

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 142 OF 1989

NAME OF THE PARTIES A.K. Durei Applicant

Versus

Union of India Respondent

Part A. ✓


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| 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 14.6.2011

Counter Signed.....


Section Officer/In charge


Signature of the
Dealing Assistant

Ab

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH
LUCKNOW.

O.A. NO. 142 of 1989

Ashok Kumar Dwedi..... Applicant.

Versus

The Union of India and one another..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava- V.C.
Hon'ble Mr. K. Obayya - A.M.

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

The applicant was appointed as Manager of Akashvani Departmental Canteen w.e.f. 11.7.83. The said Canteen was ^a non-statutory canteen, but it was a departmental co-operative canteen. The applicant was apprised in his appointment letter that this appointment will not confer any right on him to the post. Subsequently vide order dated 5.1.1984. According to the applicant's pay scale was given to him, his appointment should have been treated as regular. When in the year 1989 for the post the names were called for from the Employment Exchange for making selection, and the applicant was not called ~~for~~ therein, the applicant approached this Tribunal praying that the respondents be restrained from terminating his services or making any other appointment in his place. And in view of the interim order passed by this Tribunal, it so appears that the applicant ~~shs~~ still working and no other person duly selected has been given appointment. According to the respondent the applicant's work was satisfactory, but as the applicant did not fulfill the requisite qualification which were prescribed for Departmental Canteen Manager, the applicant was not called for interview. With open eyes he joined the services knowing it ~~xxxx~~ that his appointment is adhoc appointment and will not confer any right to the applicant to the post.

W

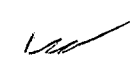
AT

- 2 -

2. Merely because the applicant was appointed on adhoc basis, pending ~~in~~ the regular appointment that by itself ^{does} ~~is~~ not confer any right to the applicant on the post even if these cantees were governed by rules and regulation of the Factories Act and as such the applicant cannot claim any right to the said post. At this stage we may observe ~~that~~ the arguments raised by the learned counsel for the applicant that as appointment was not for a fixed term and it cannot be said that his appointment was an adhoc appointment, has got to be rejected.

3. The other contention of the learned counsel is that the same pay was given to him, he should have been deemed to be regularised equally ~~is~~ without any force ^{or} substance. The grant of pay scale by itself ~~will not prove~~ ^{will not prove} the services of a particular employee has been regularised. However as the applicant has worked there for so many years and has ~~been~~ gained experience, If the question of Educational qualification, the case of the applicant can also be considered for relaxation of qualification. Accordingly the application is disposed of with the observation that while making the appointment to the said post, the respondent may consider the claim of the applicant also in view of the experience gained by him. It will be open for the respondent to consider the question of relaxation of qualification of the applicant ~~also~~ ^{and} also to regularise him in case there is no legal bar for regularisation which obviously ~~absolutely~~ cannot be. With the above observations, the application is disposed of finally. No order as to the costs.


Member (A).


Vice Chairman.

Dt: May 19, 1992.
(DPS)

Central Administrative Tribunal
Lucknow Bench

Cause Title CA 142/89 of 1993

Name of the Parties

A.K. Dewedi

Applicant

Versus

Union of India

Respondents.

Part A - P.C.

Sl. No.

File A

Description of documents

Date

- | | | |
|----|----------------------|---------|
| 1. | Check List | A1A2 |
| 2. | Order Sheet. | A3A5 |
| 3. | Judgement. 4.19.5.92 | A6 A7 |
| 4. | Petition Copy | A8 A15 |
| 5. | Annexure | A17 A24 |
| 6. | Power | A16 |
| 7. | Counter Affidavit. | A25 A30 |
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| | M.P. 728/91 | A45 A47 |
| | Power | A48 |
| | M.P. No 225/92 | A49 A50 |

B - File B51 B70

C - File C79 C83

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL

C.B. ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No.

142 of 1989 (L)

Termination
of Service

APPLICANT (s)

Ashok Kumar Dwivedi

RESPONDENT(s)

U.O. & another (A.P.R.)

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent ?
2. (a) Is the application in the prescribed form ?
(b) Is the application in paper book form ?
(c) Have six complete sets of the application been filed ?
3. (a) Is the appeal in time ?
(b) If not, by how many days it is beyond time ?
(c) Has sufficient case for not making the application in time, been filed ?
4. Has the document of authorisation/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 ?

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

yes

yes

yes

Four sets

yes

-

-

yes

yes DD 787601 dt 15.6.89
4 C 50/-

NA.

yes

yes

Particulars to be Examined

Endorsement 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 ? | NA |
| 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 ? | NA |
| 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 put up before Court on 15.6.1989

undistd.

Assn
15/6/89
S.F.

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

15/6/89

Heard the learned counsel for the applicant.
Admit. Issue notice to the respondents.
Respondents are directed to file counter reply within 4 weeks to which the applicant may file rejoinder, if any, within 1 week thereafter.
Meanwhile, the applicant shall not be removed from the post of Manager(Canteen) which he is at present holding and further, the selection if any, made by the respondents on the post of Manager(Canteen) shall be subject to the decision of this Tribunal. Put up this case for hearing on 24-7-89.

Read copy
Deyanand
H. B. Bishnoi

D.K. Agrawal

Member(J)

(sns)

OK
By V.K. Chaudhary. Adv. takes
notice on behalf of the
repts. & also power filed
today

24.7.09 No Selling Adv. to 30.8.09

30/8/09

Hon. Justice K. Nath, VC.
Smt V.K. Chaudhary requests
for and is allowed three
weeks' time to file counter.
The learned counsel for the
applicant is reported to be
out of station. List for orders
on 19-9-89 on which date
the opposite party will
file counter.

OK
In compliance of
Court's order dt. 15.6.89
no reply has been
filed by Smt V.K.
Chaudhary on behalf
of repts.
Submitted for order

V.C.

OK
No reply filed
Submitted for order
10/9

10/9

(AM)

22.4.91

D.R.

Both the parties
are present today.
Rejoinder has not
been filed till today.

Counsel for the applicant
desires to file R.A. by
15/7/91.

15.7.91

D.R.

Both the parties are
present. Rejoinder
has not been submitted
by the applicant so far.
He is ordered to file
it, by 5/9/91.

5.9.91

D.R.

Both the parties are
absent today. Applicant
to file Rejoinder
by 19/11/91.

19.11.91

D.R.

Applicant to file
Rejoinder by 5/2/92.

(AS)

OA 142/89

5/2/92

D.B.

Respondent's side

is present. Applicant

to file Reply by

28/4/92.

✓

17-3-92

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

This is an application for amendment. The proposed amendment is minor in nature. The amendment application is allowed. Let the amendment be made within two days. ~~Rejoinder~~ objections, if any, may be filed within two weeks. List the case for orders on 28-4-92.

There is no question of payment of salary. At this stage, the application is rejected.

(vg)

✓

V.C.

88
30
15/5

20/4/92

no obj of D.B. adj to
19.5.92

AD

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

(Circuit Bench at Lucknow)

Case No. 142/89 (L)

Ashok Kumar Dwedi Petitioner
Versus
Union of India and another Respondents.

I N D E X

| Sl.No. | Particulars | Pages |
|--------|--|--------|
| 1. | Petition | 1 to 7 |
| 2. | <u>Annexure No. 1.</u> Appointment letter of the Petitioner. | 8 |
| 3. | <u>Annexure No. 2.</u> Letter regularising the services of the petitioner | 9 |
| 4. | <u>Annexure No. 3.</u> 4th Pay Commissions recommendations for revision of pay and allowances. | 10-12 |
| 5. | <u>Annexure No. 4.</u> Statement of Fixation of Pay under Central Civil Service (Revised Pay) Rules 1986. | 13-14 |
| 6. | <u>Annexure No. 5</u> Appointment of the petitioner through Employment Exchange. | 15 |
| 7. | Vakalatnama. | 16 |

Lucknow:

Dated: 16/6/89

Pabhaakar Bishnoi
(PRAHAKAR BISHNOI)
Advocate
Counsel for the applicant.

Pabhaakar Bishnoi

Recd 16/6/89
Professional
Chand
27/6/89

A9

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD.

(Circuit Bench at Lucknow)

Case No. 142/89. (L)

Ashok Kumar Dwedi aged about 32 years S/o Sri Ram Bharosey
R/o village Kharika, P.S. Kharika, Telibagh, Lucknow.

