

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, Lucknow BENCH

OA/TA/RA/CP/MA/PT 154/89 of 20.....

Jitendra Nath Pathak Applicant(S)

Versus

Union of India Respondent(S)

INDEX SHEET

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Certified that the file is complete in all respects.

B/C. Weeped out / destroyed

Signature of S.O.

Signature of Deal. Hand

21/8/12

15.7.92
D.R.

Both the parties are absent. Applicant to incorporate the amendment in petition by 21/9/92.

2.9.92
D.R.

Both the parties are absent. Applicant to incorporate the amendment in petition by 30.10.92.

Due to Autumn vacation case is shifted on 12.1.93.

S.F.O.
8

12-1-93
D.R.

Applicant is present. He is ordered to incorporate the amendment in the petition by 16.2.93. Letter on Counsel for the applicant came and amend Impleadment incorporated by him on 12-1-93 as per order dated 16.9.91. Issue Notice to O.P. NO-4 for filing Counter Affidavit by 16-2-93. Applicant also shall also submit a copy of the application for sending Notice to O.P. NO-4 within one week.

by lead. 12/1/93
Amendment / impleadment incorporated in original (O.A.) as per order dated 16/9/91
B.N. Mishra Adv.
to app. 4
12/1/93

13/1/93
Siv
I am filing copy of application for sending notice to O.P. NO 4. B.N. Mishra Adv. 13/1/93

OR
Sfr k...
15/1/93

154-0.1k

11.7.91 D.R. A-3

Applicant's side is present. O.P. is absent.

In this case CA/RA have been exchanged

Hence, this case is listed before the

Hon. Bench on 14/8/91 for final hearing.

✓

OR

CA/RA have been asked MP 143-91C for impleadment filed by HC for the applicant S. Po

13/0/91

OR

HC for the applicant has not incorporated amendment

21/1/91

6.11.91

D.R.

Both the parties are absent today. Applicant to incorporate the amendment by 23/1/92

✓

14.8.91 - case not required. Refd to 16.9.91

16.9.91

2 BOC

Hon Mr Justice G.C. Srinivasan, HC
Hon Mr A B Gowtham, AM

MP 143/91 re Application for impleadment of Sri LK Pathak as O.P No. 4, is allowed. Notice may be issued to him. List for orders on 6-11-91

AM

VC

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

2/11/89

Shri B.N. Mishra briefholder of Mr. T.N. Gupta
 counsel for the applicant and Miss Rekha Pandey briefholder
 of Mr. L.S. Randhawa Senior Standing Counsel for the
 respondents are present. Sufficient opportunity has
 already been granted to the respondents to file counter-
 reply. An oral request has been made by the junior of
 the Senior Standing Counsel for grant of time to file reply.
 It has been ^{considered} ~~considered~~ a routine matter to ask for time
 in this manner. The ^{admissible} ~~admissible~~ course is that the
 respondents ^{are unable to file reply with reasons on account of which they have not been able} ~~are unable~~ to file reply. They must file
 an application with reason.

There is no Division Bench sitting today, therefore,
 hearing cannot take place. The result is that the
 respondents get advantage. Let the counter reply if
 any, be filed within four weeks to which the applicant
 may file rejoinder affidavit within two weeks thereafter.
 This case for hearing on 17-1-90.

J.M.
 J.M.

(sns)

17-1-90

No sitting of D.B/ Adj. to 16-3-90

Reply filed on
 behalf of respondents
 duly served to the
 applicant.
 No RA filed.
 Submitted for
 hearing

L
B.O.C

17-1-90

3

6-3-90

No sitting of D.B, Adj. to 6-8-90

L
16/1/90
2/11

1-90

No sitting. Adj. to 6/9/90

1-90

No sitting Adj. to 1-11-90

16-5-90 B.O.C

11-90

Due to holiday Adj. to
 05.01.91

J.M.

Hon'ble Mr. D.K. Agrawal, JM.

20/9/89 Shri T.N. Gupta, Counsel for the applicant is present.
Miss Rekha Pandey, brief holder of Shri D.S. Ramdhanu, Sr. Standing Counsel for Union of India prays that the case be taken up tomorrow or on 21-9-89 for the purpose of disposal of the interim prayer.
Put up tomorrow.

JH

J.M.

(SNS)

Hon'ble Mr. Agrawal, JM.

21/9/89 Shri T.N. Gupta / ~~CA~~ ^{Counsel for applicant} and Shri D.S. Ramdhanu Counsel for the respondents are present and heard.
This is not a fit case for issue of any interim order. The services of the applicant were terminated after 5 months of service by an order dt. 16-9-88. However, the disposal of the application on merits ~~will~~ be expedited. It appears that the respondents were given 4 weeks time to file counter affidavit on 9-8-88, they have not availed of the opportunity. The Counsel

→ Sealed →

7-9

4/5

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD (LUCKNOW)
BENCH

7. 159/070

OF 19

VS

Office report	Orders
---------------	--------

1/2/5

No 4.

at 5/20/5
filed.

1/3/93

300

Handwritten notes at the top left, possibly describing a location or survey point.



Main body of handwritten text, appearing to be a detailed description or report, possibly related to a survey or field study.

20-7-98 Mon 10.5 N 80 West 101

Additional handwritten notes at the bottom left, including a checkmark and some illegible text.

0.15/0.3

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Handwritten notes in the middle right section, including a date '17/11/98' and other illegible text.

Handwritten notes in the bottom right corner, including a date '17/11/98' and other illegible text.

28/9/93

Hon. Mr. S. N. Prasad, J.M.
Hon. Mr. V. K. Selk. A.M.

Shri T. N. Gupta, learned counsel for the applicant and Shri B. S. Ramakrishna, learned counsel for the respondents No. 1 to 3 are present. Learned counsel for the applicant seeks adjournment list this case on 9/11/93 for hearing on dishonour.

J.M.

u/s
O.A.
of Mr. C. S. R. H. H. H.
A.M. 9.11.93
of Mr. J. J. J.

No coming of D. B. Selk
on 28.11.93
M.A.

DR Vide order of Hon. V.C. on the map of the applicant list this case for hearing on 19.7.94. Notify in the warning list.

DR

of
RA of the
court of
of No. 4
of Mr. J. J. J.
of Mr. J. J. J.

19.7.94
of Mr. J. J. J.
of Mr. J. J. J.

31.5.95

Hon'ble Mr. V.K. Seth, A.M.
Hon'ble Mr. D.C. Varma, J.M.

None for applicant.

SSI J.P. Singh, learned
Counsel for opposite Party
No. 4 states that SSI Ramllawa,
learned Counsel for the Union
of India is out of station
and pray for ~~adjournment~~

J.M.

V.K.
A.M.

26.2.96

Hon. Mr. Justice B.C. Saksena, V.C.

List the M.P. 149/96 in the Month
of April 96 when I sit at Lucknow.

BC
V.C.

16.5.96 Hon Mr Justice B.C. Saksena, V.C.

MP 149/96 is allowed.
M.T. 7/6 O.A for final hearing
on 25.7.96.

BC
V.C.

CP
Recd 27/1/96
Completed
27/1/96

bc

25.7.96

No. 2111 of N.S. Colpa
23.9.96

J
MCC

28-09-96

Hon. Mr. Justice B. C. Saxena, V.C.
Hon. Mr. V. K. Seth, A.M.

or
CA/DA Law
26/9/96

Li. T. N. Gupta, learned
counsel for applicant. L. K. K.
Bul appearing for Li. D. S. Ran-
dhawa, learned counsel for
respondents prays for adjourn-
ment.

list on 01-10-96 for hearing.

V.K.
A.M.

BC
V.C.

1/10/96

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D. C. Verma, J.M.

or
Ho. Supp. CA Law
15/10/96

None for the applicant. Sh. J. P.
Singh counsel for respondent
No. 2 Sh. D. S. Randhawa for
respondent 1 to 3.

Sh. Singh seeks & is allowed
one week's time to file Supp CA
with reference to R.A. filed by
the applicant

list on 18/10/96.

J.M.

V.K.
A.M.

✓

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.

A-17

1/9

O.A.No. 154/89 Date of decision 10.3.97

Jitendra Nath Pathak Petitioner
Sri T. N. Gupta Petitioner's Advocate.

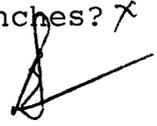
V E R S U S

Director (Postal Services), Lucknow Respondent(s)
Sri J. P. Sharma Respondents' Advocate.

CORAM:

HON. MR. V. K. Sethi, A.M.
HON. MR. D. C. Verma, J.M.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether to be circulated to all other benches?


SIGNATURE.

A-181
12/10

CENTRAL ADMINISTRATIVE TRIBUNAL: LUCKNOW BENCH:

LUCKNOW

Original Application No.154 of 1989.

Lucknow this the 10th day of March 1997.

HON'BLE MR. V.K. SETH, MEMBER(A.)

HON'BLE MR. D.C. VERMA, MEMBER(J.)

Jitendra Nath Pathak S/o Sri Janardan Prasad
Pathak
R/o Village and Post Chauhan Purwa. Gonda.

Versus

Director (Postal Services), U.P., Lucknow & Another
..Respondents

For the applicant: Sri T.N. Gupta, Advocate

For the respondents: Sri J.P. Sharma, Advocate

ORDER

D.C. VERMA, MEMBER(J.)

By this O.A. applicant Jitendra Nath Pathak has challenged the order dated 16.9.88 (Annexure-A-7) to the O.A.) by which the services of the applicant as Branch Post Master, Chauhan Purwa(Katra Bazar) Gonda has been terminated u/R 6 of Extra-Departmental Conduct & Service Rules, 1964(in short E.D.A. Rules, 1964). The order dated 13.12.88(Annexure A-10 to the O.A.) has also been challenged, by which appeal of the applicant was rejected.

2. The grounds on which the said order has been challenged is that the same is illegal, malafide and arbitrary and also on the ground that the post of Branch Post Master, Chauhan Purwa, District Gonda is still existing and has not been abolished or upgraded.

8

A-19
A

3. The respondents have filed counter affidavit and have contested the claim of the applicant.

4. We have heard the learned counsel for the parties.

5. The main contention on behalf of the applicant is that there is breach of sub-rule 5 to Rule 6 of E.D.A.Rules, 1964, which provides for termination on abolition of post. According to the learned counsel for the applicant service of an E.D. Agent are liable to be terminated under sub-rule on the abolition of post or upgradation of the post, obviously an E.D. Agent can continue to be in service so long as there is a post. The contention is that as the said post of Branch Post Master has not been abolished nor upgraded, termination of services of the applicant u/R 6 is clear violation of sub-rule 5 to Rule 6.

6. Learned counsel for the respondents has pointed out and has also inter alia mentioned in counter reply that there is no sub-rule 5 to Rule 6 of the E.D.A.Rules, 1964. Under the heading "Termination on abolition of Post held" instructions ^{at sl.no.5} issued by the D.G., P. & T. on 3.9.65 are recorded. Thus the contention of the learned counsel for the applicant, it is submitted, has no merit.

7. We have examined the provisions and we find that Rule 6 of E.D.A.Rules, 1964 has no sub-rule 5. The submission of the learned counsel for the respondents that termination on abolition of post is only based on the instructions issued by the Director General, P. & T. is correct. It is also found that the said letter of the Director General provides only an instance under which services of an E.D. Agent can

be terminated. D.G., P. & T. has issued various instructions on the point, which are in the Swamy's Compilation of Service Rule for Extra-Departmental Staff u/R 6. Rule-6, as stood at the time of impugned order, is quoted in para 20 of the counter affidavit jointly filed by respondent no.1,2 & 3, which is as below:

"6. Termination of Service:

The service of an employee who has not already rendered more than three years' continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice."

8. No doubt Rule-6 has been amended in the year 1993 but we are ~~not~~ concerned with the rule as it stood in 1988. The rule only provides that services of an employee, who has not already rendered more than ³ years three / continuous service from the date of appointment, shall be liable to be terminated at any time without notice. The applicant had joined the post on 2.5.88 and his services were terminated on 16.4.88. Thus the applicant had not completed the required period of three years. Thus there is no violation or breach of Rule-6 of E.D.A Rule, 1964.

9. Coming to the facts, it is seen that the post fell vacant due to retirement of one Raj Narain Pathak. The names of suitable candidates were asked from Employment Exchange by 4.2.88. The Employment Exchange sent two lists; the first list contained four names and the second list contained one name of Lakhnesh Kumar Patkak. Both the lists were received in the office on 4.2.88 but the name of Lakhnesh Kumar Patkak was not considered and only four candidates including ^{the applicant} whose names were in the first list, were considered. Jitendra Nath Pathak, the applicant, was selected and provisionally appointed subject to verification of character and antecedents and he took over charge on 2.5.88.

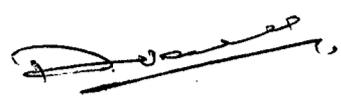
Lakhnesh Kumar Pathak , whose name was in the second list made a representation, which was considered by the Director,Postal Services and it was found that the selection was not proper as the name of Jitendra Nath Pathak was not considered and therefore, a fresh selection after considering the name of Lakhnesh Kumar Pathak was ordered. The Appointing Authority, therefore, terminated the services of the applicant u/R 6 through a simple termination order dated 16.9.88 without assigning any reason. It is, however, seen that it was only on 15.3.89 the District Magistrate, Gonda intimated that Jitendra Nath Pathak had been acquitted by the court of law. This shows that the applicant was involved in a criminal case at the time of appointment and was acquitted subsequently and his character was verified by the District Magistrate only after acquittal from the criminal case.

10. By a subsequent amendment the applicant challenged the appointment of Lakhnesh Kumar Pathak, who was impleaded as the respondent no.4, ^{Respd. no. 4} was found better than any other candidate as he had secured 64% marks in the High School Examination. This fact has not been denied by the applicant in the rejoinder affidavit. Thus on comparative merit, respondent no.4 was a better candidate, which is established and not challenged.

11. The main contention of the learned counsel for the applicant is that the termination of the applicant's services and holding of the second selection is bad in law. We have already discussed this point in our earlier part of the judgment and we have found that the termination of the services of the applicant u/R 6, as it then stood, is perfectly in order and holding of the second selection is also justified.

