision of Honorable court the ~~departmental~~ departmental
enquiry should be started and blamed person will give
the statement so that before the decision of the Honorable
court I am not in position to attend the departmental
enquiries. This is for your kind information please and
request postponed the departmental enquiries.

Thanking you Sir,

Date: 30/5/89

Yours faithfully

(INTIZAR HUSAIN)
SPM Rambar Mathura U/S
Sitapur.

Cy to

The SPOs

Sitapur Dn.

- For information and issue the
suitable instructions to above
mentioned Enquiry officer
Please.

Intizar Husain

Annexure no. 4

भारतीय डाक विभाग

कार्यालय निदेशक डाक सेवायें, लखनऊ क्षेत्र लखनऊ- 226007

ज्ञापन सं० पीई-1/88-89 दिनांक लखनऊ-7- 25 -5-89

यतः श्री इन्तिजार हुसैन के विरुद्ध के.सि.से. १७.नि.अ.१ नियमावली 1965 के नियम 14 के अन्तर्गत जांच हेतु ~~प्रवक्ता अधीक्षक~~ अधीक्षक डाकघर सीतापुर मण्डल के ज्ञापन सं० एफ-10/87-88 /इ.हुसैन/डिस. दिनांक 10.3.89 द्वारा अधोहस्ताक्षर कर्ता को जांच अधिकारी नियुक्त किया गया है। एवं यत् उपरोक्त श्री इन्तिजार हुसैन के विरुद्ध जांच हेतु बैठक दिनांक 3.6.89 से 8.6.89 तक 10 बजे से उप. डाकघर रामपुर मथुरा सीतापुर में आयोजित की गयी है जिसमें निम्नलिखित पक्षों की उपस्थिति अनिवार्य है।

1. सर्व श्री एस०पी० मोर्य उप मण्डलीय निरीक्षक अकबर पुर फज्जाबाद
2. " " झल्ला राम ईडी पैकर रामपुर मथुरा सीतापुर
3. " " तनवीर अहमद उपमण्डलीय निरीक्षक डाकघर सीतापुर | 3.6.89
4. " " स्वामीदीन लोहार निवासी ग्राम पोस्ट रामपुर मथुरा सीतापुर
5. " " जगदेव प्रसाद मिश्र निवासी ग्राम व पो० रामपुर मथुरा सीतापुर
6. " " धीरज प्रसाद निवासी ग्राम पो० तुलसीपुर | 4.6.89
छटैलारामपुर मथुरा सीतापुर
7. " " रामप्रसाद मिश्र नि.ग्रा.पोस्ट रामपुर मथुरा सीतापुर
8. " " मोहन मुरारी मेल ओवरसियर महमूदाबाद सीतापुर
9. " " प्रताप सिंह गुप्त डी.ली.व. रिजर्व रामपुर मथुरा लाइन सीतापुर
10. " " प्रताप सिंह ईडीएमपी केवड़ा रामपुर मथुरा सीतापुर | 5.6.89
11. " " रघुनाथ ईडीआर पारा रामनगरा रामपुर मथुरा सीतापुर
12. " " भगवती प्रसाद मेल ओवरसियर रामपुर मथुरा सीतापुर
13. " " सुरेश चन्द्र अवस्थी सीपी चौकीदार
रामपुर मथुरा सीतापुर
14. " " नन्द किशोर श्रीवास्तव ईडीडीएस रामपुर मथुरा सीतापुर
15. " " मोती लाल ईडीएमपी गोधा रामपुर मथुरा सीतापुर | 6.6.89
16. " " प्यारे लाल ईडीएमपी गोधा सीतापुर
17. " " लालता प्रसाद ईडीआर अतौरा सीतापुर | 7.6.89
18. " " कृष्ण कुमार ईडीआर बहादुर गंज सीतापुर

Recd. on 30/5/89

शेष पेज दो पर

[Signature]