.... Petitioner

Versus

1. Union of India, through Secretary Information & Broad
Casting, Central Secretariat, New Delhi.
2. Chairman, Departmental Canteen, Akash Vani,
18, Vidhan Sabha Marg, Lucknow.

.... Respondents

Details of the application:

1. Name of the applicant :

- (i) Ashok Kumar Duvedi.
- (ii) Sri Ram Bharosey
- (iii) Manager, Departmental Canteen, Akashvani,
18 Vidhan Sabha Marg, Lucknow.

2. Particulars of the respondent :

1. The Union of India, through Secretary Information
& Broad Casting, Central Secretariat, New Delhi.
2. Chairman Departmental Canteen, Akashvani,
18, Vidhan Sabha Marg, Lucknow.

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

contd....P/2

Ashok Kumar Dwedi

Amendment
incorporated
as per order
dt. 17.3.92
S.T. Benerji
18.3.92

The application is against the following order : -

Application is made against the threatened injury of removal from Service as contained in Para 6.

4. Jurisdiction of the Tribunal :

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

5. Limitation :

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

6. Facts of the case :

The facts of the case are given below : -

- (1) That the applicant was posted as Manager of Akashvani Departmental Canteen w.e.f. 11.7.83 and has been working since then. The appointment of the petitioner was ^{for undelined period} ~~on ad-hoc basis~~ but since 11.7.83 the petitioner is working on this job without interruption to even for a day. There has not been any complaint against the petitioner during this long period of petitioner's working on this job. The appointment letter of the petitioner is Annexure -I.
- (2) That the ^{pay and allowances} ~~services~~ of the petitioner were regularised ^{and revised} along with others vide order No. 10/2/82-G dated 5.1.84 and he was sanctioned all benefits

contd....P/3

Ashok Kumar Dwivedi.

and allowances asadmissible to other employees of the Canteen. The letter regularising^{and revising} the ~~services~~ ^{pay and allowances} of the petitioner is Annexure -2 to this petition.

- (3) That pay and allowances of the petitioner alongwith others were further revised on the basis of the Fourth Pay Commission recommendations in pursuance of the Hon'ble Supreme Court of India vide Annexure No. 3
- (4) That the fact that the ~~services~~ ^{pay and allowances} of the petitioner were regularised^{and revised} is also evident from the statement of fixation of Pay under Central Civil Service (Revised Pay) Rules 1986 as is evidenced by Annexure-4.
- (5) That inspite of the above the respondent No. 2 has called a list of candidates from the Employment Exchange for interview for the post of Manager, Departmental Canteen, Akashvani, Lucknow i.e. for the job on which the applicant is already working. The list of such candidates as are seeking this job has already been submitted to the respondent No.2 who has issued letters to candidates fixing 17.6.89 as the date for interview.
- (6) That the petitioner approached the respondent No. 2 and humbly requested him to let the petitioner know as to why the respondent No. 2 was annoyed with him and why a recruitment on the job on which the petitioner was working was being made. The respondent No.2 told the petitioner that the appointment of the petitioner was on ad-hoc basis and that the petitioner had

contd...P/4

Ashok Kumar Dwivedi

no right to the job and could not question respondents right to make recruitment for the job. The respondent No. 2 refused to accept representation of the petitioner in writing.

- (7) That the petitioner ^{had also made application} ~~was also appointed through the~~
^{as per} ~~Employment Exchange as evidenced by Annexure-5.~~
- (8) That the applicant has even not been given a chance to appear for Interview for this post along with others. The letter of Employment Exchange submitting the list of candidates to Respondent No. 2 is Akash No OC/03/89 1585 dated 24/25.5.89.
- (9) That the recruitment and appointment of another person on the post which is already manned by the petitioner is illegal on the following grounds amongst others :-
- (a) That there is only one vacancy of Manager Departmental Canteen Akashvani, Lucknow, on which the petitioner is already working in permanent capacity and as such there is no vacancy.
- (b) That even if the appointment of the petitioner is held to be on ad-hoc basis the continuous working on this Job for the last 6 years without any complaint from any one, has given a right to the petitioner to continue on this job unless there is any cogent reason to remove the petitioner.

contd....P/5

Ashok Kumar Dwivedi

- (c) That the petitioner fulfills all the qualifications for the job and at any rate he ought to have been given a chance to compete with others.
- (d) That the petitioner has not been given an opportunity of being heard or making a representation before being removed from service.

7. Relief sought :

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

1. That the respondents be permanently restrained from making a recruitment for the job of Manager Departmental Canteen, Akashvani, 18 - Vidhan Sabha Marg, Lucknow.
2. That the respondents be permanently restrained to terminate the services of the petitioner ^{as} ~~on the~~ ^{not} ~~ground that~~ he is working on ad-hoc basis or on any other ground without compliance of the provisions of Article 311 of the Constitution of India.

8. Interim order, if prayed for :

That the respondents be temporarily restrained to make recruitment to the Job of Manager, Departmental Canteen and not to terminate the Services of the petitioner in any case till the pendency of this petition.

10. 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 bench of the Tribunal.

Contd.

Ashok Kumar

11. Particulars of Bank Draft/Postal Order in respect of the application fees.

- 1- No. of Indian Postal Order *DPD 787601*
- 2- Name of the issuing Post Office *C. P. O. Lucknow.*
- 3- Date of issue of Postal Order. *15.6.89*
- 4- Post Office at which payable *Allahabad.*

12. Details of Index.

An Index in Duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures :

1. Appointment letter of the Petitioner *and revising* Annexure- 1
2. *letter regularising the pay and allowances services of the petitioner.* Annexure- 2
3. 4th Pay Commissions recommendations for revision of pay and allowances. Annexure- 3
4. Statement of Fixation of Pay under Central Civil Service (Revised Pay) Rules 1986. Annexure- 4
5. *An Application* ~~Appointment~~ of the petitioner ~~through Employment Exchange~~ Annexure- 5

VERIFICATION :

I, Ashok Kumar Dwedi, R/o village Kharika, P.S.K Kharika, Telibagh, Lucknow, do hereby verify that the contents of paras 1 to 13 are true to my personal

contd...P/7

Ashok Kumar Dwedi

knowledge and belief and that I have not suppressed any material facts.

Lucknow:

Dated:

Ashok Kumar Dwivedi

(Signature of Applicant)

Through

Prahaakar Bishnoi
(PRAHA KAR BISHNOI)
Advocate.

To,

The Registrar,
Central Administrative Tribunal,
Allahabad Bench,
Lucknow.

B

ब अदालत श्रीमान

[वादी] अपीलान्त

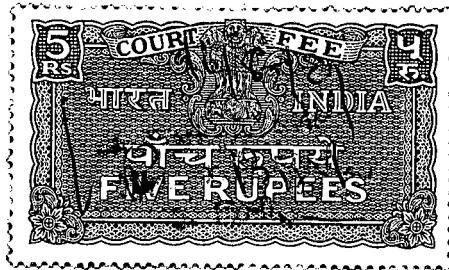
प्रतिवादी [रेस्पान्डेन्ट]

Before the Hon. Mr. Chief Magistrate

महोदय

Attorney at Law

वकालतनामा



ही (अपीलान्त)

Ashok Kumar Dwivedi

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

Union of India

मुकदमा नं०

सन

श्री की ता०

१६

ई०

Prabhasan Bishnoi

ऊपर लिखे मुकदमा में अपनी ओर से थी

Ashok Kumar Dwivedi

वकील

महोदय

High Court Bench

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इफ्ताल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा और मुकदमा 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।

Ashok Kumar Dwivedi

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन १९८० ई०

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
(CIRCUIT BENCH AT LUCKNOW)

Ashok Kumar Divedi Vs. Union of India & Others.

ANNEXURE NO. 2

BHARAT SARKAR
AKASHVANI DEPARTMENTAL Canteen
ALL INDIA RADIO : LUCKNOW

NO.Lko.10(2)/83-G

Dated the 11.7.83

/ ORDER /

Shri Ashok Kumar Divedi r/o Village Kharika, Distt. Lucknow is hereby appointed as Manager of Akashvani Departmental Canteen w.e.f. 11.7.83 F.M. on adhoc basis, Shri Ashok Kumar may please note that this adhoc appointment does not confer on him any right of regular appointment and his service is not required at any time are liable for termination without assigning any reason. ~~xxx~~ Shri Ashok will be entitled for Pay and ~~xxx~~ allowances sanctioned for the post of Manager, Akashvani Departmental Canteen from 11.7.83(F.M.)