A

12. We are, therefore, of the view that the O.A. has no merit. The same is dismissed. Cost on parties.



MEMBER (J.)



MEMBER (A.)

Dated: Lucknow: March 10, 1997.

Narendra/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH

BETWEEN

Jitendra Nath Pathak.....Applicant.

AND

Director (Postal Services), U.P.,
Lucknow & others.....~~Opp~~ Respondents.

UNDER RULE 9

The documents and Paper Book

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Filed today
noted for 21/7
S. Gupta
30/6/89

Places: Lucknow
Date: June _____, 1989.

(Signature)
(T.N.GUPTA)
Advocate
Counsel for the applicant.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH.

BETWEEN

GA 154 / 199 (L)

Jitendra Nath Pathak, s/o Sri Janardan Prasad
Pathak, r/o Village and Post Chauhan Purwa,
District Gonda.....APPLICANT.

AND

Director (Postal Services), U.P.
Lucknow and another.....RESPONDENTS

DETAILS OF APPLICANT:

1. Particulars of Applicant: Jitendra Nath Pathak
- (i) Name of the applicants: Jitendra Nathak Pathak
 - (ii) Name of Fathers: Sri Janardan Prasad Pathak
 - (iii) Age of Applicant: 51 Years 6 Months & 6 days on 1.7.89 (Birth: 24.10.37)
 - (iv) Designation and office in which employed or was last employed ceasing to be in service. Branch Post Master, Post Office-Chauhan Purwa, District Gonda.
 - (v) Office Address: Not in service at the present time.
 - (vi) Address for service of notices: Jitendra Nath pathak, s/o Sri Janardan Prasad Pathak, Village and post Chauhanpurwa, Distt. Gonda.

~~xxxxx~~

2. Particulars of Respondents:

- (i) Name of respondents:
 1. The Director (Postal Services), U.P., Lucknow.
 2. Superintendent of Post Offices, Gonda Division, Gonda.
 3. Union of India, Through: Minister of Communication, Postal Department, New Delhi.
 4. Lakhnesh Kumar Pathak s/o Ram Ganesh Pathak R/o village Chauhan Purwa, Distt Gonda

My Lord,
As per order dated
16/5/91 issued by the
Hon'ble Tribunal the
impugned writ is
B.N. Mishra
for applicant
12/1/95

GA 154 / 199 (L)

X

3.

- (ii) Name of Father/Husband: Not known.
- (iii) Age of Respondents: Not known.
- (iv) Designation and Particulars (Name and station in which employed):
 - 1. The Director, Postal Services, U.P., Lucknow.
 - 2. Superintendent of Post Offices, Gonda Division, Gonda.
- (v) Office Address: As above.
- (vi) Address for service of notices: As above.

3. Particulars of the Orders against which application ~~is~~ is made:

- (i) (a) Order No.A-113-Chauhan Purwa, Gonda dated 16.9.88 passed by the Superintendent of Post Offices, Gonda Division, Gonda by which the applicant's services has been illegally terminated; and also
- (b) Order No.RDL-Staff/C-3/88/3 dated 13.12.88 passed by the Director, Postal Services, U.P.Lucknow by which applicant's ~~name~~ Review application against his illegal termination order has been rejected.

(ii) Dates: 16.9.88 and 13.12.88

- (iii) Passed by: 1. Superintendent of Post Offices, Gonda and
- 2. Director, Postal Services U.P., Lucknow.

With reference to Annexure No.VII & X

(iv) Subject in brief:

The applicant has been illegally and arbitrarily terminated by the Superintendent of Post Office, Gonda Division, Gonda vide Office Order No.A-113/Chauhanpurw dated 16.9.88. Aggrieved by the said order, the applicant preferred Review Application before the Director, Postal Services, U.P., Lucknow which has also been arbitrarily, illegally and without examining the merits of the case, rejected causing substantial injury and injustice to the applicant, hence, this application is being filed before this Hon'ble Tribunal.

Handwritten signature/initials

4. Jurisdiction of the Tribunal:

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

5. Limitations

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

6. Facts of the case:

(a) That the applicant was appointed as Branch Post Master at Branch Post Office Chauhanpurwa, District Gonda by the Superintendent of Post Offices, Gonda Division, Gonda on 29.4.88 vide his Office Order No.A-113/ Chauhanpurwa and the applicant had joined on the said post on 2.5.88. A photo copy of the appointment letter dated 29.4.88 is filed herewith as Annexure No.A-1 to this application.

(b) That the applicant is the permanent resident of village Chauhan-Ka-Purwa, is matriculate and was selected through the Employment Exchange Office Gonda. It is further stated that the applicant is a respectable person of the locality and the village and he remained Pradhan of his village for about 9 years. The ~~photocopy~~ typed true copy of the certificate issued by the Block Development Officer Katara Bazar, Gonda is filed herewith as Annexure No.A-2 to this application.

UAT 3/1/84 0763

5.

(c) That the applicant has passed his High School Examination in the year 1959 from the U.P. Board Allahabad in Second Division. A photostat copy of the High School Certificate is filed herewith as Annexure No.A-3.

(d) That the applicant is a person of sound economic status inasmuch as he owns and posses 7.92 acres of agricultural land and his income is about Rs.9000/- and six hundred per year. A true copy of the certificate issued by the Tehsildar Karnailganj, Gonda is being filed herewith as Annexure No.A-4.

(e) That the applicant's family's background has also been very good always and sound inasmuch as previously his uncle Raj Narain was Govt. employee and held the post of B.P.M. till 15.1.88 and prior to this when this Branch Post Office was opened in 1958, then his elder uncle was appointed on this post and after his retirement from this post, said younger uncle Raj Narain was appointed.

(f) That the applicant himself ~~worked~~ served the Government prior to his appointment as B;P.M. in the Health Department but he had resigned from the said job on his own account due to family circumstances in the year 1967 and it is submitted that during the 7 years Government service his service record was unblemished and excellent throughout.

6/7/23 9/1/21 4/7/22

8/20

6.

(g) That the applicant owns and possesses good and spacious Pakka house and being suitable place and for public as well as the Post Office was situated in the building of the applicant.

(h) That due to the fact that the applicant is financially very sound and respectable person as stated in the foregoing paras, some persons bearing ill-will against the applicant, guided by their selfish motive and interest and damaging the interest of general public with malicious and ulterior motives by illegally satisfying the local departmental authorities, got some manipulation with the vested interest, succeeded in terminating the services of the applicant. It is clarified that the impugned orders of termination has been passed with malice in fact as well as in law against the law.

(i) That the applicant under the reasonable apprehension, as he was threatened to be terminated from his services, sent a representation on 10.9.88 through Regd. Post to the Superintendent of Post Offices, Gonda interalia praying that the applicant be allowed to discharge his duties amicably. A photostat copy of the representation dated 10.9.88 is being filed herewith as Annexure No.A-5 to this application.

(j) That further under very grave apprehension, the applicant sent legal notice through his counsel Sri T.N.Gupta, Advocate on 19.9.88 through registered post to S.P.Post Offices, Gonda, P.M.G. and Director,

GAT No 3 2/21 4773

12

7.

Post Offices, U.P., Lucknow. A photostat copy of the said notice dated 19.9.88 is being filed herewith as Annexure No. A-6.

(k) That most unfortunately the applicant was delivered the termination order dated 16.9.88 on 20.9.88 purported to have been passed under Rule 6 of E.D.A. Conduct and Service Rules 1964 with immediate effect. The ~~phaxa~~ photostat copy of the termination order dated 16.9.88 is filed herewith as Annexure No. A-7.

(l) That in pursuance of the impugned order of termination, ~~the~~ Bhagwati Prasad E.D.D.A. has taken the charge on the same day i.e. 20.9.88 and in place of Bhagwati Prasad, his son Balbir Prasad, ~~his~~ has been given the charge of E.D.D.A. which is very much surprising and strange to the applicant.

(m) That the applicant's work and conduct since the date of appointment till he met the unfortunate termination order, has always been very satisfactory to every one and there had been no complaint pertaining to the conduct and services of the applicant.

(n) That it is submitted and clarified that the post of B.P.M. Chauhanpurwa District Gonda is existing since 1958 and the same has not been abolished and nor it has been upgraded, hence, the termination order is contrary to the Circular of the department and further the applicant can be accommodated in any of the suitable post.

Handwritten signature or initials at the bottom of the page.

8.

(o) That it is submitted that one Lakhmesh Kumar was very much interested for the petitioner's post but his name was not forwarded by the Employment Exchange Office at Gonda, hence, in collusion with the office of the Superintendent of Post Offices, Gonda manipulated ~~frk~~ false cases against the applicant and got issued the illegal termination order. A photostat copy of the letter dated 4.2.88 sent by the District Employment Exchange Officer, Gonda is filed herewith as Annexure No.A-8 which ~~is~~ clearly states that the name of Lakhmesh Kumar was not forwarded for the employment.

(p) That it is submitted that the said Lakhmesh Kumar used to submit false complaints against the applicant on frivolous grounds which were even found false in inquiry. The only subject and object of these complaintss was to obtain the petitioner's post by any hook or crook hence the petitioner clarified the situation to the Director, Postal Services, U.P., Lucknow through his application dated 6.4.89. A photostat copy of the application dated 6.4.89 is filed herewith as Annexure No.A-9 to this application.

(q) That it has been provided under sub-rule(5) of Rule 6 -

“(5) Termination on abolition of Post held:

The provision that the services of an E.D.Agent are liable to be terminated on the abolition of the post or upgradation of the post he is holding has not been incorporated in the E.D.A. Agents (Conduct and Service) Rules, 1964, Obviously an E.D.Agent can continue to be in service so

1987/30/19/1/4703

long as there is a post. When a post is abolished or upgraded and if he cannot be accommodated in any other suitable post there can be no other alternative but to terminate his services indicating the reasons thereof. It should not be necessary for this purpose to invoke any rule."

(r) That it is submitted that neither the post on which the applicant was working has been upgraded nor abolished or any charge has been proved against him and even any reason for his termination has not been assigned in the impugned order of termination hence, the same is malafide, bad in law, arbitrary, illegal, void and without jurisdiction and also against the principles of natural justice.

(s) That the impugned order of termination is not legally maintainable and as such the same is liable to be quashed.

(t) That the respondent no. 2 has also not stated any reason of terminating his services and the impugned order is also contrary to the provisions of Rule 6 of the E.D.A. (Conduct and Service) Rules, 1964.

(u) That the applicant has preferred Review Application under Rule 16 of the Extra Departmental Service Rules before the Director Postal Services, U.P. Lucknow on 16.9.1988 interalia stating that the order passed by the s

UAT 23/11/1988

Superintendent of Post Offices Gonda Division Gonda terminating the applicant's services was illegal and arbitrary since the petitioner's work and conduct was most satisfactory and he was not charge sheeted etc. and the post on which he was working was also not abolished hence the impugned order was liable to be quashed but it is stated that the Director Postal Services has not given the hearing of the case and rejected the case in a mechanical way without any sound reasoning through his Order dated 13.12.1988 which was served upon the applicant on 24.6.89. A photo copy of the impugned Order dated 13.12.1989 is filed herewith as Annexure No.A-10 to this application.

(v) That it is submitted that it has been stated in the impugned order dated 13.12.1988 that the applicant's services has not been terminated as a result of any disciplinary proceedings or misconduct but since the appointing authority was empowered to terminate without stating any reasons, hence, the termination order was valid. It is stated that the said observations are perverse and misconceived and are liable to be quashed.

(w) That the opposite party no. 1 ought to have examined every aspect of the case and should have given the reasonings in his findings.

(x) That the applicant has sustained irreparable loss and injury and is facing great economic hardship due to his illegal removal from his service.

WA 23/11/1989

(y) That there is no other alternative, speedy or efficacious remedy is available except knocking the doors of this Hon'ble Tribunal.

7. 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. on

8. Matter not previously filed or pending with any other courts

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

9. Reliefs sought:

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

(i) That the applicant's termination order from his service as Branch Post Master contained in Annexure No. A-7 and A-10 may be quashed and he be allowed to resume his duties with immediate effect.

(ii) That he may be treated on duty since 16.9.88 with all economic benefits i.e. pay, D.A. and seniority.

UAT 3/12/03

(iii) That the cost of this petition be awarded to the applicant.

10. Interim order, if any, prayed for:

That the post of Branch Post Master, Branch Post Office, Chauhan Purwa (Katra Bazar), Gonda on which the applicant was working is still vacant which may not be filled in by any fresh appointment without considering the claim of the applicant during the pendency of the present application or any other suitable order or direction be passed in favour of applicant in the circumstances of the case for securing the ends of justice and equity,

11. In the event of application being sent by registered post, it may be stated whether the applicant desires to have oral hearing, at the admission stage and if so, he shall attach a self addressed Post Card/Inland letter at which intimation regarding the date of hearing could be sent to him. NO.

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

- i) Name of the Bank on which drawn: NO.
- ii) Demand Draft No: NO.

OR

- i) Number of Indian Postal Orders DD/5-088867
- (ii) Name of Issuing Post Offices Aminabad, Lucknow.
- iii) Date of Issue of Postal Orders 11.1.1989
- iv) Post Office at which payable : Allahabad.

Handwritten signature or initials at the bottom of the page.

13. List of Enclosures:

- A-1: Appointment letter dated 29.4.88 issued by the Superintendent of Post Offices, Gonda Division, Gonda.
- A-2: Certificate dated 30.8.82 issued by Block Development Officer, Katra, District Gonda.
- A-3: High School Certificate of the applicant of the year 1959.
- A-4: Certificate dated 15.2.88 issued by the Tehsildar, Tehsil Karnailganj, Distt.Gonda.
- A-5: Representation dated 10.9.1988.
- A-6: Legal Notice dated 19.9.88 sent by Sri T.N.Gupta Advocate, Lucknow.
- A-7: Impugned order of termination dated 16.9.88.
- A-8: Copy of letter dated 4.2.88 sent by Distt.Employment Exchange Officer, Gonda .
- A-9: Application dated 6.4.89 sent by the applicant to the Director Postal Services, U.P. Lucknow.
- A-10: Order dated 13.12.88 passed by the Director, Postal Services, U.P., Lucknow.