-2-

19. सदीप रामबहादुर ईडीआर रामपुर मथुरा सीतापुर
 20. " " रामनरेश ईडीआर लोहिया नगर सीतापुर 8.6.89
 21. " " जे0के0 यादव कार्यालय सहायक कार्यालय अधीक्षक डाकघर सीतापुर

22. " " इन्तिजार हुसैनउप डाकपाल रामपुर मथुरा सीतापुर (निलम्बित)
 23. " " एस0डी0 गुप्ता उप मण्डलीय निरीक्षक डाकघर सीतापुर {प्रस्तोता} दि0 3.6.89 से 8.6.89

अतः निर्दिष्ट स्थान व तिथि एवं समय पर सभी सम्बन्धित पक्ष अवश्य उपस्थित हों ।

वसुधैव कुटुम्बकम्
 {वद्री प्रसाद} 25-5-89
 जाँच अधिकारी

सहायक डाक अधीक्षक
 कार्यालय निदेशक डाक सेवाएँ
 लखनऊ क्षेत्र लखनऊ - 226007

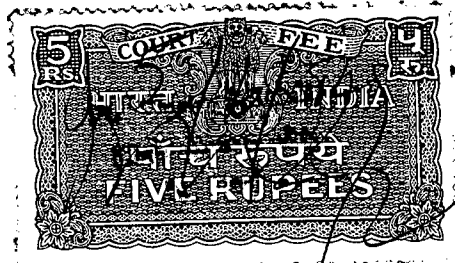
प्रतिलिपि:

1. 23 उपरोक्त सभी को ।
 24.-25 उपमण्डलीय निरीक्षक डाकघर बिसावा/केन्द्रीय सीतापुर ।
 26. प्रवर अधीक्षक डाकघर फैजाबाद -224001.
 27. अधीक्षक डाकघर सीतापुर मण्डल -261001.
 28. उप डाकपाल रामपुर मथुरा/महमूदा बाद/सीतापुर

ब अदालत श्रीमान्
[वादी अपीलान्त]
प्रतिवादी [रेस्पाडेन्ट]

Honble Central Admistrative महोदय
का वकालतनामा
Muzar Hussan

24



वादी (अपीलान्त)

Muzar Hussan

बनाम

प्रतिवादी (रेस्पाडेन्ट)

S. P. S. another

न० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Ishfaq Ahmad

Advocate 110/06 K.L.

वकील

महोदय

Canth Road Lucknow

एडवोकेट

नाम अदालत न०
मुकद्दमा न०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपवे या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ 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.....

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १६ ई०

स्वीकृत

5-6-08

1837

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW.

INRE
Cm. No. 102/89 (6)
O A No. 126 of 1989 (2)

Fixed for : 11.7.1989

*As filed today.
As stated by counsel
for counsel for applicant
Case is already listed on
for 11.7.89 for orders on
the prayer for interim relief.
List this Misc. application
before court for orders on
11.7.89.*

Intizar Husain

..... Applicant

Versus

Supdt. of Post Offices & another... Respondent

APPLICATION FOR IMPLEADMENT BY WAY OF AMENDMENT TO
APPLICATION UNDER SECTION 19 OF THE ACT.

The above named applicant begs to
submit as under :-

1. That in the application U/s 19 of the Act filed by the applicant the applicant has called for the Departmental enquiry during the pendency of Criminal Prosecution u/s 404 I.P.C. pending against him in the C.J.M. court at Sitapur and the Hon'ble Tribunal has been pleased to admit the said application on 8.6.1989 and has also ordered to issue notices to the respondents on the relief of interim relief, the notices sent by this

Tribunal have been duly served upon the respondent

2. That as the departmental enquiry has been commencing and an enquiry officer has also been appointed who had issued notice to the applicant to appear before him vide Annexure No. 4 to the application u/s 19 of the Act but due to inadvertence the enquiry officer could not be impleaded in the main application u/s 19 of the Act and as such he is continuing the enquiry totally unheeding the order of this Hon'ble Tribunal.

3. That it is expedient in the interest of ~~justice~~ subserving the adequate justice to the applicant that the enquiry officer may also be impleaded in the application u/s 19 of the Act and the applicant may be permitted to amend the application in the following manner.