(G.C. Pandey)
(G.C. Pandey)

Chairman
Departmental Canteen

✓
Shri Ashok Kumar Divedi,
Manager,
Akashvani Deptt. Canteen,
Lucknow.

Copy to:- PA to the S.D., A.I.R., Lucknow .

2. Accountant, All India Radio, Lucknow.
3. Treasurer, Akashvani Departmental Canteen, Lucknow.
4. Personal file of Shri Ashok Kumar Divedi, Manager(Adhoc), Deptt. Canteen All India Radio, Lucknow.

Chairman

Akashvani Departmental Canteen

*Attested
J. D. Sharma
Adv*

Ashok Kumar Divedi

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
(CIRCUIT BENCH AT LUCKNOW)

Ashok Kumar Divedi Vs. Union of India & Others.

ANNEXURE NO. 2

A/S

आकाशावाणी, लखनऊ

विभागीय कैन्टीन

पत्रांक : एलकेओ।0१२१/82-जी दिनांक : 5-1-84

भारत सरकार, गृह मंत्रालय के दिनांक 3/1/83 के 3/2/8/83 -
निदेशांक कैन्टीन संख्यक ज्ञापन में निहित आदेशों के अनुसार विभागीय कैन्टीन
आकाशावाणी, लखनऊ में कार्यरत निम्नलिखित कर्मचारियों के वेतनमान तथा
भारत दिनांक 26/9/1983 से निम्नलिखित रीति से संशोधित और नियत
किए जाते हैं।

| क्र.सं. | नाम | पदनाम | संशोधित वेतन- मान | नियत वेतन मान | वार्षिक वेतन वृद्धि की अगली तारीख |
|---------|--------------------------|-----------------------|----------------------|---------------------|---|
| 1 | 2 | 3 | 4 | 4 | 6 |
| 1- | श्री अशोक कुमार द्विवेदी | प्रबन्धक | 260-400 | 260 | 26/9/84 |
| 2- | श्री कन्हई बान्या | हलवाई | 260-400 | 260 | 26/9/84 |
| 3- | श्री राम कुमार | कूपन क्लर्क | 225-308 | 225 | 26/9/84 |
| 4- | श्री गंगा चन्द्र | बेयरा | 196-232 | 196 | 26/9/84 |
| 5- | श्री शंकर | बेयरा | 196-232 | 196 | 26/9/84 |
| 6- | श्री ओम प्रकाश | बेयरा | 196-232 | 196 | 26/9/84 |
| 7- | श्री रामलाल | चाप और काप मेकर | 196-232 | 196 | 26/9/84 |

2- उक्त सभी कर्मचारियों को उनके द्वारा लिए जा रहे वेतन के अनुसार
नियमानुसार अनुज्ञेय महंगाई वेतन, महंगाई भत्ता, अतिरिक्त महंगाई भत्ता
समय-समय पर स्वीकृत तथा मकान किराया भत्ता और नगर प्रतिपूर्ति भत्ता
भी दिया जाएगा।

3- उक्त कैन्टीन कर्मचारियों को ₹ 50/- प्रतिमाह की दर से अंतरित राहत
भी अनुज्ञेय होगी।

4- जिन कैन्टीन कर्मचारियों को अब तक मुक्त छाना जाति दिया जाता
रहा है वह तात्कालिक प्रभाव से बन्द कर दिया जाएगा।

श्रीनाथ

प्रशासनिक अधिकारी

अधिनियम तयित

विभागीय कैन्टीन, आकाशावाणी
लखनऊ

प्रतिलिपि:

1- सभी कैन्टीन कर्मचारी।

2- सभी कैन्टीन कर्मचारियों की वेतन पत्रावली/सेवा पुस्तिका।

Ashok Kumar Divedi

Ashok Kumar Divedi

Vs.

Union of India & Others.

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ANNEXURE NO. 3

IMMEDIATE

No.3/2/10/86-DI(C)

Government of India

Ministry of Personnel, Public Grievances and Pension
Department of Personnel & Training

New Delhi, the 24th November, 1986

OFFICE MEMORANDUM

Subject:- Revised pay and allowances of non-statutory canteen employees on the basis of the Fourth Pay Commission's recommendations.

In pursuance of the Interim Orders of the Supreme Court of India to pay the non-statutory canteen employees at the same rate and at the same basis on which employees of statutory canteens are being paid and consequent upon the revision of the pay scales on the recommendations of the Fourth Pay Commission, the pay scales of the non-statutory canteen employees are revised as per Part 'A' of the First Schedule of the Central Civil Services (Revised Pay) Rules, 1986, with effect from 1-1-1986 as shown in the Annexure to this O.M.

2. The drawal of pay in the revised scales, exercise of option, fixation of initial pay, date of next increment, etc. will be governed by the same rules and orders as are applicable to the Central Govt. servants in accordance with the C.C.S. (Revised Pay) Rules, 1986 contained in the Ministry of Finance, Deptt. of Expenditure Notification No.F.15(1)-IC/86, dated 13-9-86 as amended from time to time.

3. All canteen employees will also be paid Dearness Allowances, House Rent Allowance, City Compensatory Allowance, Hill Compensatory Allowance, Bad Climate Allowance, etc. at the revised rates with effect from the same dates, as admissible to Central Govt. Servants at various stations on the basis of the recommendation of the Fourth Pay Commission and according to the pay drawn by them.

4. Washing Allowance at the existing rate of Rs.15 - per month to the eligible employees will continue to be paid and 100% subsidy on it as hitherto-fere may be continued.

5. These orders will be applicable with effect from 1st January, 1986. The net amount of arrears for the period January, to March, 1986 will be deposited in the Employees Provident Fund Account of the employees but there will be no corresponding contribution from Employer's side. However, in the case of smaller Canteens/Tiffin Rooms where the E.P.F. Scheme is not applicable or has not been introduced voluntarily, the entire amount of arrears may be paid in Cash. The net arrears from April, 1986 onwards may be paid in Cash to all employees.

Contd.....2/-

Ashok Kumar Divedi
28/11/86
A.M.

Ashok Kumar Divedi

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- 2 -

6. This issues with the concurrence of the Ministry of Finance, Department of Expenditure under their U.O.No. 4427/E-III/86, dated 24-11-86.

M. S.

(Lt. Col. E.V. Krishnan, VSM)
Chief Welfare Officer.

To

1. All Ministries/Departments of the Govt. of India (as per standard list).
2. All Registered Canteens/Tiffin Rooms (as per list attached).
3. Ministry of Finance (Deptt. of Expenditure).
4. Home Finance Division.
5. Director of Audit, Central Revenue, New Delhi.
6. Controller General of Accounts, New Delhi.
7. C.G.M.S., R.K. Puram, New Delhi.
8. A.O. (Canteens) with 600 copies.

Ashok Kumar Dwivedi

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

(CIRCUIT BENCH AT LUCKNOW)

Ashok Kumar Divedi Vs. Union of India & Others.

ANNEXURE NO. 3A

Department of Personnel & Training
Director of Canteens

Annexure to O.M.No. 3/2/10/35-Dir(1), dt. 24-11-86.

Revised pay-scales of non-stipendiary canteen employees W.P.A.
1-1-85.

| S.No. | Designation | Existing pay scale. Rs. | Revised pay scale. Rs. |
|-------|--|----------------------------|------------------------------|
| 1. | General Manager | 425-600 | 1350-20-1440-40-1800-20-2250 |
| 2. | Dy. General Manager | 330-480 | 1200-30-1440-30-1800 |
| 3. | Manager ('A' & 'B' type canteens). | -do- | -do- |
| 4. | Accountant | -do- | -do- |
| 5. | Manager ('C' type canteens). | 260-400 | 950-20-1150-EB-25-1500. |
| 6. | Manager-cum-Salesman ('D' type canteens) | -do- | -do- |
| 7. | Asstt. Manager-cum-Storekeeper. | -do- | -do- |
| 8. | Store Keeper | -do- | -do- |
| 9. | Cashier | -do- | -do- |
| 10. | Halwai | -do- | -do- |
| 11. | Salesman/Clerks | 225-308 | 825-15-900-EB-20-1200 |
| 12. | Cook | -do- | -do- |
| 13. | Asstt. Halwai | -do- | -do- |
| 14. | Coffee/Tea Maker | 196-232 | 750-12-870-EB-14-940 |
| 15. | Bearer | -do- | -do- |
| 16. | Wash Boy | -do- | -do- |
| 17. | Sweeper | -do- | -do- |

(SUDARSHAN KUMAR)
Accounts Officer (Canteens).