Verification

I, Jitendra Nath Pathak, s/o Janardan Prasad Pathak, aged about 53 years, r/o Village and P.O. Chauhan Purwa district Gonda do hereby verify that the contents of paras _____

WAT 21/11/88

1/2

14.

are true to my personal knowledge and paras _____
to _____ are believed to be true on legal
advice and that I have not suppressed any material
facts.

~~Signature of the applicant~~

Signature of the applicant

Dated: June _____, 1989

Place: Lucknow.

To

The Registrar

ॐ श्री गणेशाय नमः

15.

GROUND S

- A. Because the impugned order of termination is illegal, bad in law, mala fide and also arbitrary and as such the same is liable to be set aside and quashed.
- B. Because the work and conduct of the applicant has always been satisfactory and there has been no complaints from any corner regarding his work and conduct. It is further stated that the juniors to the applicant has not been terminated.
- C. Because the post of B.P.M. Chauhan Purwa, Distt. Gonda is still existing since 1959 till date and the same has neither been abolished nor upgraded and as such the applicant's termination is contrary to the rules.
- D. Because the impugned order is not legally maintainable.
- E. Because the opp. party no. 1 has not given any judicial hearing of the case and has rejected the review application in a routine way.
- F. Because any reason for the applicant's termination has not been stated in the impugned order of termination as well as in the order dated 13.12.88 passed in the Review Application.

A-37/11/11/11/11

G. Because the applicant has not been given any charge sheet, show cause notice or any opportunity to put up his case before passing of the impugned orders.

PRAYER

It is, therefore, most respectfully prayed for the following reliefs:-

(i) That a writ, order or direction in the nature of certiorari, quashing the impugned orders dated 16.9.1988 and 13.12.1988 contained in Annexures No. A-7 and A-10 to this application be issued;

(ii) That a writ, order or direction in the nature of mandamus commanding the respondents to act in accordance with law and to treat the applicant on duty with all mense profits w.e.f. 20.9.1988 be issued and he should also be declared as a regular and permanent employee;

(iii) That any other suitable, writ order or direction, which this Hon'ble Tribunal deems fit and proper in favour of the applicant be passed; and

(iv) That the cost of this petition/application be awarded to the applicant.

Places: Lucknow.

Dated: June _____, 1989.

(Jitendra Nath Pathak)
APPLICANT.

Handwritten signature/initials at the bottom left of the page.

Ym

Before The Central Administrative Tribunal

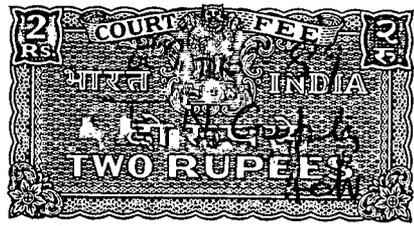
पञ्जाब प्रशासन

Ludhiana Bench

[वादी] अपीलान्त

प्रतिवादी [रिप्लायण्ट]

बकालतनामा



पापी (अपीलान्त)

पञ्जाब

प्रतिवादी (रिप्लायण्ट)

नं० मुफदमा

सम्

पेपी जी ता०

१० ६०

इपर लिखे मुफदमा में अपनी ओर ले ओ

T.N. Gupta, Advocate

B.N. Misra Advocate S. G. Adv.

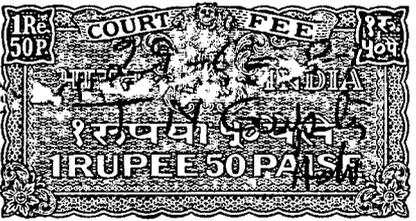
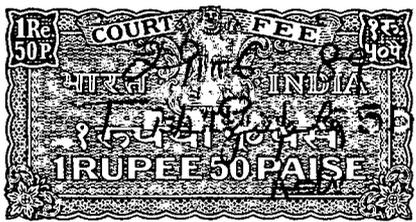
वकील

महोदय

एडवोकेट

नाम अदापत्र
मुफदमा नं०
नाम फरीफिस

दो अलग अलग निगमन करने... (इपरार) करता हूं और लिखे देता हूं... द्वारा ज... करे या... करे या... ले हमा... उठावे... बाखिल... रसीद से... लप का...



(इपरार) करता हूं और लिखे देता हूं और लिखे देता हूं... दय स्वयं अथवा अन्य बजोस गौलर करे यह कोई जामज पाखिल री पारी करावे और रुपया बसूल या अपील निमरानी हमारी ओर करे और तसदीक करे मुफदमा मारी बिपक्षी (फरीफसापी) का गारे हस्ताक्षर युप्त (एस्तफती) फील महोदय द्वारा की गई बह और होना मैं यह जी स्पीफार करता हूं कि मैं हर पेपी पर स्वयं या फिसी अषरि पेरफार जो मेजसा एहंगा अगर मुफदमा बदल पेरवी में एफ तरफा मेरे जिलाफ फंसला हो जाता है उसकी जिम्मेवारी मेरे बजोस पर नहीं होगी इसलिए यह पजालतनामा लिख दिया प्रमाप रहे और सन्नय पर पाम आपे।

हस्ताक्षर A. N. Singh 1/1/60

साजो (प्रपाह)

साजो (जघाह)

दिनांक

29

पहीना

6

सं १०४९ ६०

Acceptance signature

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE SUPDT. OF POST OFFICES, GONDA DIVISION.
GONDA-271001.

Memo No. AT/113/Chambanpur Dated at Gonda the 29-4-88
Shri Titendra Nath Pathak Resident of Village Chambanpur P.O. Katra District Gonda is hereby provisionally appointed as Branch Postmaster Chambanpur his date of birth is 24-7-1933. He shall be paid such allowances as admissible from time to time.

Shri Titendra Nath Pathak should clearly understand that his appointment as BPM shall be in the nature of contract liable to be terminated by him or the undersigned by notifying the officer, in writing and that he shall also be governed by the Posts and Telegraphs Extra Departmental Agent (Conduct and Services) Rules 1964 as amended from time to time and that his services would be terminated if the previous incumbent is reinstated and he will have no claim from the department.

If these conditions are acceptable to him he should communicate his acceptance in the performa reproduced below:

The security bond must be furnished by the candidate before taking over the charge of the post.

One week's training should be given to the newly appointed B.P.M. BPM should give a declaration that he will keep the post office and reside at the village for which the post office is assigned.

If the charge of BPM is not taken within a week of receipt of the memo will be treated as cancelled.

Supdt. of Post Offices,
Gonda Division,
Gonda-27001.

- Copy to:
- The ASPOs/SOs West He will please make necessary arrangement immediately after observing all necessary formalities and report compliance. Before taking charge of the post the candidate should furnish two character certificates from the respective persons. He should also the required declaration completed by the BPM and send same to this office for record.
 - One week's training should be given to the newly appointed BPM.
 - The Postmaster Gonda Balrampur, for information.
 - The P.F. of the official.
 - The candidate concerned.

AT 39101 4163

अनेकवार नं० ए-2

प्रमाणपत्र

प्रमाणित किया जाता है कि श्री जीतेन्द्र
नाथ पाठक पुत्र श्री जनार्दन प्रसाद पाठक निवासी
ग्राम चौहानपुरवा पोस्ट चौहानपुरवा जिला गोंडा
ग्राम सभा राजगढ़ अमीनपुर के प्रधान सदस्य लगभग
9 वर्ष तक कार्यरत रहे ।

ह० अ० अ०

30-8-82

चण्ड विकास अधिकारी

कटरा बाजार गोंडा।

ह० अ० अ० ग्राम पं० अ०

30-8-82

उत्तराखण्ड सरकार

संज्ञक संख्या

क्रम संख्या

हाई स्कूल परीक्षा, १९५९

हाई स्कूल परीक्षा, १९५९



प्रमाणित किया जाता है कि जितेन्द्र नाथ पाठक

आत्मज/आत्मजा श्री जितेन्द्र नाथ पाठक मार्च/अप्रैल, १९५९ की

हाई स्कूल परीक्षा में श्री जितेन्द्र नाथ पाठक हायर सेकेंडरी

जितेन्द्र नाथ पाठक से द्वितीय श्रेणी में उत्तीर्ण

हए/हई और जितेन्द्र नाथ पाठक में विशेष योग्यता प्राप्त की।

इसकी जन्म-तिथि जितेन्द्र नाथ पाठक से होती है। (28-6-36)

परीक्षा-विषय:—

- १--हिन्दी उपदेशशास्त्र
- २--अंग्रेजी कविता
- ३--गणित/गृह-विज्ञान भूगोल
- ४

जितेन्द्र नाथ पाठक

(श्रीनिवास नाभा)

एम० ए० (अंग्रेजी), एम० ए० (राजनीति), बी० टी०, कन्नडरी।

दिनांक २१ जून, १९५९ ई०।

दिनांक २१ जून, १९५९ ई०।

जितेन्द्र नाथ पाठक

अनेकपर नं० ए-4

आय प्रमाण पत्र

भू लेख निरीक्षक की आख्या दिनांक 12-9-88 के आधार पर प्रमाणित किया जाता है कि आवेदक जीतेन्द्र नार्थ पाठक पुत्र श्री जनार्दन प्रसाद साठ राजगढ़ अनीनपुर परगना पहाड़ापुर तहसील करनैलगंज, लनपद गौण्डा के नाम 7-92 एकड़ भूमि है जिसके मासिक आय रु० 800/- रुपये तथा वार्षिक आय रु० 9600/- रुपये। नौ हजार छः सौ रुपये। है।

ह० अमठित

15-2-88

तहसीलदार करनैलगंज

जीतेन्द्र नार्थ पाठक

अनेकजर नं० ए-5

सेवा में,

श्रीमान् सुपरिन्टेंडेन्ट पोस्ट आफिस,
 जिला गोंडा ।

श्रीहोदय,

निवेदन है कि प्रार्थी की नियुक्ति शाखा डाकपाल चौहानपुरवा के पद पर आदेश संख्या-ए-113 चौहानपुरवा दिनांक 29-4-88 के द्वारा किया गया है और प्रार्थी उपरोक्त आदेश के अनुपालन में शाखा डाकपाल चौहानपुरवा के पद पर दिनांक 2-5-88 से नियमित रूप से कार्य करता चला आ रहा है । प्रार्थी के विरुद्ध न तो जनता की तरफ से न ही विभाग की तरफ से कोई शिकायत है । प्रार्थी पूर्ण निष्ठा लगन मेहनत के साथ अपना कार्य लगभग 5 माह से करता चला आ रहा है ।

प्रार्थी को कतिपय सूत्रों से ज्ञात हुआ है कि उपरोक्त पद पर श्री लगनेश कुमार पुत्र श्री राम गणेश पाठक निवासी चौहानपुरवा जिला गोंडा की नियुक्ति विभाग की ओर से गोपनीय ढंग से किया जा रहा है । ऐसी स्थिति में प्रार्थी का निवेदन है कि जब तक प्रार्थी के विरुद्ध कोई शिकायत या आरोप न हो उसे हटाकर किसी अन्य व्यक्ति को इस पद पर नियुक्त किया जाना सरासर नाजायज व गैरकानूनी है । प्रार्थी की नियुक्ति विभाग द्वारा सेवायोजन कार्यालय गोंडा से पात्र अभ्यर्थियों की सूची प्राप्त करके और विधिवत विचार करके नियमानुसार किया गया है । श्री लगनेश कुमार का नाम उस समय प्राप्त पात्र अभ्यर्थियों की सूची में नहीं था जिससे उनकी नियुक्ति का प्रश्न ही नहीं उठता । उनका नाम अब इस स्थिति में जबकि मैं 5 माह से काम कर रहा हूँ किस तरह से विचार किया जा रहा है, यह मैं नहीं जानता । यदि ऐसा विभाग द्वारा किया जा रहा है, तो यह गैर कानूनी है । प्रार्थी का यह भी अनुरोध है कि उसे यह बतलाया जाये कि क्या श्री लगनेश कुमार निवासी चौहानपुरवा का नाम शाखा डाकपाल

लगाये 01/04/88

चौहानपुरवा के पद पर नियुक्ति के लिए विचार किया जा रहा है या किसी अन्य स्थान के लिए। यदि श्री लखनेश कुमार का नाम शाखा डाकपाल चौहानपुरवा के पद के लिए विचार किया जा रहा है तो प्रार्थी को इसकी जानकारी कम से कम 10 दिन पूर्व दिए बिना किया जाना गैर कानूनी है।

आ: श्रीमान जी से प्रार्थना है कि इस पूरे मामले की जांच किया जाये और प्रार्थी को अपने पद पर पूर्व की भांति कार्य करने दिया जाये ताकि वह शांतिपूर्वक अपने कार्य को निष्पादित कर सके।

प्रार्थी

हउ जीतेन्द्र नाथ पाठक

शाखा डाकपाल

दिनांक: 10-9-1988

चौहानपुरवा 271313 जिला गोंडा

T. N. GUPTA

Advocate

High court & Board of Revenue

REGD. A.P. LEGAL NOTICE.

82314
Residence 347/59/1
OLD TIKAIT GANJ CROSSING
LUCKNOW-228004

On behalf of Jitendra Nath Pathak
Ref..... Branch Post Master, Chauhan Purwa
Distt. Gonda.

Dated 10.9.88

To:

Superintendent Post Offices,
District Gonda.

D/Sir,

Under the instructions of my above noted client
Jitendra Nath Pathak E.D. & P.M. I give you the notice on the
following facts and circumstances.

1. That my client had entered in the service on 2.5.1988
and since then he is discharging his legal duties as E.D. & P.M.
Chauhan Purwa, Distt. Gonda and he is continuously working
with satisfactory record as there is no complaint against
him from any quarter.

2. That my client was recruited and appointed after
applying due and legal procedure.

3. That my client has already sent a representation
dated 10.9.88 to you with reasonable apprehension that one
Lakhnesh Kumar son of Ram Maresh Pathak of the same village
is going to be appointed on his post, and place in most
illegal and arbitrary manner by illegally taking the legal
and fundamental right of post of my client.