I) That in the title of the application in the array of the respondents as well as in paragraph 2 (1) 2(ii) and 2(iii) the following particulars be permitted to be added as respondent no. 3 and in para 2 as (e) in all the three sub clauses (i), (ii) & (iii).

" Sri Badri Prasad, Assistant Superintendent of Post Offices (Investigation), ^{office of} Directorate ~~of Post Offices~~ Lucknow ^{postal services} Region Lucknow.

II) That after para 13 in main para 6 of the application u/s 19 of the Act a new

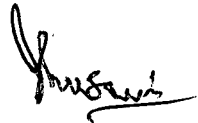
para as para 13-A may be permitted to be added as under.

" 13-A- That the respondent no. 3 has been appointed as Enquiry officer and has been proceeding with the enquiry inspite of the several requests by the applicant and has infact refused to stay the Departmental proceedings as required uunder para 80 of P & T Manual (Part III) which is illegal and without jurisdiction.

It is therefore prayed that the applicant may kindly be permitted to amend the application u/s 19 of the Act in the manner indicated above.

Lucknow Dated:

June 28, 1989

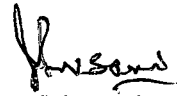

Applicant

Counsel for the applicant

VERIFICATION

I, the above named applicant do hereby verify that the contents of paras 1 to 3 and including proposed amended paras are true to my knowledge.

Signed and verified on this 28th day of June 1989 at Lucknow.


Applicant

D31

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO. 126 of 1989(L).

Intizar Husain ... Applicant
-versus-

Union of India and others ... Respondents.

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS.

I, R.S. Gupta, aged about 51, years,
son of *Late Shri Kripa Dayal Gupta*
posted as ~~Senior~~ Superintendent of Post Offices,
Sitapur Division, Sitapur do hereby solemnly affirm
and state as under:-

1. That the deponent is well conversant
with the facts of the case and he is filing this
counter affidavit on behalf of the Respondents.

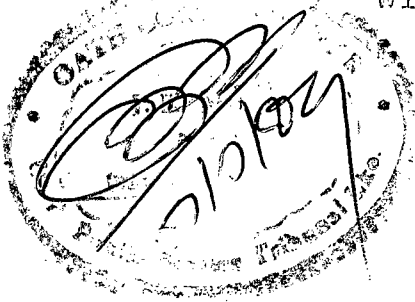
The deponent is Respondent no.1 in the above
noted case.

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

3. That before giving parawise comments,
it is necessary to give brief history of the
case, as detailed below:-

Resigned
7/5

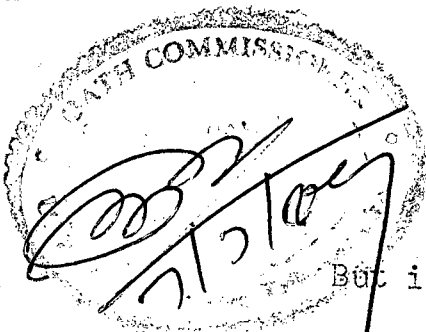
(a) That the applicant was working as SPM Rampur Mathura during August 1987. A telegram was received about the shortage of cash from Postmaster Sitapur Head Office over which the predecessor of the deponent Shri J.M. Sinha visited Rampur Mathura on 4.8.87 and reached Rampur Mathura at about 11.30 hrs. On verification of cash and stamp balance he detected some irregularities in writing of sub office account with a discrepancy of Rs.10000/- suspected falsification. On verification of the same at Sitapur Head Office found the mistake of Rs.10,000/- as falsification of account by the applicant by a modus operandi of striking of wrong total Rs.23469.07 instead of Rs.33469.07 with effect from 29.7.87. A minute check at Sitapur Head office confirmed the falsification of Rs.10,000/-. Therefore, the then Supdt of Post Offices, Sitapur visited Rampur Mathura on 11.8.87 and with the help of Police and local people he got the locks of one Almirah, one wooden box and one room of the residence broken by a black smith in presence of himself, one Police Sub Inspector and 3 independent public witnesses. In almirah nothing but