Ashok Kumar Divedi

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
(CIRCUIT BENCH AT LUCKNOW)

Ashok Kumar Divedi

Vs.

Union of India & Others.

ANNEXURE NO. 54

STATEMENT OF FIXATION OF PAY UNDER CENTRAL CIVIL SERVICE
(REVISED PAY) RULES, 1986.

01. Name of the Government servant. **Shri ASHOK KUMAR DIVEDEI,**
02. Designation or the post in which pay is to be fixed as on 1st January, 1986. **Manager (Sr. Akashvani Departmental Canteen, Lucknow)**
03. Whether substantive or officiating. **Officiating.**
04. Existing scale/scales of the post (where there is more than one scale and the scales are merged, in a single revised scale, the particular scale in which the officer was drawing pay should be specified.) **L. 240-6-290-70-6-124-9-184-
R. 8-990-10-400.**
05. Existing emoluments as on 1st January, 1986.
- a) Basic pay(excluding ad-hoc increment on account of stagnation at the maximum of the existing scale.) **L. 272.00**
- b) Special pay under rule 7(1)(B). **L. 548.10**
- c) Dearness pay, ADA, Ad-hoc D.A. appropriate basic pay and special pay under rule 7(1)(B) and N.P.A. at the Index average 608 (1960=100) **L. 100.00**
- d) Amount of first and second instalments of interim relief adjustable on the basic pay, special pay under rule 7(1)(B) and N.P.A. **L. 920.10**
- TOTAL existing emoluments (a) to (d) : **L. 75.00**
6. 20% of basic pay subject to minimum of Rs. 75/- **L. 995.10**
7. TOTAL of items 5&6. **L. 950-30-1150-12-25-1500.**
8. Revised scales corresponding to existing scale/scales shown against item 4 above. **L. 1010.00**
- 9.(1) Revised pay as fixed under sub-rule (1) (A) or (1) (B) or (1) (C) or (1) (D), or Rule 7 at the stage in the revised scale next above the amount against item 7 above. :
- (ii) Special pay in the revised scale, if any (Rule 7(1) (C) refers) **-**
- (iii) Revised NPA, if admissible (Rule 7 (1) (D) refers). **-**
10. Revised emoluments total of item 9 (1) (ii) and (iii). **L. 1010.00**

Contd.....2/-

Ashok Kumar Divedi

11. Increase in emoluments (item 10(-) item (5) : **L. 29.90**
12. Revised emoluments to be shown as
 1) Revised pay : **L. 1010.00**
 ii) Special pay-rule 7(1) (c) refers : -
 iii) Personal pay-note 2 under rule 7(1) refers : -
 iv) NPA-Rule 7(1) (D) refers : -
13. (1) Number of increments to be allowed on account of bunching (Note 3 below rule 7(1)) : -
 (ii) Stepped up revised pay : -
14. Stepped up revised pay under Note 4 below rule 7(1)
 (Indicate also the name and pay fixed for the Junior) -
15. Increment allowed
 a) Under third proviso to Rule 8 : -
 b) Under fourth proviso to Rule 8 : -
16. Amount of personal pay (if the revised pay is less than the existing emoluments plus personal pay, the difference to be allowed personal pay over and above the revised pay (Note 5 under Rule 7(1)) : -
17. Whether the revised pay in the officiating post is less than the revised pay in the substantive post vide rule 2 (2) -
18. If answer to 17 is 'YES', the final revised pay under rule 7(2) -
19. Date of next increment under Rule 8: **1.9.86**
20. Any other relevant information : -

Signature of the Head of Office
 with stamp.

केन्द्र निदेशक
 Station Director
 आकाशवाणी, लखनऊ
 All India Radio, Lucknow.

Date :

Remarks of the Accounts Officer (Internal Audit)

S.K.S./
 161086/

Ashok Kumar Dwivedi

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
(CIRCUIT BENCH AT LUCKNOW)

Ashok Kumar Divedi

Vs.

Union of India & Others.

ANNEXURE NO. 5

चेयर मैन

आकाशवाणी दिवाट मैटल
मैट्रीन लखनऊ

महोदय

सविनय निवेदन यह है कि आपके यहाँ
यु.ए. मैनेजर का पद रिक्त हुआ है। मेरी योग्यताएँ
निम्न लिखित हैं।

① हाई स्कूल उत्तीर्ण - वर्ष १९६५

② इंटर मीडियम " १९६६

③ एन्म - तिथि - १५.१२.१९६६ -

- मेरा रोजगार कार्यालय में कार्य पंजीकृत है
पंजीकृत संख्या C/1791/82 है।

अतः श्री मान जी से प्रार्थना है कि मुझे
यहाँ पर नियुक्ति करने की कृपा करें।

दिनांक
१५.६.८३

प्रार्थी

अशोक कुमार दिवेदी
प्रा. व. पो. सरिका जिले लखनऊ

Ashok Kumar Divedi

Att. Gen.
P. K. Singh
A. M.

A25

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. 142 of 1989(L)

Ashok Kumar Dwedi

... Applicant

-vs-

Union of India and others

.. Opp. parties.

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.

1. Madan Mohan Sinha Harney
aged about 52 years, son of Late Shri S.R. Sinha
at present posted as Station Director

in the office of the Station Director, All India

Radio, Lucknow do hereby solemnly affirm and state

as under:-

1. That the deponent is authorised to pairvi
the case on behalf of the opp. parties and he is
well converant with the facts of the case deposed
herein under in reply thereof.

2. Tha-t the deponent has read and understood
the contents of the application and its enclosures.

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

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-2-

4. That in reply to the contents of para 6(1) of the application it is submitted that the applicant has been appointed to Departmental Akashvani Canteen, AIR, Lucknow with effect from 11.7.83 purely on adhoc basis and with the condition that his • adhoc appointment does not confer on him any right or regular appointment and his service is not required at any time are liable for termination without assigning any reason. The applicant has been given in writing a number of times that he is not managing the work of the departmental Akashvani Canteen satisfactorily, a few copies of the Memos issued to him are enclosed.

5. That in reply to the contents of para 6(2) of the application it is submitted that it is incorrect that his services were regularised with others vide order No. ~~3~~ LKO-10(20/88-9 dated 5.1.84. From the perusal of this Order there is no mention that the services of the applicant has been regularised, though the applicant has been allowed pay and allowances like other regular government servants. It is denied that the services of the petitioner has been regularised at any

stage.

ne
nd

A27

-3-

stage.

6. That in reply to the contents of para 6(3) of the application it is submitted that the 4th pay commission has revised the pay scale of non-statutory canteen employees and by virtue of this the applicant has been allowed the benefit of 4th pay commission.

7. That the contents of para 6(4) of the application are incorrect as stated, hence denied and in reply it is stated that the pay fixation statement of the applicant does not indicate that his services has been regularised.

8. That in reply to the contents of para 6(5) of the application it is submitted that the post of Manager, Departmental Akashwani Cantteen is filled with up on adhoc basis, it was necessary to make a regular arrangement in view of the instructions of the Government and as ~~xxxx~~ such the employment exchange Lucknow was requested to sponser candidates for the post of

26/11/89

Manager who fulfills the educational qualifications required for the post.

9. That the contents of para 6(6) of the application are wrong hence denied and in reply it is submitted that the applicant did not make any such verbal request.

10. That the contents of para 6(7) of the application are incorrect as stated and in reply it is submitted that the applicant simply submitted an application for his appointment as Manager vide his application dated 11.7.1983.

11. That in reply to the contents of para 6(8) of the application it is submitted that the applicant does not fulfill the prescribed educational qualification he has not been called to appear for interview alongwith the candidates sponsored by the Employment Exchange. The interview for which the candidates were called has not yet been held.