4. That my client has legal right to hold the post
and in case said person or any other person is appointed on
the post and place of my client by removing him from his post
then same will be quite illegal and without jurisdiction.

It is, therefore, this notice is given with the humble
request that my client be allowed to discharge his duties as
discharging legally and factually and no person should be
appointed on the post and place of my client illegally,
arbitrarily and maliciously, otherwise my client shall be
compelled to knock the door the administrative Tribunal for
redress and justice.

Copy for information and

4/a to :

1. The Postmaster General, U.P. Lucknow.

2. Director (Postal Services) U.P. Lucknow.

(T.N. Gupta)
Advocate.

(T.N. Gupta) Ad.

जितेंद्रनाथ पाठक

अनेकजर नं० ए-7

भारतीय डाक विभाग
कार्यालय अधीक्षक डाकघर, गोंडा मंडल,
गोंडा-271001

ज्ञापन सं० ए-113/चौहानपुरवा गोंडा दिनांक 16-9-88

श्री जितेन्द्र नाथ पाठक शाखा पास्टमास्टर
चौहानपुरवा कटरा बाजार गोंडा की सेवार्थे अ०वि०ए० आचरण
एवं सेवा नियन्त्रावली 1964 के नियम 6 के अंतर्गत तत्काल प्रभाव
से समाप्त की जाती है ।

ह० अपठित
अधीक्षक डाकघर,
गोंडा मंडल,
गोंडा-271001 ।

प्रतिलिपि:-

- 1- श्री जितेन्द्र नाथ पाठक शाखा पास्टमास्टर चौहानपुरवा गोंडा
द्वारा निरीक्षक डाकघर पश्चिमी उप मंडल, गोंडा ।
- 2- उप मंडलीय निरीक्षक पश्चिमी शाखा पास्टमास्टर की प्रतिलिपि
के साथ एक प्रतिलिपि तैयार करके वे तत्काल आदेश का पालन कराएँ
तथा डाक सेवेक्षक या किसी उपयुक्त अ०वि०ए० को लगाकर श्री
जितेन्द्र नाथ पाठक को कार्यभार से मुक्त करें तथा अनुपालन तीन
दिन के अंदर प्रस्तुत करें ।
- 3- पोस्ट मास्टर, गोंडा ।
- 4- कार्य विमुक्त विवरणी गोंडा ।
- 5- अतिरिक्त ।

16/09/88

अनेकजर नं० स-8

प० वी०जी०/2/डाकघर/88/503 जिला सेवा योजन अधिकारी, गोंडा
दिनांक 27-1-88 ।

अतिरिक्त विभागीय शाखा डाकपाल, चौहानपुरवा । कटरा बाजार।
पद हेतु सूची ।

क्र०सं० पंजीयन संख्या नाम पिता का नाम, सन०सी०आ० जन्मतिथि शैक्षिक प्राप्त
पूरा पता योग्यता योग्यता

- | | | | | | |
|----|----------|--|---------|----------|------------------------|
| 1- | 11968/87 | जीतेन्द्र नाथ पाठक
पुत्र श्री जनार्दन प्रताप पाठक
गा०व पो० चौहानपुरवा,
गोंडा । | x:01:10 | 24-7-37 | डाईस्कूल
उत्तीर्ण । |
| 2- | 830/88 | श्री गगन बिहारी झुक्ला
पुत्र श्री पारतनाथ झुक्ला
गा०व पो० चौहानपुरवा,
गोंडा । | x:02:10 | 1-2-67 | कक्षा 8
अनुत्तीर्ण |
| 3- | 450/88 | श्री उदित नारायण पाठक
पुत्र श्री रामदीन पाठक
गा०व पो० चौहानपुरवा,
गोंडा । | x01:10 | 5-1-30 | डाई स्कूल |
| 4- | 837/88 | श्री अंजनी नन्दन पाठक पुत्र
श्री जितेन्द्र नाथ पाठक,
गा०वपो० चौहानपुरवा
गोंडा । | x02:10 | 20-10-68 | कक्षा उत्तीर्ण |

चार अभ्यर्थक केवल

ह०डी०पी०आर्य

जि० सेवायोजन कार्यालय

जि० सेवा योजन अधिकारी

४ 4-2-88

गोंडा ।

संख्या- वी०सी०/2/डाकघर/88/709

जितेन्द्र नाथ पाठक

सेवा में,

श्रीमान निदेशक महोदय,
डोक सेवा, उ०प्र०,
लखनऊ ।

महोदय,

निवेदन है कि प्राथी की नियुक्ति शाखा डाक पाल चौहानपुरवा जनपद गोंडा के पद पर डाक अधीक्षक गोंडा के आदेश संख्या-ए-113 चौहानपुरवा 29-4-88 के द्वारा किया गया है था और प्राथी उपरोक्त आदेश के अनुपालन में शाखा डाकपाल के पद पर दिनांक 2-5-88 से नियमित रूप से कर रहा था । दिनांक 20-9-88 को डाक अधीक्षक गोंडा के आदेश से आचरण एवं सेवा नियमावली 1964 के नियम 6 के अंतर्गत तत्कालिक प्रभाव से हटा दिया ।

प्राथी ने जब इस संबंध में जानकारी की तो मालूम हुआ कि एक अन्य व्यक्ति जिस का चयन उपरोक्त पद के लिए नहीं हुआ था ने प्राथी के आचरण के संबंध में एक प्रार्थना पत्र देकर बूनी शिकायत की थी । प्राथी ने अपने आचरण और प्रार्थना पत्र में दिये गये आरोपों को गलत सिद्ध करने के लिए विभाग को सभी साक्ष्य उपलब्ध करा दिये । विभाग द्वारा भी इस संबंध में जिलाधिकारी एवं पुलिस के द्वारा जांच कराया गया जिसमें प्राथी को निर्दोष पाया गया और उपरोक्त अधिकारियों ने यह संस्तुति की कि प्राथी का आचरण सर्वथा उत्तम है और सेवा के लिए हर प्रकार से उपयुक्त है ।

प्राथी का चयन सेवा योजन गोंडा से प्राप्त अभ्यर्थियों की सूची में से नियमित चयन के उपरांत किया गया है था । उस सूची में श्री लखनशा कुमार का नाम नहीं था प्राथी का चयन हो जाने के बाद श्री लखनशा कुमार ने गलत तरीके से एक अतिरिक्त सूची सेवायोजन कार्यालय से विभाग को भेजवाकर अपने को चयनित कराना चाहा और उसने डाक अधीक्षक गोंडा को एक प्रार्थनापत्र भी अपने चयन के संबंध में दिया ।

डाक अधीक्षक गोंडा के कार्यालय के निरीक्षण के समय वहां पर उपस्थित उप डाक सेवा निदेशक महोदय ने श्री लखनशा कुमार का उपरोक्त प्रार्थनापत्र जो उसने चयन हेतु दिया था उन्होंने

संचार मंत्रालय

डाक विभाग

कार्यालय निदेशक डाक सेवायें; लखनऊ क्षेत्र, लखनऊ-226007

ज्ञापन सं०: आरडीएल/स्टाफ/सी-3/88/3दि०-13।2.88

यह श्री जितेन्द्र नाथ पाठक, भूतपूर्व शाखा डाकपाल, चौहान-पुरवा गोण्डा की दिनांक 29.9.88 द्वारा डाक तार अतिरिक्त विभागीय अभिर्ता आचरण एवं सेवा नियमावली 1964 के नियम 16 के अन्तर्गत प्रस्तुत की गई पुनरीक्षण याचिका का प्रकरण है। याचिका द्वारा अधीक्षक डाकघर, गोण्डा मण्डल, गोण्डा के ज्ञापन संख्या: ए-113/चौहानपुरवा दिनांक 16.9.88 में पारित याचिकाकर्ता की सेवायें अतिरिक्त विभागीय अभिर्ता आचरण एवं सेवा नियमावली 1964 के नियम-6 के अन्तर्गत समाप्त किये जाने के आदेश के पुनरीक्षण की प्रार्थना की गई है।

2. याचिका दाता द्वारा यह तर्क दिये गये हैं कि उनका कार्य सन्तोषजनक था, कि शाखा डाकपाल चौहानपुरवा का पद न तो समाप्त हुआ था और न ही अपग्रेड हुआ था अतः सेवा समाप्त का औचित्य नहीं था, कि सेवासमाप्त का आदेश विधि विपरीत तथा क्षेत्राधिकार-विहीन है और यह कि सेवा-समाप्त के आदेश द्वारा उनके शाखा डाकपाल के पद पर बने रहने के मौजूदगी अधिकार का हनन हुआ है।

3. याचिका में दिये गये कथे तर्कों तथा सम्पूर्ण कार्यवाही की पत्रावली में उपलब्ध प्रकरण से सम्बद्ध अभिलेखों पर गहन विचार करने के उपरान्त मैं निम्नलिखित निष्कर्षों पर पहुँचा हूँ:

क. यह कि याचिकादाता की सेवायें डाक तार अतिरिक्त विभागीय अभिर्ता आचरण एवं सेवा नियमावली 1964 के नियम-6 के अन्तर्गत समाप्त की गई हैं न कि किसी अनुशासिक कार्यवाही के परिणामस्वरूप।

ख. यह कि याचिका दाता द्वारा दिये गये सभी तर्क असंगत और अमान्य हैं क्योंकि विचाराधीन आदेश से किसी प्रकार यह सिद्ध नहीं होता कि उक्त आदेश याचिकादाता के किसी दुराचरण अथवा पद की समाप्त के आधार पर पारित किया गया है। यतः आदेश सक्षम नियुक्त प्राधिकारी द्वारा पारित किया गया है अतः उसे क्षेत्राधिकार विहीन नहीं कहा जा सकता।

4. उपरोक्त तथ्यों के परिप्रेक्ष्य में याचिका दाता की सेवायें समाप्त करने सम्बन्धी विचाराधीन आदेश में किसी पुनरीक्षण अथवा संशोधन का औचित्य नहीं है।

(Signature)

भानु प्रताप सिंह

निदेशक डाक सेवायें

लखनऊ क्षेत्र, लखनऊ-226007

पाठक विभा

24/6/89

जितेन्द्र नाथ पाठक

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

(ADDITIONAL BENCH, ALLAHABAD),

CIRCUIT BENCH, LUCKNOW

154/05(L)
O.A.NO. 254 OF 1988 (L) :

JITENDRA NATH PATHAK ... APPLICANT

V E R S U S

DIRECTOR, POSTAL SERVICES, U.P.,

LUCKNOW & OTHERS RESPONDENTS

COUNTER AFFIDAVIT ON BEHALF

OF RESPONDENTS, 1 TO 3 :

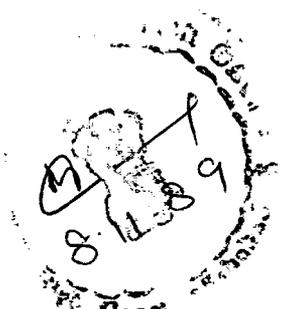
I, R.S.Singh, aged about 46 years, son of Shri Raj Bahadur Singh, resident of Afim Kotni, Gonda, hereinafter described as the deponent, do hereby solemnly affirm and state as under:-

1. That the deponent is Superintendent of Post Offices, Gonda, respondent No.2 in the present claim application and he is also competent to affirm this affidavit on behalf of respondents 1 and 3.
2. That the deponent has read and understood the contents of the claim application and he is well conversant with the facts of the case, deposed to hereinafter.
3. That before giving parawise replies to the claim application, the following facts are stated by way of brief:-

BACKGROUND TO THE CASE

- (i) That since the post of ED Branch Post M

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Chauhanpurwa, District Gonda had become vacant due to retirement of Shri Raj Narain Pathak with effect from 16.1.1988, the Employment Officer, Gonda was requested by the Superintendent of Post Offices, Gonda, through his letter dated 5.1.1988 to submit the list of suitable candidates upto 4.2.1988. Accordingly a list containing the names of four candidates - Shri Jitendra Nath Pathak, Shri Madan Behari Shukla, Shri Udit Narain Pathak and Shri Anjani Nandan Pathak was received from the Employment Officer, Gonda on 28.1.1988 by the office of Superintendent of Post Offices, Gonda. Thereafter the second list containing the name of only Shri Lakhnesh Kumar Pathak was received by the office of the Superintendent of Post Offices, Gonda in the after-noon of 4.2.1988. However, the second list, as received by the receipt branch of the office, was transferred to the concerned establishment branch on 5.2.1988 and thus the official stamp with date was affixed on 5.2.1988.

(ii) That, at that time, the name of Shri Lakhnesh Kumar Pathak was not considered for appointment on the post of ED Branch Post Master, Chauhanpurwa. But the names of the four candidates of the first list received from the Employment Officer, Gonda were considered and Shri Jitendra Nath Pathak was selected for the post and a provisional appointment letter was issued to him on 29.4.1988 and accordingly he took over as ED Branch Post Master, Chauhanpurwa on 2.5.1988, after-noon.

(iii) That on a representation made by Shri Lakhnesh Kumar Pathak to the Director, Postal Services, Lucknow, the Director issued the instruction that the name of Shri Lakhnesh Kumar Pathak also should be considered along with the four other candidates on the basis of merit.

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R. Singh

(iv) That in the meantime verification of character and antecedents of Shri Jitendra Nath Pathak, who was provisionally appointed, was sought from the Superintendent of Police, Gonda. But at that time no satisfactory report was received from the police. At this juncture the Director, Postal Services directed the Superintendent, Post Offices, Gonda to hold fresh selection after considering the name of Shri Lakhnesh Kumar Pathak also. Under these circumstances, the services of the petitioner Shri Jitendra Nath Pathak, who had been provisionally appointed, were terminated under Rule 6 of Posts and Telegraphs EDA (Conduct and Service) Rules, 1964 through a simple termination order dated 16.9.1988 without assigning any reason and a memo of this regard was served on the applicant on 20.9.1988. A copy of the aforesaid termination order dated 16.9.1988 has been filed as Annexure No.A-7 to the claim application.