R. Singh

old records were found. In the locked room some postal boards, 3 letter boxes only were found. In the wooden box, one iron chest D.6 duly locked, one open tin stamp box, stamps, stationery and miscellaneous blank forms were found. The lock of the iron chest was also opened by breaking and it contained only envelopes contained NSCs, IVEs, IFO and 30 paise cash. The stamps etc. were counted including those found in stamp box, the stock of certificates, IVEs and IFO was found correct. As per the SO account of 8.8.87 the S.D. balance should have been Rs.48,854.22 the cash and stamps as detailed in the SO account were as below:-

Cash	.. Rs.36,891.90
Postage stamps	1,323.50
Revenue stamps	532.00
Due from BOs	<u>10,105.62</u>
	48854.22



But in the search total cash of Rs.13.03 P. FS Rs.1301.55, Revenue stamps Rs.533.40, unpaid 1.20 only was found. The net discrepancy was Rs.36899.42 P which was charged to unclassified payment on 11.8.87.

Resgupte

(b) That the F.I.R. including all these facts has also been lodged with Police and registered at Rampur Mathura Police Station. The Sub-Registrar, Tehsildar and Ziladhikari Sitapur have been addressed to prevent transfer of property by the applicant. The Ziladhikari has also been moved under provision of Sections 3 & 4 of Public accountants default Act to recover Rs.46899.42 Paise as arrear of land revenue and to furnish particulars of property held by the official at his permanent address viz. Bazdari Tola Khairabad Sitapur.

(c) That the total loss in the case is Rs.46899.42 P. out of which Rs.10,000/- was charged under the accounts of Rampur Mathura on 4.8.87 and ~~xxxxxxx~~ Rs.36,899.42 on 11.8.87. The SFO's monthly report has not been obtained and forwarded to the DO by the HO for about last 6 months and

after long persuasion, the monthly reports have been forwarded to DO recently but those of Rampur Mathura are still not received. This SO being a single handed SO had to furnish ECB ^{MI} memo on every occasion if retained cash beyond maximum and almost every day since 1.4.87, the case kept was above this level without submission of ECB Memo which was never challenged by Sitapur H.O.

Relgupta

Memo which was never challenged by Sitapur H.O.

This shows that during his entire working at the office since 27.1.87 the applicant was with-holding cash and there was no check on it by the HC. Also the daily accounts were not properly scrutinized, compared and checked by the ADM which consequently led to report the deficient account of 31.7.87 as correctly admitted by HO.

(d) That the case No.1760 of 87 under Section 409 IPC is pending in the Court of Judicial Magistrate Sitapur and is still under trial. The total loss sustained comes to Rs. 46,899.42 P

(e) That the applicant has also been proceeded against the departmental proceeding and served chargesheet under rule 14 of CCS(CCA) Rules vide Office Memo No.F.18/87 -88/Intizar Hussain/Disc. dated 13.1.89 where in an Enquiry Officer is making enquiry against him for the departmental lapses.

That the contents of para 1 to 5 of the application are formal and need no reply.

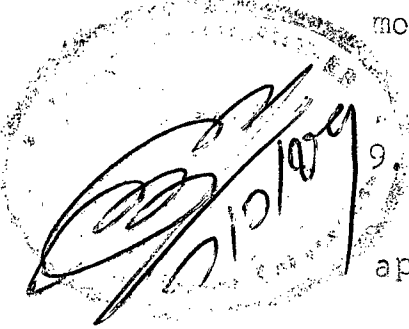
5. That the contents of para 6.(1) and 6(2) of the application need no comments.

Pragya

6. That the contentxs of para 6(3) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant cannot claim humanity for the wrongs committed by him in any case.

7. That in reply to the contents of para 6(4) of the application it is submitted that the applicant ~~made~~ falsification of Rs.10,000/- in his SC account by striking wrong balance and submitted daily account to Sitapur H.O.