12. That on the one hand the applicant claims that his services have been regularised and on the other he alleged that he has not been given any chance to appear for interview. These are contradictory statements

has not been held.

and as such it should be dismissed.

13. That in reply to the contents of para 7(a) of the application it is submitted that the appointment of the applicant is on adhoc basis and it is considered that the regular vacancy exists to fill up the post on regular basis the candidates with requisite qualifications were sponsored by the Employment Exchange Lucknow.

14. That the contents of para 7(b) of the application are not correct as stated hence denied and in reply it is submitted that adhoc appointment is to be changed by regular incumbent. The applicant was appointed on adhoc basis without going through any formalities of appointment so when a person on the post has selected in due course he has to go.

15. That in reply to the contents of para 7(c) of the application it is submitted that the applicant does not ful-fill the requisite educational qualification prescribed for the post of Manager and as such the question of giving a chance to compete with others who fulfill the qualification does not arise.

16. That the contents of para 7(d) of the application are incorrect as stated and in reply it is submitted that the applicant has not yet been removed from the service

17. no or why

7130

17. That in view of the facts and circumstances stated in the preceeding paragraphs, the application filed by the applicant is not tenable in the eyes of law and is liable to be dismissed with costs.

[Signature]
Deponent.

Lucknow,
Dated: 23. X Aug. 1989.

Verification.

I, the above named deponent do hereby verify that the contents of para 1 of & 2 of this affidavit are true to my personal knowledge and those of paras 3C to 16 of this affidavit are believed by me to be true on the basis of the information gathered while those of the contents of para to 17 of this affidavit are believed by me to be true on the basis of legal advice. No part of it is false and nothing material fact has been concealed.

23/8/89

[Signature]
Deponent.

Lucknow.
Dated: 23. X Aug. 1989.

11.20m

[Signature]
me.

I identify the deponent who has signed before me is the same person, who is personally known to

[Signature]
(V.K. Chaudhari)

Addl. Standing Counsel for Central Govt
Counsel for the Opp. parties.

[Signature]
Lucknow,

Dated :

23/8/89

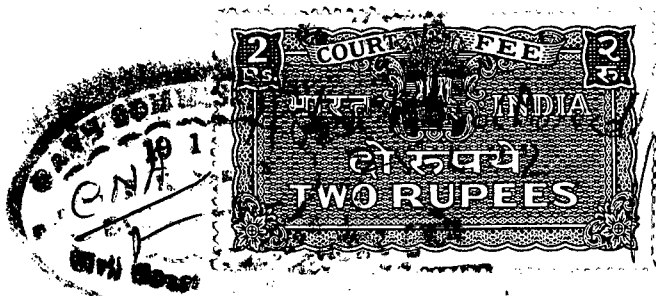
A31

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. 142 of 1989

F.F. 28.4.92

2



Ashok Kumar Dwivedi

.....Petitioner

Vs.

Union of India & Others

.....Opp. Parties

REJOINDER AFFIDAVIT OF THE PETITIONER ASHOK KUMAR DWIVEDI

I, Ashok Kumar Dwivedi, aged 33 years, son of Sri Ram Bharosey, resident of village Khirka, Telibagh, Lucknow, do hereby solemnly affirm as below :

1. That the deponent is the petitioner in the above noted case and is fully conversant with the facts of the case. He gives parawise reply to the Counter Affidavit as below.

2. That para 1 & 2 of the Counter-Affidavit needs no comment.

3. That para 3 of the Counter-Affidavit needs no comment.

4. That the contents of para 4 are denied. The petitioner was ^{appointed} as Manager Akashvani Departmental Canteen w.e.f. 11.7.83 and has been continously working since then.

.....2/-



Filed today

27/4/92

अशोक कुमार द्विवेदी

A32

- 2 -

without interruption even for a day. The appointment of the petitioner was for undefined period, so the petitioner's appointment during all this period cannot be said to be ad-hoc. It was absolutely wrong to say that the work of the Petitioner as Manager has not been satisfactory. In fact the petitioner was asked to do the work of the Manager as well as that of Coupon Clerk. During the period the petitioner was doing the job of Coupon Clerk as well as that of Manager he took time to complete the work. The petitioner was requested to do the job of Coupon Clerk and he made representation against the Memos. issued to him. His representation was considered satisfactory; as no action on the Memos. issued to him was taken. A copy of the representation made by the petitioner is Ann. R-1 to this rejoinder and the fact that no Coupon Clerk was provided to the petitioner and the petitioner was doing the job of Coupon Clerk, could be apparant from the minutes of the meeting dated 20.2.89, which is Ann. R-2.

5. That the contents of para 5 are denied and allegations made in para 6(2) of the application are reiterated. The petitioner was all along treated as a permanent employee.

6. That the contents of para 6 are admitted subject to this that the benefit of Pay Commission would not have been given to the petitioner if he would have been ad-hoc. Besides in the correspondence also the petitioner was never written as Adhoc Manager, as would appear from Annexure-2.

7. That contents of para 7 are argumentative and needs no reply. The legal position is that the petitioner cannot be treated as Adhoc any longer.

8. That the contents of para 8 are denied to this extent that the petitioner was no more Adhoc Manager. The respondent No. 2 being unhappy for his private reasons and

...3/-



अशोक कुमार शिवदी

grudge treated the petitioner adhoc, taking advantage of his appointment letter and wanted to do away with the services of the petitioner in this manner on this pretext that the petitioner was adhoc. In fact others also were adhoc like the petitioner, if appointment letters alone are taken into account, but their posts were not tried to be filled up and the applicant/petitioner alone was treated adhoc and was tried to be replaced.

9. That the contents of para 9 are denied and the allegation made in para 6(6) of the application are reiterated.

10. That the contents of para 10 are denied. The petitioner had also made application, as evident from Annexure-5.

11. That the contents of para 11 are denied. The petitioner is an Intermediate and fulfils the qualification for being appointed as Manager. The respondents in their Counter-Affidavit have not made it clear as to how the petitioner has not fulfilled the qualification for being appointed as Manager or what qualification is lacking in his case. Unless this is made clear no reply can be given.

12. That the contents of para 12 are argumentative and needs no comment. Reply to the arguments will be given in Court.

13. That the contents of para 13 are repetition and have been replied earlier.

14. That the contents of para 14 are repetition and have been replied earlier.

15. That the contents of para 15 are repetition and have been replied earlier.

16. That the contents of para 16, needs no comment except

.....4/-

अशोक कुमार द्विवेदी

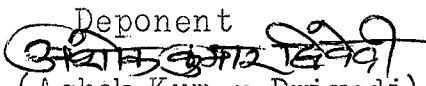
A34

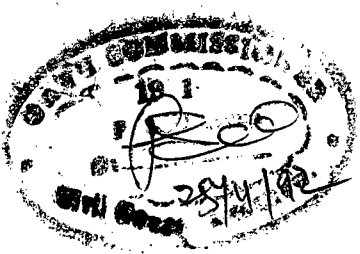
that true facts are mentioned by the applicant/petitioner in his application.

17. That contents of para 17 are argumentative and needs no comment except by arguments in court.

Lucknow:

Dated: 25. 4.92

Deponent

(Ashok Kumar Dwivedi)




VERIFICATION

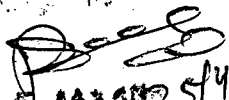
I, the above named deponent, do hereby verify that the contents of paras 1 to 17 of this Rejoinder Affidavit are true to my personal knowledge. Nothing material has been concealed and no part of it is false.

Signed and verified this the 25th day of April, 1991 at Lucknow.

Lucknow:

Dated: 25.4.92

Deponent

(Ashok Kumar Dwivedi)

10.10.91
A.K. Dwivedi
S. Benjerji
Advocate

25/4/92

I identify the deponent who has signed before me.