(v) That thereafter on 15.3.1989, the District Magistrate, Gonda intimated that Shri Jitendra Nath Pathak had been acquitted by the competent court of law, and, as such, his character was verified as satisfactory for government service.

(vi) That in compliance with the directions of the Director, Postal Services, U.P., Lucknow, a fresh selection for the post of ED Branch Post Master, Chauhanpurwa was held and the names of all the five candidates, including Shri Jitendra Nath Pathak and Shri Lakhnesh Kumar Pathak were duly considered. In this selection the merit of Shri Lakhnesh Kumar Pathak was found better than any other candidate, as he had secured 64% marks in the High School examination by

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 15/3/89
 [Signature]

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fulfilling all other conditions laid down for the post. Accordingly Shri Lakhnesh Kumar Pathak was provisionally appointed on the post of ED Branch Post Master, Chauhanpurwa through the office memo dated 23.6.1989 of the Superintendent of Post Offices, Gonda and he has been working on the post since 26.6.1989 after-noon.

(vii) That since Shri Lakhnesh Kumar Pathak has been appointed as ED Branch Post Master and he has been working on the post since 26.6.1989 afternoon, he was a necessary party to be impleaded as one of the opposite parties, but the petitioner has deliberately avoided to implead him as an opposite party. Consequently this claim application is liable to be dismissed on this ground also.

4. That the contents of paras 1 and 2 of the claim application need no reply.

5. That in reply to the contents of para 3 of claim application, it is submitted that the orders as passed by the opposite parties, referred to in this para, are perfectly legal, just and proper and there is nothing illegal or arbitrary about these orders.

6. That the contents of paras 4 and 5 of the claim application need no reply.

7. That the contents of sub-para (a) of para 6 of the claim application are not denied and it is submitted that he has not been working on the post since the termination of his services, about which termination notice was served on him on 20.9.1988. Further, Shri Lakhnesh Kumar Pathak after his appointment has been working on the post with effect from 26.6.1989 after-noon.



R. Singh

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8. That the contents of sub-para (b), (c) and (d) of para 6 of the claim application are not denied. However, it is submitted that while the petitioner also fulfilled other conditions, Shri Lakhmesh Kumar Pathak had secured better marks than the applicant Shri Jitendra Nath Pathak in the High School examination, and, as such, he was found better in merits than the present applicant.

9. That the contents of sub-para (e) and (f) of para 6 of the claim application, being irrelevant for the purpose of the present case, need no reply.

10. That the contents of sub-para (g) of para 6 of the claim application need no reply.

11. That the contents of sub-para (h) of para 6 of the claim application are not admitted and the allegations contained therein are denied.

12. That in reply to the contents of sub-para (i) of para 6 of the claim application, it is submitted that necessary action on his representation dated 10.9.1988 as received in the office of the deponent on 12.9.1988 was taken.

13. That in reply to the contents of sub-para (j) of para 6 of the claim application, it is submitted that necessary action was taken on the notice referred to in this sub-para of the claim application.

14. That in reply to the contents of sub-para (k) of para 6 of the claim application, the deponent has been advised to state that the termination order dated 16.9.1988 is perfectly legal, just and proper.

15. That in reply to the contents of sub-para (l) of para 6 of the claim application, it is submitted that



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the services of the applicant were terminated vide termination order dated 16.9.1988 and he has not been working on the post since 20.9.1988. Further, since 26.6.1989 the newly appointed ED Branch Post Master, Chauhanpurwa has been working on the post with effect from 26.6.1989 after-noon. In this connection, it is also submitted that for the period of few days intervening the charge of ED Branch Post Master, Chauhanpurwa was temporarily given to ED Delivery Agent Shri Bhagwati Prasad.

16. That in reply to the contents of sub-para (m) of para 6 of the claim application, it is submitted that Case Crime No. 59/78 under sections 302/20/120-B I.P.C. was registered against him in the records of Police Station Katra Bazar, Gonda.

17. That in reply to the contents of sub-para (n) of para 6 of the claim application, it is submitted that the simple termination order, as made under Rule 6 of the Post and Telegraph (Conduct and Service) Rules, 1964, is perfectly legal, just and proper.

18. That with reference to the contents of sub-para (o) of para 6 of the claim application, it is submitted that from Annexure No.A-8 mentioned in this para, is itself evident that this list was issued by Employment Exchange, Gonda on 27.1.1988 as mentioned in the top of the list but in order to misguide in the end of the list dated 4.2.1988 has been mentioned. As a matter of fact, the list of four candidates as mentioned in Annexure No. A-8 was received in this office on 28.1.1988 under Employment Exchange, Gonda letter No.BC/2/POs/88/503 dated 27.1.1988. Subsequently in other list dated 4.2.88 containing the name of Shri Lakhnesh Kumar Pathak was



R. S. Singh

received at the office on 4.2.1988 but from receipt branch of the office, the second list was transferred on 5.2.1988 to the respective establishment branch of the office while the last date of receipt of list was fixed as 4.2.1988. Since the second list was received in respective establishment branch on 5.2.1988 after due date i.e. 4.2.1988, the second list was not considered. On representation of said Shri Lakhmesh Kumar Pathak, the Director of Postal Services, U.P., Lucknow decided that when the second list was received on due date i.e. 4.2.1988 it should be treated as received in time, the transfer of the list from receipt branch to establishment branch in the same office on next day has got no effect. Under such circumstances, the name of Shri Lakhmesh Kumar Pathak was also considered amongst all other four candidates in which the name of Shri Jitendra Nath Pathak was also included. Out of all the five candidates, Shri Lakhmesh Kumar Pathak, who has got highest 64% of marks in High School examination, fulfilling all other conditions of appointments, was selected and appointed against the said post.

19. That the contents of sub-para (p) of para 6 of the claim application are not admitted and the allegations made in this sub-para are denied.

20. That in reply to the contents of sub-para (q) of para 6 of the claim application, the deponent has been advised to state that there is no sub-rule 5 of Rule 6, which is reproduced as under:-

"6. Termination of Service:

The service of an employee who has not already rendered more than three years' continuous service from the date of his appointment shall be liable to termination by

R. Sengupta

the appointing authority at any time without notice."

In fact, the provision, which has been reproduced, misread and called Sub-rule (5) of Rule 6 is in fact one of the instructions of the Department of the Government, produced parawise below Rule 6 in the Book. This instruction is not relevant for the present case and it does not support the claim of the applicant in any manner.

21. That in reply to the contents of sub-para (r) of para 6 of the claim application, it is submitted that the contentions raised and the allegations made therein are denied. Further, it is submitted that the question of upgrading or abolition of the post is irrelevant for the purpose of the present case.

22. That in reply to the contents of sub-paras (s) and (t) of para 6 of the claim application, the deponent has been advised to state that the termination order, as issued under Rule 6 of the Post and Telegraphs (Conduct and Service) Rules, 1964, is perfectly legal, just and proper, as the termination could be made without assigning any reason.

23. That the contents of sub-para (u) of para 6 of the claim application and the contentions raised in this sub-para are denied. It is stated that the Review Application was duly examined and it was rejected giving sufficient reasons, as it is evident from the order dated 13.12.1988 contained in Annexure No.A-10 of the claim application.

24. That the contentions raised in sub-paras (v) to (x) of para 6 of the claim application are emphatically denied.

R. Singh

8-11-89

A 60

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25. That the contents of paras 7 and 8 of the claim application need no reply.

26. That in reply to the contents of para 9 of the claim application, it is submitted that the impugned orders are perfectly legal, just and proper and in view of the position stated above in this counter affidavit, the applicant is not entitled to any relief sought in the present application.

27. That the contents of para 10 of the claim application are not admitted and it is stated that the post is not vacant and Shri Lakhnesh Kumar Pathak appointed as the ED Branch Post Master, Chauhanpurwa has been continuously working on the post since 26.6.1989. As such, the applicant is not entitled to any interim order by way of interim relief.

28. That the contents of paras 11, 12 and 13 of the claim application need no reply.

29. That the deponent has been advised to state that there is no infringement of any right of the applicant and there is no violation of any provision of law. Further, no injustice has been caused to the applicant.

30. That the deponent has been advised to state that in view of the position stated above in this counter affidavit, the claim application is not sustainable in law and the applicant is not entitled to any relief sought in this application, which is devoid of any merit and is liable to be dismissed with costs.

LUCKNOW:

DATED: November 8, 1989.

R.S. Singh
DEPONENT

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8-11-89

A 61

13

VERIFICATION

I, the above-named deponent, do hereby verify that the contents of paras 1 and 2 of this affidavit are true to my own knowledge, the contents of paras 3 to 28^e are true to my knowledge derived from the official records and the contents of paras 29 to 30^e are believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed. So, help me God.

LUCKNOW:

DATED: November 8^e, 1989.

R. S. Singh
DEPONENT

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

D. S. Randhawa
Advocate.

Solemnly affirmed before me on 8.11.89 at 9.00 A.M./P.M. by Shri R.S. Singh the deponent, who is identified by Shri D.S. Randhawa Advocate, High Court, Lucknow.

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

OATH COMMISSIONER

[Signature]
OATH COMMISSIONER
High Court
Lucknow
8.11.89

8.11.89

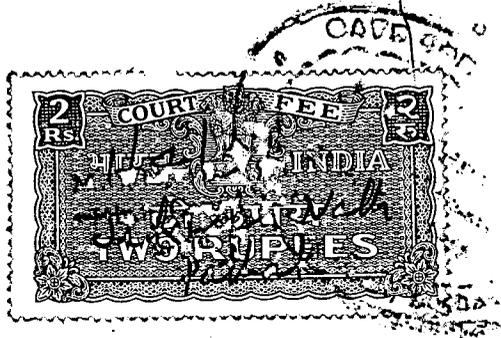
A 62

DR

Central Administrative Tribunal

IN THE HON'BLE ~~CHIEF JUSTICE~~,
Circuit
~~CHIEF~~ BENCH, LUCKNOW.

O.A.NO.154 of 1988(L).



1991
AFFIDAVIT
90 IM
DIST. COURT
U. P.

Jitendra Nath Pathak

... Applicant.

Versus

Director Postal services, U.P.

Lucknow and others

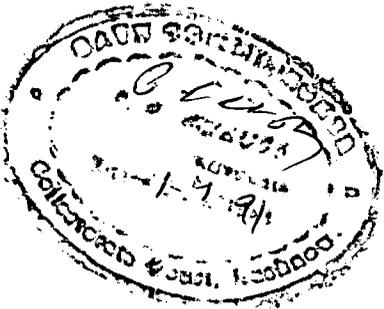
.... Respondent.

REJOINDER AFFIDAVIT ON BEHALF OF
PETITIONER TO THE COUNTER AFFIDAVIT
FILED BY SRI R.S.SINGH ON BEHALF OF
RESPONDENT NO.* 1 to 3.

I Jitendra Nath Pathak aged about 53 years son
of Sri Janardan Prasad Pathak, Resident of Village and
Post Office Chauhan Purwa, District Gonda, the deponent,
do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant himself
in the above claim petition as such is fully
conversant with the facts of the case stated
as hereunder:-

Handwritten notes:
Filed today
1/4/91



A.63

X

2. That the contents of the counter affidavit filed by Sri R.S. Singh on behalf of respondent no.1 to 3 has been readout and explained to the deponent who has understood its contents thereon.
3. That the contents of para 1 to 3 of the Counter affidavit needs no reply.
4. That the contents of ~~the~~ first part of para 3(i) of the counter affidavit is not disputed but the second part of said para as stated are not correct hence denied. It is specifically denied that the name of Sri Lakhunesh Kumar Pathak was also sent by the Employment Exchange office Gonda on 4.2.1988.
5. That the contents of para 3(ii) of the counter affidavit are not denied.
6. That the contents of para 3(iii) of the counter affidavit are not correct hence denied.
7. That the contents of para 3(iv) and 3(v) of the counter affidavit as stated are not correct hence denied. It is specifically denied that any adverse report against the Charector of the

6/11/88



-3-

deponent making him un-fit for Government service was ever sent by the Police or District Magistrate Gonda. It is further added that Sri Lukhlesh Kumar who is also the resident of deponent's village bears ill will and enmity with the deponent and since his name was not forwarded timely by the District Magistrate/ Employment Exchange office Gonda, he started to sending false complaints against the deponent in freckitious grounds with malafide intention. It is further stated that an enquiry said complaints were found fals and wrong. It is also added that since the selection of the deponent was made in accordance with the law and the procedure, there was no any legal necessity for holding fresh selection.

8. That the contents of para 3(vi) as stated are denied and it is stated that since the applicants selection was made in accordance with law and the procedure and there was no anu report against the deponent's character either from the Local Police or District Magistrate hence there was no necessity



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for the second selection. in which Sri Jitendra
Math Pathak was selected as such the second
selection was illegal and void.

9. That so far para 3(viii) of the counter affidavit is concerned, it is stated that the deponent is submitting a separate application for impleading Sri Lakhnesh Kumar Pathak as necessary respondent no.4.
10. That the contents of para 4 needs no reply.
11. That the contents of para 5 of the counter affidavit are denied and it is stated that impugned orders are illegal, contrary to law and had been passed in gross violation of law in an arbitrary manners.
12. That the contents of para 6 and 7 needs no reply.
13. That the first part of para 8 of the counter affidavit are not disputed that the second part of said para as stated are denied and it is stated are denied and it is stated that Sri Lakhnesh Kumar's name was not forwarded by the

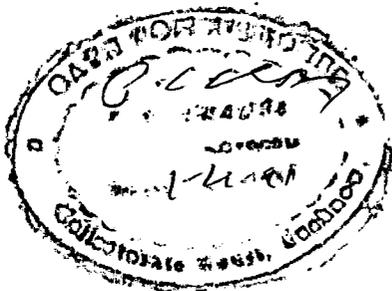
9/12/77



-5-

by the employment exchange office G nda hence he was not illigible to be considered in the selection.