8. That in reply to the contents of para 6 (5) of the application it is submitted that on first visit the predecessor of the deponent relied upon the applicant and after checking at Sitapur HO he could camd on defenite conclusion about the falsification of accounts and misappropriation of Government money.

 9. That the contents of para 6(6) of the application are incorrect as stated and in reply it is submitted that ~~xxxx~~ the applicant ^{was} fully conversant about the shortage of cash and therefore

Regd.

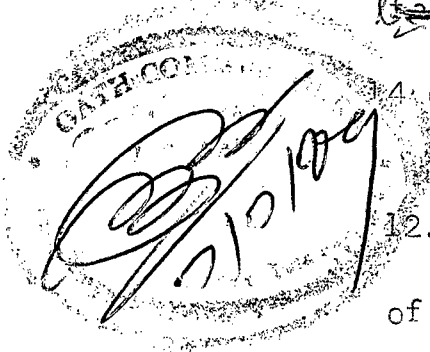
he manufactured a contradictory story and left ~~from~~ the office on 10.8.87 without properly handing over the charge to anybody and made out a ~~Contradictory~~ ^{Concocted} story of illness.

10. That the contents of para 6(7) of the application are not disputed.

11. That the contents of para 6(8) of the application are incorrect, hence denied and in reply it is submitted that the applicant ^{was} served with a chargesheet under Rule 14 for specific charges and an Enquiry Officer was appointed who is conducting the regular enquiry with due notice to the applicant at his headquarter at Rampur - Mathura which he is evading on one or other pretext. It is the fact that the

District Magistrate was addressed to recover ~~defrauded~~ ^{frauded} money from the applicant under section 4 of I.A.D. Act.

12. That in reply to the contents of para 6(9) of the application it is submitted that in as much as a departmental enquiry under rule 14 is in progress. The departmental action is for departmental lapses and not for criminal lapses.



Resgupte

13. That the contents of para 6(10) & (11)

of the application are incorrect as stated, hence

denied and in reply it is submitted that the departmental

enquiry is for the departmental charges and over the

departmental lapses whereas criminal case under

section 409 is for the criminal lapses and both can

continue separately.

14. That the contents of para 6(12) to 6(14)

are incorrect as stated, hence denied.

15. That the contents of para 6(15) of the

application need no comments.

16. That the reliefs sought under para 7 of the

application ^{by the applicant are} ~~are~~ not ~~entitled and not~~ maintainable

~~unmaintainable~~ in the eyes of law.

17. That in reply to the contents of para 8 of

the application it is submitted that the interim

orders prayed for stay of departmental proceedings

is not permitted under the law.


18. That in reply to the contents of para 9

of the application it is submitted that the

Regd.

the applicant has not exhausted any departmental remedies and the contents of this para are denied.

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


Deponent.

Lucknow,

Dated: 7th Jul. 1989.

Verification.

I, the above named deponent do hereby verified that the contents of paragraph 1 & 2 are true to my personal knowledge and those of paragraphs 3 to 15 are believed to be true on the basis of official records and information

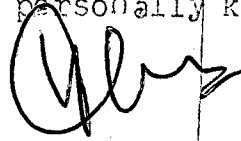
gathered and those of paragraphs 16 to 19 are believed to be true on the basis of legal advice.


Deponent.

Lucknow,

Dated: 7th Jul. 1989.

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



(VK Chaudhari)
Advocate High Court,
Counsel for Opp. parties.

Lucknow,

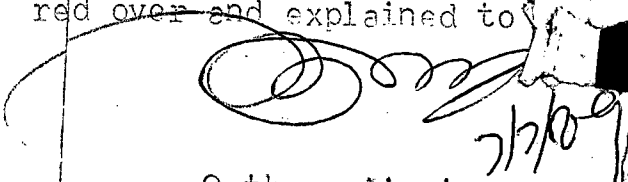
Dated: 7 Jul. 1989.

Solemnly affirmed before me on

at 6:30 am/pm by the deponent by

Shri VK Chaudhari, Advocate, High Court, Lucknow
Bench, Lucknow.

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


Oath commissioner.