S. Benjerji
Advocate

सेवा में,

अध्यक्ष,
आकाशवाणी विभागीय कैंटीन,

लखनऊ ।

महोदय,

सविनय निवेदन है कि आकाशवाणी विभागीय कैंटीन में कुशन बल्क का बंद मई, 1986 से अभी तक रिक्त है जिसके कारण मुझे पुबन्धक एवं कुशन कलक दोनों बंदों का कार्य वर्तमान वर्ष 1990 तक निरन्तर करना पड़ रहा है। कार्य की अधिकता होने के कारण मेरा कार्य बिछड़ गया है। उपरोक्त विषय में मैंने शांति बत्र दिनांक 18.9.86, 3.3.88, 24.3.88, 2.5.88 तथा 26.5.88 आदि कार्यालय में प्रस्तुत कर चुके हूँ।

माननीय अध्यक्ष महोदय ने दिनांक 20.2.89 को कैंटीन की मीटिंग में आदेश दिया था कि पुबन्धक के पास कार्य की अधिकता होने के कारण पुबन्धक के सहायता में कार्यालय से किसी कर्मचारी को दिया जाय किन्तु आज तक कोई भी कर्मचारी मेरी सहायता के लिए उपलब्ध नहीं हो सका है।

अतः आपसे पुनः निवेदन है कि आकाशवाणी विभागीय कैंटीन में कुशन बल्क की व्यवस्था शीघ्रता से करने की कृपा करें जिससे मैं अपना बिछड़ा कार्य व दैनिक कार्य सुचारु रूप से कर सकूँ।

धन्यवाद ।



28.8.90

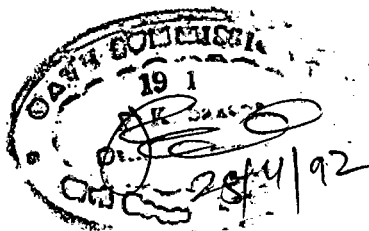
शुद्धी

अशोक कुमार द्विवेदी
पुबन्धक आकाशवाणी विभागीय कैंटीन,
लखनऊ ।

प्रतिलिपि :-

- 1- महानिदेशक, आकाशवाणी, आकाशवाणी भवन, संसद मार्ग, नई दिल्ली ।
- 2- महानिदेशक, कैंटीन शास्त्रीय भवन, नई दिल्ली ।
- 3- अध्यक्ष, अखिल भारतीय कैंटीन मजदूर सभा, नई दिल्ली ।

अशोक कुमार द्विवेदी
28.4.92



कैंटीन की नई कार्यकारिणी की सभा हुई जिसमें निम्नक्त सदस्यों ने भाग लिया:---

1. श्री मदन गोहन सिन्हा "मन्जु"
2. श्री आर० के० सिंह
3. डा० एम०एस० पाण्डेय
4. श्री एस० भट्टाचार्य
5. श्री एस० पी० खन्ना
6. श्री के० के० श्रीवास्तव
7. श्रीमती मिताली चक्रवर्ती
8. श्री जी०एस० बन्जर्जी
9. श्री रैलेन्द्र प्रधान
10. श्री सी०एस०पी० शुक्ला
11. श्री केवल कृष्ण
12. श्री प्रवेश खरे
13. श्री एस० पी० अग्रवाल
14. श्री लक्ष्मण सिंह
15. श्री अशोक द्विवेदी

ANNEXURE R-2

सभा में विभागीय आकाशवाणी कैंटीन की स्थिति के बारे में विचार-विमर्श किया गया तथा यह पुनः अनुभव हुआ कि कैंटीन सुचारु रूप से नहीं चल रही तथा कर्मचारियों को खाने हेतु कई बार कुछ भी उपलब्ध नहीं हो पाता। इस पर गम्भीरता से विचार किया गया तथा निम्नलिखित निर्णय लिये गये:---

§ 1§ कैंटीन से कोई भी सामान मंगवाने के लिये प्रत्येक व्यक्ति एक स्लिप कैंटीन में भिजवाएगा जिसके आधार पर सामान उपलब्ध हो सकेगा।

§ 2§ सामान्यतः उधार देने पर रोक होगी और कृपण पर बिक्री होगी। उधार लेने हेतु ऐसा फॉर्म भरना आवश्यक होगा जिसमें कर्मचारी अपने वेतन से कैंटीन बकाया कटौती का अनुरोध करेगा और राजपत्रित अधिकारी स्वयं मासिक में भुगतान का वकन देगा। यदि कोई कर्मचारी अपने बिल का स्वयं भुगतान नहीं करता तो उन्हें तीन अक्सर प्रदान करने के बाद कैंटीन से सामान देना सब तक बन्द कर दिया जाएगा, जब तक अपना पिछली देय राशि वह जमा नहीं करता और बकाया वसूली हेतु उसके वेतन से कटौती की कार्यवाही की जायगी।

§ 3§ कैंटीन का निरीक्षण गुणवत्ता नियंत्रण कमेटी के सदस्यों द्वारा प्रत्येक दिन करके अपना सुझाव, सुझाव पुस्तिका में लिख कर अध्यक्ष महोदय को सप्ताह में एक बार भेजा जाएगा और सभी कार्यकारिणी सदस्य, निरीक्षण समिति सदस्य कुमशः पूर्वान्ह एवं अपरान्ह पाली में कैंटीन के सुचारु संचालन का निरीक्षण/पारदर्शक करेगे।



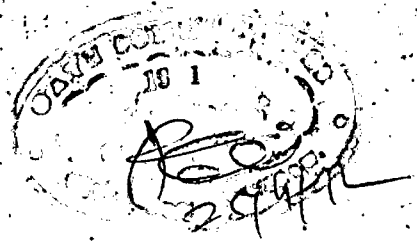
21. श्री केवल कुमार, संगीत सज्जक, आकाशवाणी, लखनऊ।
 22. श्रीमती शकुन्तला मिश्रा, वरिष्ठ उद्घोषिका, आकाशवाणी, लखनऊ।
 23. श्री लक्ष्मण सिंह, टेक्नीशियन, आकाशवाणी, लखनऊ।
 24. कुं ऊषा मिश्रा, लिपिक श्रेणी-11, आकाशवाणी, लखनऊ।
 25. श्री राम औतार, मोटर ड्राइवर, आकाशवाणी, लखनऊ।
 26. श्री शंकर, चतुर्थ श्रेणी कर्मचारी, आकाशवाणी, लखनऊ।

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बीपी

सदी प्रति

अशोक कुमार द्विवेदी
 25.4.92



1730

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No. 142 of 1989

F.F. 28.4.92

Ashok Kumar Dwivedi

.....Petitioner

Vs.

Union of India & Others

.....Opp. Parties

REJOINDER AFFIDAVIT OF THE PETITIONER ASHOK KUMAR DWIVEDI

I, Ashok Kumar Dwivedi, aged 33 years, son of Sri Ram Bharosey, resident of village Khirka, Telibagh, Lucknow, do hereby solemnly affirm as below :

1. That the deponent is the petitioner in the above noted case and is fully conversant with the facts of the case. He gives parawise reply to the Counter Affidavit as below.

2. That para 1 & 2 of the Counter-Affidavit needs no comment.

3. That para 3 of the Counter-Affidavit needs no comment.

4. That the contents of para 4 are denied. The petitioner was ^{appointed} as Manager Akashvani Departmental Canteen w.e.f. 11.7.83 and has been continuously working since then.2

अशोक कुमार द्विवेदी

without interruption even for a day. The appointment of the petitioner was for undefined period, so the petitioner's appointment during all this period cannot be said to be ad-hoc. It was absolutely wrong to say that the work of the Petitioner as Manager has not been satisfactory. In fact the petitioner was asked to do the work of the Manager as well as that of Coupon Clerk. During the period the petitioner was doing the job of Coupon Clerk as well as that of Manager he took time to complete the work. The petitioner was requested to do the job of Coupon Clerk and he made representation against the Memos. issued to him. His representation was considered satisfactory, as no action on the Memos. issued to him was taken. A copy of the representation made by the petitioner is Ann. R-1 to this rejoinder and the fact that no Coupon Clerk was provided to the petitioner and the petitioner was doing the job of Coupon Clerk, could be apparant from the minutes of the meeting dated 20.2.89, which is Ann. R-2.

5. That the contents of para 5 are denied and allegation made in para 6(2) of the application are reiterated. The petitioner was all along treated as a permanent employee.

6. That the contents of para 6 are admitted subject to this that the benefit of Pay Commission would not have been given to the petitioner if he would have been ad-hoc. Besides in the correspondence also the petitioner was never written as Adhoc Manager, as would appear from Annexure-2.

7. That contents of para 7 are argumentative and needs no reply. The legal position is that the petitioner cannot be treated as Adhoc any longer.