14. That the contents of para 9 as stated are denied and it is stated that sub-para(c) and (f) of para 6 of the petition are very much relevant to the present case.
15. That the contents of para 10 needs no reply.
16. That the contents of para 11 as stated are denied and the facts stated in sub-para(b) of para 6 of the claim petition are reiterated.
17. That the contents of para 12 and 13 as stated are denied and the facts stated in sub-para (i) and (j) of para 6 of the claim petition are re-itterated.
18. That the contents of para 14 are denied and the facts stated in sub-para(k) of para 6 of the claim petition are reiterated. It is further added that the impugned order of termination dated 16.9.88 is illegal arbitrary and improper.
19. That the contents of para 25 needs no reply.



20. That the contents of para 16 of the counter affidavit are denied and it is stated that said case was registered on false facts consequently the applicant was acquitted and discharged from the all charges. It is further added that neither the local police nor the District Magistrate Gonda has ever send any report to respondents no.1 that the deponent was not fit for time service in the department.

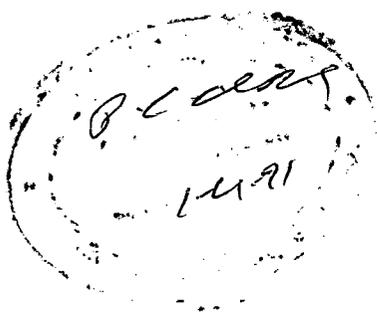
21. That the contents of para 17 are denied and the facts stated in para 6(n) of the claim petition is reiterated.

22. That the contents of para 18 as stated are denied and the facts stated in para 6(o) of the claim petition are re-iterated.

23. That the contents of para 19 and 20 as stated are denied and the facts stated in para 6(p) and (g) are reiterated.

24. That the contents of para 21 ~~of~~ and 22 of the counter affidavit are also denied and the facts

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stated in para 6(r) (s) and (j) of the claim petition are reiterated. it is further stated that the impugned order of termination are illegal and are liable to be quashed.

25. That the contents of para 23 are denied and the facts stated in para 6(4) of the claim petition are reiterated.

26. That the contents of para 24 are also denied and the facts stated in para 6() to (x) of the petition are reiterated.

27. That the contents of para 25 needs no reply.

28. That the contents of para 16 and 27 of the counter affidavit as stated are denied and the contents of para of para 9 and 10 of the petition are reiterated. It is further stated that the impugned order of termination is illegal void and is liable to be quashed.

29. That the contents of para 28 needs no reply.

30. That the contents of para 29 and 30 are also denied and it is stated that the claim petition

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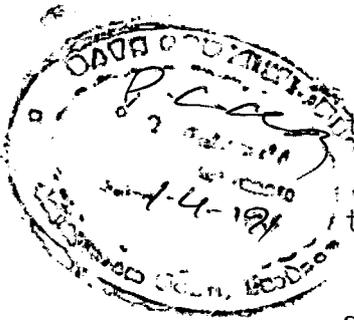


deserves merriits and is liable to be allowed with cost to answering deponent.

Lucknow:Dated 1/4/91

Deponent. *[Signature]*

Verification



I the abovenamed deponent do hereby verify that the contents of paras 1 to 30 of this affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed, so help me God.

Lucknow:Dated 1/4/91

Deponent. *[Signature]*

I identify the deponent who has signed before me .

[Signature]
Advocate

Solemnly affirmed before me on 1-4-91 at 10.45 a m/pm by the deponent who has been identified by Sri T.N. Gupta Advocate of this court.

I have fully satisfied myself by examining the deponent that he has fully understood the contents of this affidavit which have been readover and explained to him by me.

[Signature]
Oath Commissioner.
1-4-91

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

M. P. No. 143/91 (C) / 4

O.A.NO.154 of 1988(1)

Jitendra Nath Pathak ..Applicant.

Versus

Director of Postal Services, U.P.
Lucknow and others ...Respondents.

APPLICATION FOR IMPLEADMENT OF SHRI
LAKHNESH KUMAR PATHAK AS NECESSARY
RESPONDENT/OPOSITE PARTY NO-4.

The applicant most respectfully showeth as

under:-

1. That Sri Lakhnesh Kumar Pathak son of Ram Ganesh Pathak Resident of Village Chauhan Purwa, District Gonda is resident of applicant's village who bears enemety with the applicant.
2. That said Lakhnesh Kumar Pathak was himself very much ineterested in getting his selection

U.A. 23/01/91

as Branch Post Master, Chauhan Purwa District
Gonda due to enmity with the applicant.

3. That the name of said Lekhnesh Kumar Pathak was not forwarded by the Employment Exchange officer Gonda well in time and the names of 4 suitable candidates including the applicant were forwarded and the applicant was found most suitable and was selected as Branch Post Master, P.O. Chauhan Purwa, Gonda.
4. That said Lekhnesh Kumar Pathak further started sending false complaints on irrelevant grounds against the applicants in collusion with respondent no.1 and 2.
5. That the main object of Sri Lakhnesh Kumar Pathak was to acquire the applicant's post by any hook or work in collusion with Opposite Party no.1 and 2 and got terminated the applicant illegally.
6. That in para 3(VII) of the C.A. it has been stated that Sri Lakhnesh Kumar Pathak was a necessary Opposite Party and it was necessary to impleaded him as necessary respondent no.4.

GA 23/07/97

7. That in the interest of justice and equity the impleadment of Sri Lakhnesh Kumar Pathak as Opposite Party no.4 is very much necessary.
8. That it is therefore mare respectfully prayed that Sri Lakhnesh Kumar Pathak son of Ram Ganesh Pathak ,Resident of Village and Post Office Chauhanpurwa district Gonda be impleaded and arrayed as respondent no.4.
9. That after para 2(1) of the claim petition the following words may kindly be allowed to be added for the sake of Justice and equity.

" 4. Sri Lakhnesh Kumar Pathak son of
Ram Ganesh Pathak, Resident of Village
and Post Office Chauhanpurwa, District
Gonda. "

Lucknow: Dated 11/4/91

W. A. Singh
Applicant.

Verification

I the abovenamed applicant , do hereby verify that the contents of paras 1 to 9 of this application are true to my personal knowledge. No part of this application is false and nothing material has been

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concealed, so help me God.

Lucknow: Dated: 1/4/91

Handwritten signature

Applicant.

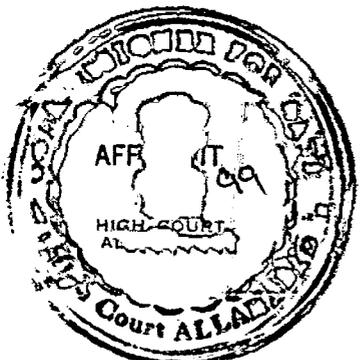
*T. N. Gupta
Advocate*

Counsel for the applicant.

T.C.
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In the Hon'ble Central Tribunal (Administrative-),
(Additional Bench, Allahabad)



O. A. No.154 of 1980 (L)

Jitendra Nath Pathak .. Applicant

V e r s u s

Director, Postal Services, U.P.

Lucknow and others.....Respondents

C_o_u_n_t_e_r_ A_f_f_i_d_a_v_i_t

(On behalf of respondent No. 4)

f.T.
28/4/93

I, Lakhnesh Kumar Pathak, aged about 30 years, son of Sri Ram Ganesh Pathak, resident of village and Post Office Chauhan Purwa, District Gonda, do hereby solemnly affirm and state as under:-



1. That the deponent has been impleaded as respondent no.4 in the above noted claim petition and is fully conversant with the facts deposed + hereunder. The deponent has thoroughly gone through and the averments of the claim petition having been read over to the deponent, the deponent has fully understood the contents of the ~~xx~~ claim petition and is preferring the following parawise reply :

2. That the contents of paragraphs 1 and 2 of the claim petition do not call for any reply.

लखनेश कुमार पाठक

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3. That the contents of paragraph 3 of the claim petition are denied as alleged and it is submitted that the orders passed by opposite parties nos.1 to 3 referred to in this paragraph, are perfectly legal, just and proper and there is nothing illegal or arbitrary.

4. That the contents of paragraphs 4 and 5 of the claim petition need no reply.

5. That the contents of paragraph 6 (a) of the claim petition are not denied. It is respectfully submitted that the petitioner has not been working on the post since the termination of his services with respect to which termination of notice was served on him on 28.9.1988 and the deponent after his appointment has been working on the post with effect from 27.6.1989 after-noon. The photostat copies of the letter of appointment of the deponent dated 23.6.1989, charge certificate dated 22.6.1989 and charge-fard dated 27.6.1989 are being filed ~~with~~ herewith as Annexures nos.C1, C2 and C3 respectively to this counter affidavit.



6. That the first sentence of paragraph 6 (b) are not denied but the rest of the contents are denied being incorrect. It is submitted that he is not a respectable person of the locality and the village. No-doubt he was Pradhan ~~for~~

of the village for some-time but due to his misconduct he was not elected again. Moreover, his character in the local police record was also not recorded as satisfactory. At the time of verification of character of the petitioner by the Superintendent of Post Offices no satisfactory report was received from the Superintendent of Police, Gonda as a criminal case Crime No.59 of 1978 under Sections 302/20/120-B I.P.C. was registered against him.

7. That the contents of paragraph[✓]6(c) of the claim petition are not denied. However, it is submitted that while the petitioner fulfilled the conditions required, the deponent had secured better marks than the petitioner Sri Nitendra Nath Pathak in the High School examination, and, as such, the deponent was found better in merits than the petitioner.

8. That the contents of para 6 (d) of the claim petition are not denied. It is further submitted that the petitioner Jitendra Nath Pathak took various loans from the various Societies and banks but he could not be able to repay the loans and therefore, it is respectfully submitted that the financial position/condition of the petitioner is not sound. Photostat copies of an application along with report of the Branch Manager, Zila Sahkari Bank Ltd. Gonda and an ~~xxx~~ auction proclamation of Uttar Pradesh Rajya Sahkari Bhumi Vikas Bank Ltd.



Branch Colonelganj, Gonda, relating to petitioner are being filed herewith as Annexure C-4, and C-5 respectively, to the counter affidavit.

9. That the contents of paras 6 (e), 6(f) & 6 (g) being irrelebant need no reply. —

10. That the contents of paragraph 6 (h) are not admitted and are denied as incorrect. It is further submitted that the financial condition of the petitioner is not sound as it has already been stated in paragraph 8 of this counter affidavit that the petitioner has taken various loans and he could not repay the same.

11. That the contents of paras 6 (i) and (j) of the claim petition are denied since the ^{deponent} ~~petitioner~~ has no knowledge about the same.

12. That with respect to the contents of para 6 (k) of the claim petition, the deponent is advised to state that the termination order dated 16.9.1988 is perfectly legal, just and proper;

13. That in reply to paragraph 6 (l) it is respectfully submitted that services of the petitioner were terminated vide termination order dated 16.9.1988 and he has not been working since 20.9.1988 whereas the deponent is working on the said post with effect from 27.6.1989 after-noon.

14. That the contents of paragraph 6 (m) of the claim petition are denied being incorrect. During this period a case under Section 302/20/120-B IPC was



रविशंकर कुमार यादव

registered against the petitioner.

15. That the contents of paragraph 6 (n) of the claim petition are denied. The deponent is advised to state that simple termination order ~~was~~ as made under Rule 6 of the Post & Telegraph (Conduct & Service) Rules, 1964, is perfectly legal, just and proper.

16. That in reply to contents of paragraph 6 (o) of the claim petition, it is respectfully submitted that a list ~~containing~~ names of four candidates was issued by the Employment Exchange Conda on 27.1.1988 and it was received in the office of the Superintendent Post Offices Conda on 28.1.1988. Subsequently, another list containing the name of the deponent was sent by the Employment Exchange on 4.2.1988 and it was received in the office of the Superintendent, Post Offices on the same day i.e. 4.2.1988 at 3 P.M. At this stage it be proper to mention that the last date for submission of names of the candidates was 4.2.1988. A photostat copy of the letter B.C.12/Post Office/ 88/799 dated 9.2.1988 is being filed herewith as Annexure no.C-6 to this counter affidavit.

17. That the contents of paragraph 6 (p) of the claim petition are not admitted. The allegations made in the paragraph under reply, are denied.

18. That in reply to the contents of paragraph 6 (q) of the claim petition, the deponent has been



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advised to state that there is no sub-rule 5 of rule 6 which can be verified from the book itself.

19. That in reply to paragraph 6 (r) it is submitted that the deponent has been advised to state the question of upgrading or abolition of the post is irrelevant for the purposes of the present case.

20. That in reply to contents of paras 6 (s) and 6 (t) of the claim petition, the deponent has been advised to state that the termination order as issued under rule 6 of the Post & Telegraph (Conduct & Service) Rules, 1964, is perfectly legal, just and proper ~~and~~ as the termination could be made without assigning any reason.

21. That the contents of paragraph 6 (u) of the Claim petition are denied. It is respectfully submitted that the deponent has been advised to state that the order passed on the Review Application of the petitioner is a speaking order and it was rejected after giving sufficient reasons as it is evident from the order dated 13.12.1988 contained in Annexure no. A-10 of the claim petition.

22. That the contents of paragraphs 6 (v) to 6 (x) of the claim petition are emphatically and vehemently denied.

23. That in reply to the contents of paragraph 7 and 8 of the claim petition need no reply.



अश्वनि शर्मा ५/६/८५

24. That in reply to the contents of paragraph 9 of the claim petition, the deponent is advised to state that the impugned orders are perfectly legal, just and proper and in view of the position stated above, in this counter affidavit, the applicant is not entitled to any relief sought in the present claim petition.

25. That the contents of paragraph 10 of the claim petition are denied. It is admitted that the post is not vacant and the deponent is working on the said post since 27.6.1989 as will appear from Annexure C-1, C-2 and C-3 to this counter affidavit. As such the applicant is not entitled to any relief.

26. That the contents of paragraphs 11,12 and 13 of the claim petition need no reply.

27. That the deponent has been advised to state that there is no infringement of any right of the petitioner and there is no violation of any provision of law. Further, no injustice has been caused to the petitioner.

28. That the deponent respectfully submits that the deponent is working for the past four years to the satisfaction of the authorities and in case he is thrown out of the job, he will suffer manifest and substantial injury.