8. That the contents of para 8 are denied to this extent that the petitioner was no more Adhoc Manager. The respondent No. 2 being unhappy for his private reasons and

Amc

grudge treated the petitioner adhoc, taking advantage of his appointment letter and wanted to do away with the services of the petitioner in this manner on this pretext that the petitioner was adhoc. In fact others also were adhoc like the petitioner, if appointment letters alone are taken into account, but their posts were not tried to be filled up and the applicant/petitioner alone was treated adhoc and was tried to be replaced.

9. That the contents of para 9 are denied and the allegation made in para 6(6) of the application are reiterated.

10. That the contents of para 10 are denied. The petitioner had also made application, as evident from Annexure-5.

11. That the contents of para 11 are denied. The petitioner is an Intermediate and fulfils the qualification for being appointed as Manager. The respondents in their Counter-Affidavit have not made it clear as to how the petitioner has not fulfilled the qualification for being appointed as Manager or what qualification is lacking in his case. Unless this is made clear no reply can be given.

12. That the contents of para 12 are argumentative and needs no comment. Reply to the arguments will be given in Court.

13. That the contents of para 13 are repitition and have been replied earlier.

14. That the contents of para 14 are repetition and have been replied earlier.

15. That the contents of para 15 are repetition and have been replied earlier.

16. That the contents of para 16 needs no comment except

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अशोक कुमार सिन्धी

that true facts are mentioned by the applicant/petitioner in his application.

17. That contents of para 17 are argumentative and needs no comment except by arguments in court.

Lucknow:

Dated: 25. 4.92

Deponent
अशोक कुमार द्विवेदी
(Ashok Kumar Dwivedi)

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 17 of this Rejoinder Affidavit are true to my personal knowledge. Nothing material has been concealed and no part of it is false.

Signed and verified this the 25th day of April, 1991 at Lucknow.

Lucknow:

Dated: 25.4.92

Deponent
अशोक कुमार द्विवेदी
(Ashok Kumar Dwivedi)

I identify the deponent who has signed before me.

S. B. Benerji
Advocate

सेवा में,

अध्यक्ष,
आकाशवाणी विभागीय कैंटीन,
लखनऊ ।

महोदय,

सविनय निवेदन है कि आकाशवाणी विभागीय कैंटीन में कृषन कलर्स का बंद मई, 1986 से अभी तक रिक्त है जिसके कारण मुझे पुबन्धक एवं कृषन कलर्स दोनों बंदों का कार्य वर्तमान वर्ष 1990 तक निरन्तर करना पड़ रहा है। कार्य की अधिकता होने के कारण मेरा कार्य बिछड़ गया है। उपरोक्त विषय में मैंने प्रार्थना पत्र दिनांक 18.9.86, 3.3.88, 24.3.88, 2.5.88 तथा 26.5.88 आदि कार्यालय में प्रस्तुत कर चुका हूँ।

माननीय अध्यक्ष महोदय ने दिनांक 20.2.89 को कैंटीन की मीटिंग में आदेश दिया था कि पुबन्धक के पास कार्य की अधिकता होने के कारण पुबन्धक के सहायता में कार्यालय से किसी कर्मचारी को दिया जाय किन्तु आज तक कोई भी कर्मचारी मेरी सहायता के लिए उपलब्ध नहीं हो सका है।

अतः आपसे पुनः निवेदन है कि आकाशवाणी विभागीय कैंटीन में कृषन कलर्स की व्यवस्था शीघ्रता शीघ्र करने की कृपा करें जिससे मैं अपना बिछड़ा कार्य व दैनिक कार्य सुचारु रूप से कर सकूँ।

धन्यवाद ।

प्रार्थी



28.8.90

|| अशोक कुमार द्विवेदी ||
पुबन्धक आकाशवाणी विभागीय कैंटीन,
लखनऊ ।

प्रतिलिपि :-

- 1- महा निदेशक, आकाशवाणी, आकाशवाणी भवन, संसद मार्ग, नई दिल्ली ।
- 2- महा निदेशक, कैंटीन शास्त्रीय भवन, नई दिल्ली ।
- 3- अध्यक्ष, अखिल भारतीय कैंटीन मजदूर सभा, नई दिल्ली ।

सही प्रती

अशोक कुमार द्विवेदी
25.4.92

कैन्टीन की नई कार्यकारिणी की सभा हुई जिसमें निम्नवत सदस्यों ने भाग लिया:---

1. श्री मदन गोहन सिन्हा "मन्नु",
2. श्री आर० के० सिंह
3. डा० एम०एस० पाण्डेय
4. श्री एस० भट्टाचार्य
5. श्री एस० पी० खन्ना
6. श्री के० के० श्रीवास्तव
7. श्रीमती पित्तली चक्रवर्ती
8. श्री जी०एस० बनर्जी
9. श्री शैलेंद्र प्रधान
10. श्री सी०एस०पी० शुक्ला
11. श्री केवल कृष्ण
12. श्री मुकेश खरे
13. श्री एस० पी० अग्रवाल
14. श्री लक्ष्मण सिंह
15. श्री अशोक द्विवेदी

ANNEXURE-2

सभा में विभागीय आकाशवाणी कैन्टीन की स्थिति के बारे में विचार-विमर्श किया गया तथा यह पुनः अनुभव हुआ कि कैन्टीन सुचारु रूप से नहीं चल रही तथा कर्मचारियों को खाने हेतु कई बार कुछ भी उपलब्ध नहीं हो पाता। इस पर गम्भीरता से विचार किया गया तथा निम्नलिखित निर्णय लिये गये:---

§ 1§ कैन्टीन से कोई भी सामान मंगवाने के लिये प्रत्येक व्यक्ति एक स्लिप कैन्टीन में भिजवाएगा जिसके आधार पर सामान उपलब्ध हो सकेगा।

§ 2§ सामान्यतः उधार देने पर रोक होगी और कृपण पर बिक्री होगी। उधार लेने हेतु ऐसा फार्म भरना आवश्यक होगा जिसमें कर्मचारी अपने वेतन से कैन्टीन बकाया कटौती का अनुरोध करेगा और राजपत्रित अधिकारी स्वयं मासांत में भुगतान का वकन देगा। यदि कोई कर्मचारी अपने बिल का स्वयं भुगतान नहीं करता तो उन्हें तीन अवसर प्रदान करने के बाद कैन्टीन से सामान देना सब तक बन्द कर दिया जाएगा, जब तक अपना पिछली देय राशि वह जमा नहीं करता और बकाया कसूरी हेतु उसके वेतन से कटौती की कार्यवाही की जायगी।

§ 3§ कैन्टीन का निरीक्षण गुणवत्ता नियंत्रण कमेटी के सदस्यों द्वारा प्रत्येक दिन करके अपना सुझाव, सुझाव पुस्तिका में लिख कर अध्यक्ष महोदय को सप्ताह में एक बार भेजा जाएगा और सभी कार्यकारिणी सदस्य, निरीक्षण समिति सदस्य कुमशः पूर्वान्ह एवं अपरान्ह पाली में कैन्टीन के सुचारु संचालन का निरीक्षण/पर्यवेक्षण करेंगे।

21. श्री केक कुमार, संगीत सज्जक, आकाशवाणी, लखनऊ।
22. श्रीमती शकुन्तला मिश्रा, वरिष्ठ उद्घोषिका, आकाशवाणी, लखनऊ।
23. श्री लक्ष्मण सिंह, टेक्नीशियन, आकाशवाणी, लखनऊ।
24. कुं उषा मिश्रा, लिपिक श्रेणी-11, आकाशवाणी, लखनऊ।
25. श्री राम औतार, मोटर ड्राइवर, आकाशवाणी, लखनऊ।
26. श्री शंकर, चतुर्थ श्रेणी कर्मचारी, आकाशवाणी, लखनऊ।

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बीपी

सही प्रत

अशोक कुमार द्विवेदी

25.4.92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT
BENCH, LUCKNOW

Misc. Application No. 728 of 1991 (2)

In re

Case No. 142/89

F.F. 19.11.91

5.2.92

Ashok Kumar Dwivedi

... Applicant

Versus

Union of India & others

... Respondents

APPLICATION FOR AMENDMENT

The humble applicant respectfully submits:-

1. That while preparing the case it was discovered that certain omissions and clerical errors in the claim petition require to be corrected and further and better particulars need to be furnished for purpose of determining the real questions in controversy.

2. That it is expedient in the interest of justice to make certain amendments as proposed below in body of claim petition:

(1) In line 4 of clause 1 of para 6 on page 2 substitute the words "on adhoc basis but" by words "for undefined period".

(2) In clause 2 of para 6 on page 2, (a) in line 1

...2.

अशोक कुमार द्विवेदी

Filed today

25/11/91

substitute the word "Services" by the words "pay and allowances", (b) in line 2 add "and revised" before the words "alongwith", (c) add words "and revising" after word "regularising" in line 2 of page 3 and (d) in line 3 of page 3 substitute the word "Services" by "pay and allowances".

- (3) In line 1 of clause 4 of para 6 on page 3 substitute the word "Services" by the words "pay and allowances and in line 2 of same clause after word "regularised" add "and revised".
- (4) In line 1-2 of clause 7 of para 6 on page 4 substitute the words "was also appointed through the Employment Exchange as evidenced by "by "had also made application as per".
- (5) In line 2-3 of clause 2 of para 7 on page 5 substitute the words "on the ground that" by "as" and in line 3 of same clause after words "he is" add "not".
- (6) In clause 2 of para 13 on page 6, (a) add words "and revising" after word "regularising" and (b) in same clause substitute the word "Services" by "pay and allowances".
- (7) In clause 5 of para 13 on page 6 (a) substitute

the word "Appointment" by "An Application"

and (b) in same clause delete the words

"through Employment Exchange".

Wherefore it is prayed that the amendments proposed in para 2 above be graciously allowed in interest of justice.

Applicant

अशोक कुमार द्विवेदी

Lucknow:

Dated: 19.11.91.

(ASHOK KUMAR DWIVEDI)
Manager,
Departmental Canteen,
All India Radio,
Lucknow.

1140

Central Administrative Tribunal, Lucknow, महोदय

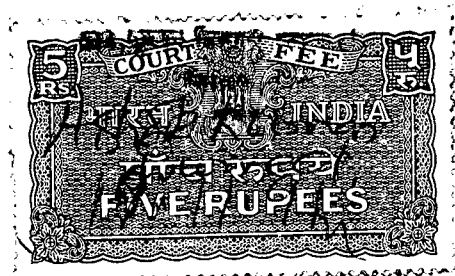
व अदालत श्रीमान

[बादी अपीलान्त]

प्रतिवादी [रेस्पाडेन्ट]

श्री Ashok Kumar Dwivedi

वकालतनामा



(बादी अपीलान्त)

Ashok Kumar Dwivedi

दनाम

Union of India (प्रतिवादी रेस्पाडेन्ट)

another

नं मुकद्दमा 142 सन् 1989 पेशी की ता० 19.11. 1989 ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री S. B. Banerji, Advocate (1826/90)

वकील

महोदय

एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकत

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 जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या मुलहनामा 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 करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखतो) रसीद से लेवे या पंज नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर श्री S. B. Banerji, Advocate

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक 18

महीना 11

सन् 1989 ई०

स्वीकृत : S. B. Banerji, Adv.

18.11.91

449

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

MISC APPLICATION NO. 225 OF 1992 (C)

In Re :

Case No. 142/89

F.F. 28.04.92

Ashok Kumar Dwivedi petitioner/Applicant

Versus

Union of India and others Respondents

APPLICATION FOR PAYMENT OF SALARY

The applicant humbly submits :

1. That the applicant is the petitioner in the above noted case and is fully conversant with the facts of the case.
2. That the applicant was granted an interim Order dated 24.07.1989, by which the respondents were restrained from removing him from the post of Manager, (Canteen) which he is at present holding.
3. That the applicant inspite of repeated request through representations is not getting salary since September 1991.
4. That the applicant is a very poor man with a big

Filed today

OSW

13/3/92

AS

: 2 :

family to look after. The non-grant of pay is causing him irreparable injury, which is unbearable.

WHEREFORE it is most respectfully prayed in the light of facts and circumstances stated above that the respondents be directed to pay salary to the applicant regularly alongwith the salary of September 1991 - March 1992, and any other order which may be expedient in the interest of justice may graciously be passed.

Lucknow :

Dated : 13.3.92.

Applicant

अशोक कुमार द्विवेदी

(Ashok Kumar Dwivedi)
Manager

Departmental canteen Akashvan

Lucknow

GA No 142/89(L) (51) 08/3

VAKALATNAMA

In the Hon'ble High Court of Judicature at Allahabad
At
Lucknow Bench

..... Ashok Kumar Dwivedi Plff./Applt./Petitioner/Complainant
Verses

..... Union of India and others Defent./Respt./Accused
KNOW ALL to whom these presents shall come that I/We Station Director A.R. U
the above-named Respondent do hereby appoint

Shri V. K. CHAUDHARI, Advocate,
..... High Court, Lucknow Bench
(hereinafter called the advocate/s) to be my/our Advocate in the above-noted case and
authorised him :—

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

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

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

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

To take execution proceedings.

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

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

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

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

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

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the
contents of which have been understood by me/us on this.....22.....day of.....6.....1989

Accepted subject to the terms of fees.

Client

Client

Ashok Kumar Dwivedi
26/6/89
Advocate

Station Director
आकाशवाणी, लखनऊ
All India Radio, Lucknow

(52)

C79

Before the Honble Chief Adm. Tribunal,
Lucknow Bench.

Ashok Kumar Swivedi

VS

Union of India

Dated 19.9.89

In the above noted case
It is respectfully submitted
that I shall be out of station
on 19.9.89 in connection with
the treatment of my wife.

It is therefore
prayed that some order
after a week may kindly
be given.

Dated
16.9.89

Sabbhar Singh
Advocate
Lucknow

53
Cdo

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

O.A. NO.142 of 1989 (L)

| | | |
|-------------------------|--------|-------------|
| A.K. Dwedi | | Applicant. |
| | versus | |
| Union of India & Others | | Respondent. |

20.03.1990.

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

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



None for the applicant. A request has been made by the learned counsel for the applicant through the counsel for the respondents for adjournment on personal grounds. Allowed, the case be listed for hearing on 04.09.1990.

Sd/-
A.M.

Sd/-
J.M.
[Signature]
23/3/90
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

7
checked
[Signature]
21/3/90

ms/

(81)

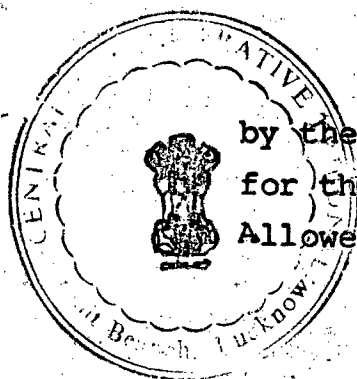
CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

O.A. NO.142 of 1989 (L)

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A.M.

Sd/-
J.M. Dwedi
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

23/3/90

checked

21/3/90

ms/

(54) (2)

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

O.A. No.142 of 1989 (L)

Ashok Kumar Dwedi Applicant.

Versus

Union of India & Another Respondents.

15-6-1989

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

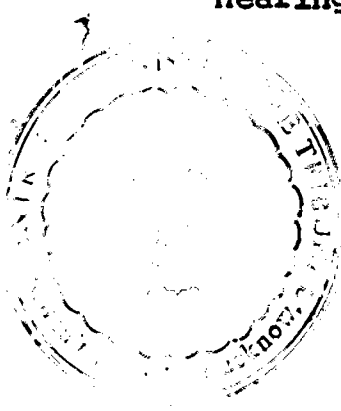
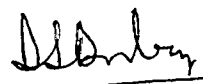
Heard the learned counsel for the applicant.

Admit. Issue notice to the respondents. Respondents are directed to file counter reply within 4 weeks to which the applicant may file rejoinder, if any, within 1 week thereafter. Meanwhile, the applicant shall not be removed from the post of Manager, (Canteen) which he is at present holding and further, the selection if any, made by the respondents on the post of Manager (Canteen) shall be subject to the decision of this Tribunal. Put up this case for hearing on 24-7-1989.

sd -
Member (J)

//True Copy//

(rrm)



15/6/89
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench
Lucknow