29. That the deponent has been advised to state that in view of position stated above in this



श्रीमन्मोक्ष कुमार् पाठक

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counter affidavit, the claim petition is not maintainable in law and the petitioner is not entitled to any relief sought for in the petition, which is devoid of merit and is liable to be dismissed with costs.

March 19th, 1993 लखनेश कुमार पाठक
Deponent

Verification

I, the deponent named above, do hereby verify that the contents of paras 1 to 17, 25 and 28 of this counter affidavit are true to my personal knowledge and those of paras 18 to 24, 26, 27 and 29 of this counter affidavit are true to my belief being based on legal advice.

No part of the affidavit is false and nothing material has been concealed, So Help me God.

March 19, 1993 लखनेश कुमार पाठक
Deponent

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

Kejriwal
Advocate



Solemnly affirmed before me on..... 19/3/93
at 7.55 a.m./p.m. by Sri Lakhnesh Kumar Pathak,
the deponent, who is identified by Sri
Kejriwal Singh Advocate, High Court,
Lucknow Bench, Lucknow.

I have got myself satisfied by examining the deponent that he fully understands the contents of this affidavit, which are read over and explained to the deponent by me

Kejriwal
DR. BHANU
OATH COMMISSIONER
High Court Allahabad
Lucknow Bench Lucknow
No..... 96..... 1993
Date..... 19/3/93

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7/1

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
(ADDITIONAL BENCH ALLAHABAD)
CIRCUIT BENCH LUCKNOW

O. A. NO.154 OF 1988 (L)

JITENDRA NATH PATHAK..... APPLICANT

V E R S U S

DIRECTOR, POSTAL SERVICES U.P.

LUCKNOW AND OTHERS..... RESPONDENTS

ANNEXURE NO. C-1



जितेंद्रनाथ कुमारी पाठक

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DEPARTMENT OF POSTS
OFFICE OF THE SUPDT. OF POST OFFICES,
GONDA DIVISION, GONDA_271001.

Memo No. A/113/Chauhanpurwa

Dtd. at Gonda the 23-6-79

Shri. Lakshresh Kumar s/o Shri Ram Ganesh Patil
resident of Village Chauhanpurwa P.O. Chauhanpurwa
District Gonda is hereby provisionally appointed as
Branch Postmaster Chauhanpurwa his date of birth is
8-7-63 He shall be paid such allowances as
admissible from time to time.

Shri Lakshresh Kumar should clearly understand that this
appointment as BPM shall be in the nature of contract liable to be
terminated by him or the undersigned by notifying the other, in
writing and that he shall also be governed by the Posts and telegraphs
Extra Departmental agent (Conduct and Services) Rules 1964 as amended
from time to time and that his services would be terminated if the
previous incumbent is reinstated and he will have not claim from
the department. He should also understand that if he is subsequently
found unsuitable after verification of character and antecedent he
shall be discharged forthwith.

If these conditions are acceptable to him he should communicate
his acceptance in the proforma reproduced below:-

The security bond must be furnished by the candidate before
taking over the charge of the post.

One week's training should be given to the newly appointed BPM
should give a declaration that he will keep the post office and reside
at the village for which the post office is sanctioned.

If the charge of BPM is not taken within a week of receipt of
the memo will be treated as cancelled.

Smeg
Supdt. of Post offices
Gonda Division,
Gonda-271001.

Copy to:

1. The ASPOs/SDIs West Subdiv. Gonda he will please make necessary
arrangement immediately after observing all necessary formalities
and report compliance. Before taking charge of the post the candidate
should furnish two character certificates from the respective
persons. He should also the required declaration completed by the
BPM and send same to this office for record. One week's training
should be given to the newly appointed BPM.

2. The Postmaster Gonda Belraapur, for information.

3. The P.F. of the official.

4. The candidate concerned.

Lakshresh Kumar s/o Late Sri Ram Ganesh Patil u/o Chauhanpur
w/o Katar Bazar, Gonda

लक्ष्मणेश कुमार पाठक



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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
(ADDITIONAL BENCH ALLAHABAD)
CIRCUIT BENCH LUCKNOW

O. A. NO.154 OF 1988 (L)

JITENDRA NATH PATHAK..... APPLICANT

V E R S U S

DIRECTOR, POSTAL SERVICES U.P.

LUCKNOW AND OTHERS..... RESPONDENTS

ANNEXURE NO. Q C-2

अश्वनेश कुमार पाठक



A. 85

An. no. e-2

भारतीय डाक-तार विभाग
INDIAN POSTS AND TELEGRAPHS DEPARTMENT

(संख्ये नियम 267, डाक-तार वित्तीय नियम पुस्तिका, अंक 1, द्वितीय संस्करण)
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume I, Second Edition)

चाप की एकसौ पर चार्ज रिपोर्ट और नकदों और टिकटों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

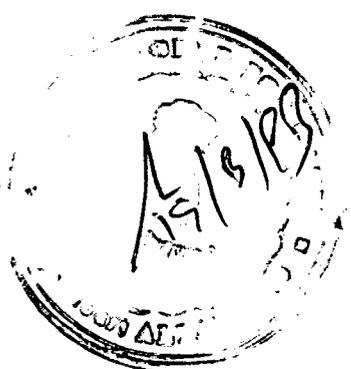
प्रमाणित किया जाता है कि
Certified that the charge of the office of **BPMship**

चाप (नाम) ने
was made over by (name) **Sh. Bhogwati Pat**

(नाम) को **Sh. Lakhmesh Kumar** **Ch. P...**
to (name) **Pathale** of (place)

तारीख को पराह्न
on the (date) **27.6.89** after noon in accordance with

सं. **A-113/...** **35680** **31/8/89**
No. **A-113/...** from **31/8/89**
& **SD FC...**
आरक्षित अधिकारी
आरक्षित अधिकारी
Relieving Officer
27/6-89
27/6



मेशवेगवा कुप्रार पाके



प्रमाणित किया जाता है कि आज के दिन इस कार्यालय की अनेक पुस्तकें (Including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित नकदया भूत भारमुक्त अधिकारी ने सौंप दिए और मैं इनके लिए जिम्मेदार हूँ।

*Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

2951	250	1000	500	200	Rs.	P.
(1) नकदी/Cash						
(2) अप्रदाय टिकट/Stamp Imprest					Rs.	P.
					10	60
					2	60
					1280	70

जिसमें ये शामिल हैं -
Made up of -

- (1) टिकट/Stamps
- (2) नकदी/Cash

भारमुक्त अधिकारी
Relieved Officer

भारसारी अधिकारी
Relieving Officer

दिनांक
Dated the

(Forwarded to)

[Handwritten signatures and names]
In Lachhesh Kumar Palit
DPM Ch. Pura

*The certificate may be scored through.

[Handwritten signatures and dates]
27/6/88

[21-70/68-MU]

लखेश कुमार पालित



A 87

7/84

IN THE HON^{BLE} CENTRAL ADMINISTRATIVE TRIBUNAL
(ADDITIONAL BENCH ALLAHABAD)
CIRCUIT BENCH LUCKNOW

O. A. NO. 154 OF 1988 (L)

JITENDRA NATH PATHAK..... APPLICANT

V E R S U S

DIRECTOR, POSTAL SERVICES U.P.

LUCKNOW AND OTHERS..... RESPONDENTS

ANNEXURE NO. e-3



जितेंद्र नथ पाठक

3716/89

880

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- 2. ...
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- 53. ...
- 54. ...
- 55. ...

Signature
Date



Text at the bottom left of the page.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
(ADDITIONAL BENCH ALLAHABAD)
CIRCUIT BENCH LUCKNOW

O. A. NO. 164 OF 1988 (L)

JITENDRA NATH PASHAK..... APPLICANT

V E R S U S

DIRECTOR, POSTAL SERVICES U.P.

LUCKNOW AND OTHERS..... RESPONDENTS

ANNEXURE NO. C-4

शिवमेश कुमार यादव



श्री मान शरदा प्रबन्धक महोदय
जिला सहकारी बैंक लिमिटेड
शाखा कटरा बाजार जोषा

मान्यवर

निवेदन है कि प्राणी के रिश्तेदार श्री जितेन्द्रनाथ पाठक
पुत्र श्री जनार्दन प्रसाद पाठक नि. राजगढ़ अमीरपुर पो. चौहानपुरा
जिला जोषा से 10 रुकड भूमि मु. 115000/- एक लाख पड़ह हजार
रुपये में क्रय करना चाहते हैं। श्री जितेन्द्रनाथ का कहना है कि मैं किसी
भी बैंक की शर्तों में कोई वकायदार नहीं हूँ। प्राणी के रिश्तेदार
श्री मान जी के कार्यालय में वकाया दस्त अजा करके उक्त भूमि को
क्रय करना चाहते हैं ताकि बैंक के बाद किसी भी प्रकार का
विवाद न रह जाय।

अतः श्री मान जी से धारित है कि श्री जितेन्द्रनाथ

पाठक के नाम की वकायापत्र शर्त भय व्याज लिखित रूप से
प्राणी को प्रदाय करने की सुझावें ताकि उक्त धन बैंक में जमा
करके प्राणी के रिश्तेदार ^{श्री क्रमकर} अथवा विवाद से बच सकें।

श्री मान जी श्री मान पर अतीतमा होती।

श्री मान

राजगढ़ अमीरपुर

प्राणी:-

इ. 19/8/88 लखनश कुमार पाठक

पुत्र श्री शक्ति गोपाल पाठक

शा. पो. चौहानपुरा

7/9/88
Health Manager
Dawa Bazaar

जोषा
दिनांक 7-9-88

लखनश कुमार पाठक



1792

1792

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
(ADDITIONAL BENCH ALLAHABAD)
CIRCUIT BENCH LUCKNOW

O. A. NO. 160 OF 1988 (L)

JITENDRA NATH PARIHAR..... APPLICANT

V E R S U S

DIRECTOR, POSTAL SERVICES U.P.

LUCKNOW AND OTHERS..... RESPONDENTS

ANNEXURE NO. C-5

जितेंद्र नारायण पारिहार



A 94

Page

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
(ADDITIONAL BENCH ALLAHABAD)
CIRCUIT BENCH LUCKNOW

O. A. NO. 166 OF 1988 (L)

JITENDRA NATH PATHAK..... APPLICANT

V E R S U S

DIRECTOR, POSTAL SERVICES U.P.

LUCKNOW AND OTHERS..... RESPONDENTS

ANNEXURE C-C

सरवेश कुमार पाठक



(16)

उत्तर प्रदेश सरकार

प्रशिक्षण एवम सेवा योजना निदेशालय उ० प्र०
श्रम विभाग

1795

पत्रांक : बी० सा० /2/ डाक घर /88 X 799

87

जिला सेवायोजन कार्यालय

गोण्डा दिनांक 9-2-88

सेवा में,

अध्यापक डाकघर

गोण्डा मण्डल

गोण्डा

विषय : अतिरिक्त विभागाय शाखा डाकपाल चौहान पुरवा की नियुक्ति के सम्बन्ध में ।

महोदय,

श्री लक्ष्मण कुमार पाठक पुत्र श्री राम गणेश पाठक ग्राम चौहान पुरवा पो० चौहान पुरवा गोण्डा ने इस कार्यालय को एक प्रार्थना पत्र दिया है जो आप से सम्बन्धित है जिसे मूल रूप में संलग्न कर आवश्यक कार्यवाही हेतु प्रेषित है ।

कृपया अपने कार्यालय में पत्र संख्या ए-113 / चौहान पुरवा / गोण्डा दिनांक 5-1-88 का अवलोकन करने का कष्ट करें । इस तन्दर्भ में सूचित करना है कि उक्त पद की सूची आप के कार्यालय में प्राप्त होने की अन्तिम तिथि 4-2-88 थी जिसके तन्दर्भ में इस कार्यालय का पत्र संख्या बी० सा० /2 / डाकघर /88 /503 दिनांक 27-1-88 द्वारा 4 अभ्यर्थियों का सूची चयन /साक्षात्कार हेतु प्रेषित की गयी थी । परन्तु समग्रान्तर्गत एक और प्रार्थना पत्र प्राप्त होने के कारण श्री लक्ष्मण कुमार का नाम इस कार्यालय पत्र संख्या बी० सा० /2 / डाकघर /88 /709 दिनांक 4-2-88 द्वारा प्रेषित किया गया है जो आपके कार्यालय में दिनांक 4-2-88 समय 3 बजे सांय प्राप्त हो गया है जैसा कि इस कार्यालय के अभिलेखों पर प्राप्त कर्ता के हस्ताक्षर दिनांक एवम समय अंकित है । कृपया उक्त के सम्बन्ध में जो भी नियमानुसार कार्यवाही हो करने का कष्ट करें ।

संलग्नक : मूल प्रार्थना पत्र ।

भवदाय

ड० प्र० आ०

जिला सेवायोजन
गोण्डा ।



लक्ष्मण कुमार पाठक
15-2-88

लक्ष्मण कुमार पाठक

A 96

W/D

BEFORE THE DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, LUCKNOW.

Central Administrative Tribunal
Lucknow Bench
Date of Filing 18.1.96
Date of Receipt by Post 167
Dr. Registrar (J)

MP, 149/96

So (Judg.)
is before
H. S. v. C. for
order.

J. N. Pathak

.. .. Applicant.

Versus

Director Post Offices and
others

.. .. Opp. Parties.

O. A. No. 154/89.

Last Date 31.5.95.

W. D.

APPLICATION FOR LISTING OF THE CASE FOR HEARING

The applicant begs to submit as under:-

1. That in the above noted case Counter and Rejoinder have been already exchanged and the case is ripe for hearing.
2. That the above noted case was listed on 31.5.1995 but since then the case has not been listed for hearing.

WHEREFORE, it is most respectfully prayed that the above noted case may kindly be listed for hearing for securing the ends of justice and equity.

Lucknow.

T. N. Gupta
(T. N. Gupta) Pli
Advocate
09-1-96

Dated: 09-1-96.

Counsel for the applicant.

16-5-96
mp approved
in O.A on
25/7/96 for
A. H.

VC

M.P. No. 2180 of 1996

A 97 1/4

Central Administrative Tribunal

Lucknow Bench 17.10.86

Date of Filing

Date of Receipt by Post

In the Hon'ble Central Administrative Tribunal,
Lucknow Bench, Lucknow.

2211

re
[Signature]

O. R. No. 154 of 1989

Jitendra Nath Pathak..... Applicant

Vs.

Director Postal Services
U.P. Lucknow and Others..... Respondents

Fixed for 18. 10. 1996

The Supplementary Counter Affidavit
is filed herewith. It may kindly be placed
on record.

Lucknow/Dated
October 16, 1996

[Signature]
Advocate,
Counsel for Applicant
of No 6

1798

Before central Administrative Tribunal, Lucknow
In the Hon'ble High Court of Judicature at Lucknow

Central Administrative Tribunal
Lucknow
No. of ...
Date of receipt by ...

District Bench, Lucknow

File

Case No. A. No. 154 of 1989

Jitendra Nath Pathak .. Applicant

Versus

Director Postal Services

U.P. Lucknow and others..... Respondents



Supplementary Counter Affidavit

(On behalf of respondent No. 4)

I, Lakhmesh Kumar Pathak, aged about 34 years son of Sri Ram Ganesh Pathak, resident of village and post office Chauhanpurwa, District Gonda, do hereby solemnly affirm and state on oath as under :-



- लखमेश कुमार पाठक
1. That the deponent is respondent no.4 in the above noted case and is fully conversant with the facts deposed to hereunder.
 2. That the contents of the rejoinder affidavit have been read over and explained to the deponent, who has fully understood the same and is preferring the

following parawise reply to the same. P/21

3. That the contents of paragraphs 1 to 3 of the rejoinder affidavit, hereinafter referred to as 'the affidavit', do not require any comment.

4. That in reply to para 4 of the affidavit, it is respectfully submitted that it is totally incorrect that the name of the deponent was not sent from the Employment Exchange Office, Gonda on 4.2.1988. It has already been stated in paragraph 16 of the counter affidavit of respondent no.4 (deponent) that his name was sent on 4.2.1988 from the office of the Employment Exchange, Gonda and it was received on the same day at 3.00 P.M. in the office of the Superintendent Post Offices, Gonda. A photostat copy of letter no.B.^h C. 12 (Post Offices)/ 88/1999 dated 9.2.1988 has already been filed as Annexure No.C-6 to the counter affidavit filed by respondent no.4 which clearly establishes the aforesaid fact.



ए/र/य/२/३/५/६/७/८/९/१०/११/१२/१३/१४/१५/१६/१७/१८/१९/२०/२१/२२/२३/२४/२५/२६/२७/२८/२९/३०/३१/३२/३३/३४/३५/३६/३७/३८/३९/४०/४१/४२/४३/४४/४५/४६/४७/४८/४९/५०/५१/५२/५३/५४/५५/५६/५७/५८/५९/६०/६१/६२/६३/६४/६५/६६/६७/६८/६९/७०/७१/७२/७३/७४/७५/७६/७७/७८/७९/८०/८१/८२/८३/८४/८५/८६/८७/८८/८९/९०/९१/९२/९३/९४/९५/९६/९७/९८/९९/१००

5. That the contents of paragraph 7 of the rejoinder affidavit, as stated are denied. The name of the respondent-deponent was sent from the office of the Employment Exchange well in time and ^{received} it was ~~received~~ by the receipt-branch of the Superintendent Post Offices, Gonda on 4.2.1988 at 3 P.M. but for the reasons best known to them, it was transmitted to the concerned establishment Branch on 5.2.1988 and thus the name of deponent was not considered for appointment on the post of

A 100

General Administration
Lucknow
No. of P.H.O.
Date of Receipt of P.H.O.
[Signature]

-3-

E.D.Branch Post Master Chauhanpurwa, Gonda. When other candidates were informed about their joining in the said selection and deponent was not informed, then the deponent personally went to the Superintendent Post Offices, Gonda and also gave application in writing but all went in vain. Then the deponent submitted an application to the Director, Postal Services, Lucknow requesting him to get the matter enquired and to pass suitable order. Then the Director Postal Services issued instructions and the name of the deponent was considered. A photostat copy of the application dated 15.2.1988 sent by the deponent to the Director Postal Services, Lucknow is attached ~~with~~ herewith as Annexure C-7.

6. That the reply of all other paras of the rejoinder affidavit has already been submitted in the counter affidavit sworn by the deponent.

7. That the deponent has been advised to state that more than seven years have passed and the deponent who is working without any break in service since 26th June, 1989 to the entire satisfaction of his superior officers, is being harassed illegally and deserves to be appointed on the post applied for.



[Signature]
Deponent

Verification

I, the deponent named above, do hereby

..Contd.

सेवा मे

श्रीमान् डा. यशवन्त महोदय,

पोस्टल सर्जिसेज, लखनऊ.
 District Administration
 Lucknow
 U.P.

विषय :- अतिरिक्त विभागीय शाखा डाकपाल चौहान पुरवा, जूनपुर
 गोंडा के नियुक्ति में अधीक्षक डाकघर गोंडा के कार्यालय द्वारा
 भ्रष्टाचार किया जाना।

श्रीमान् जी,

शाखा डाकपाल चौहान पुरवा, जिला गोंडा का स्थान पुराने शाखा
 डाकपाल श्री राधिका देवी पाठक के रिटायर्ड होने के कारण रिक्त हुआ है जिसके नियुक्ति
 हेतु सेवायोजन अधिकारी, गोंडा के कार्यालय से अधीक्षक डाकघर गोंडा के पत्र संख्या
 र-113/चौहान पुरवा/गोंडा, दिनांक 5-1-88 के अन्तर्गत चयन हेतु अभ्यर्थियों की सूची
 मांगी गई थी, जिसकी अंतिम तिथि 4-2-88 थी जिसके तदनुसार जिला सेवायोजन
 अधिकारी गोंडा ने अपने पत्र संख्या बी०सी०/२/डाकघर/88/503, दिनांक 27-1-88 के
 द्वारा अभ्यर्थियों की सूची तथा उनके कार्यालय के पत्र संख्या बी०सी०/२/डाकघर/709, दिन
 4-2-88 के द्वारा दूसरी सूची चयन हेतु प्रेषित की गई थी जो कि अंतिम तिथि 14-2-88
 को अधीक्षक डाकघर के कार्यालय में 3 बजे सायं प्राप्त हो गई है।

अब अभ्यर्थियों को जब अधीक्षक डाकघर गोंडा के द्वारा भेजी गई नोटिस
 प्राप्त हो गई जिसकी कि मुझे जानकारी हुई और मुझे कोई भी नोटिस एवं सूचना नहीं दी
 गई। तब मैं अधीक्षक डाकघर गोंडा से व्यक्तिगत रूप से मिला। अधीक्षक महोदय ने पहले
 सम्बंधित बाबू से पूछताछ की तथा मुझे यह कह कर टाल दिया कि आपका नाम रोजगार
 कार्यालय से नहीं आया है इसलिए कोई कार्यवाही नहीं की जा सकती।

मैं चिंतित ही कर रोजगार कार्यालय जकर सेवायोजन अधिकारी से मिला तब
 उन्हें लिखित रूप से आवश्यक जानकारी प्राप्त करना चाहा। सेवायोजन अधिकारी ने
 क्विरण सहित अपने कार्यालय की पत्र संख्या बी०सी०/२/डाकघर/88/799, दिनांक

15-09-2-88 के अन्तर्गत पूरे क्विरण के साथ आवश्यक कार्यवाही हेतु अधीक्षक डाकघर गोंडा
 को सूचित किया है जिसकी एक प्रति आवश्यक जानकारी हेतु संलग्न है। इस पत्र के अनुसार

15/10/88
 यह स्पष्ट है कि शायद का नाम निर्धारित तिथि एवं समय के अन्तर्गत अधीक्षक डाकघर,
 लखनऊ, उ.प्र.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

.....

No. CAT/LKO/JUR1/

Dated:

Registration No

0.4 No. 151/87

I. N. Sankar ----- Applicant .

Versus

Director of Public Health & Family Welfare ----- *Lucknow*

① *State of Uttar Pradesh & J.S. Government Prasad Bhatnagar*
Govt. of U.P. Lucknow

② *Director of Public Health & Family Welfare, Govt. of U.P. Lucknow*
Director of Public Health & Family Welfare, Govt. of U.P. Lucknow
Director of Public Health & Family Welfare, Govt. of U.P. Lucknow

Please take notice that the applicant above named has presented an application a copy of _____ thereof is enclosed herewith which has been registered in this Tribunal and fixed _____ day of _____ show cause as to why the petition be not admitted. Counter may be filed within 14 days weeks. Rejoinder, if any, to be filed within _____ weeks thereafter.

If, no appearance is made on your behalf, you pleader or by some one duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence. Given by hand and the seal of the Tribunal this _____ day of _____ 199

Bekandri

For Dy. Registrar.

Registered A/D

A
297

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Ors. Residency
Lucknow - 226 001

(Registration No. 154 of 1989) (C)

No. CAT/LKO/Jud/CB/

dated . _____

J. N. Pathak.

APPLICANT(S)

VERSUS

Union of India.

RESPONDENT(S)

Please take notice that the applicant above named has prescribed an application a copy whereof is enclosed herewith which has been registered in this Tribunal and has fixed 2 day of 11 1989.
for final hearing order & interim prayer on
20/9/89.

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

Given under my hand and the seal of the Tribunal
this 16 day of 9 1989.

dinesh/

For DEPUTY REGISTRAR

- To, (1) The Director (Postal Services) U.P. Lucknow
- (2) Supdt of Post offices Gonda Division, Gonda
- (3) Union of India Through, Minister of Communication, Postal Department, New Delhi

Encl copy of Petition with court's order
dt 9/8/89 passed there on

1/28

Registered A/B

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Opp. Residency
Lucknow - 226 001

(Registration No. 154 of 1989) (1)

No. CAT/LKO/Jud/CB/

dated . _____

J. N. Pathak

APPLICANT(S)

VERSUS

Union of India

RESPONDENT(S)

Please take notice that the applicant above named has prescribed an application a copy whereof is enclosed herewith which has been registered in this Tribunal and has fixed 2 day of 11 1989

for final hearing order & interim p-10/2 on 20/9/89.

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

Given under my hand and the seal of the Tribunal this 10 day of 9 1989

dinesh/

For DEPUTY REGISTRAR

To,

- ① The Director (Postal Services) U.P. Lucknow.
- ② Suball of Post offices. Grand. Division, Gorakhpur
- ③ Union of India through, Minister of Commerce & Postal Department, New Delhi

Encl copy of Petition with court's order
dt. 9/10/89. Issued this 10/9/89

c/c
A
1099

Registered A/D

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Opp. Residency
Lucknow - 226 001

(Registration No. 111 of 198)

No. CAT/LKO/Jud/CB/

dated . _____

APPLICANT(S)

VERSUS

RESPONDENT(S)

Please take notice that the applicant above named
has prescribed an application a copy whereof is enclosed
herewith which has been registered in this Tribunal and has
fixed _____ day of _____ 198 .
for _____

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

Given under my hand and the seal of the Tribunal
this _____ day of _____ 198 .

dinesh/

For DEPUTY REGISTRAR

A/100

Registered A/D

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Opp. Residency
Lucknow - 226 001

(Registration No. 182 of 1989) (U)

No. CAT/LKO/Jud/CB/

dated . _____

J. N. Pathak

APPLICANT(S)

VERSUS

Union of India

RESPONDENT(S)

Please take notice that the applicant above named has prescribed an application a copy whereof is enclosed herewith which has been registered in this Tribunal and has fixed 2 day of 11 1989

for final hearing/order & interim relief. on 21.9.89

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

Given under my hand and the seal of the Tribunal this 10 day of 11 1989

dinesh/

For DEPUTY REGISTRAR

③ Union of India through minister of
communications Postal Department,
New Delhi

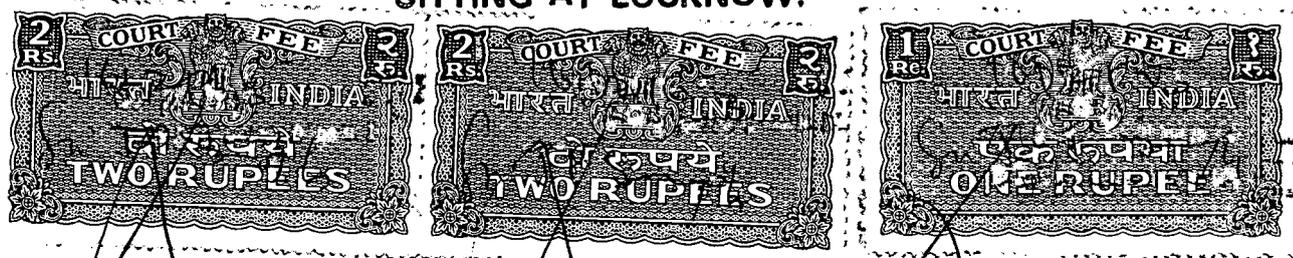
Em. of copy of Petition with Court, & order
dt 9/10/09 passed there on.

VAKALATNAMA

The Central Administrative Tribunal

In the Hon'ble High Court of Judicature

SITTING AT LUCKNOW.



Jitendra Nath Pathak

Applicant

For of 4

VERSUS

Director (Postal Services)
U. P. Lucknow and others

Opposite parties

F.T.
18/2/93

O. A. No.

154

of 1989

I/we the undersigned do hereby nominate and appoint Shri Jaipal Singh

and Shri _____

Advocate, to

be counsel in the above matter and for me/~~us~~ and on my/~~our~~ behalf to appear, plead, act and answer in the above Court or any appellate Court or any Court to which the business is transfer in the above matter, and to sign and file petitions, statements accounts, exhibits compromises or other documents whatsoever, in connection with the said matter arising there from and also to apply for and receive all documents or copies of documents, depositions, etc. etc., and to apply for issue of summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution warrant or order and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration.

Provided, however, that, if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town; then, and in such an event my our said Advocate shall not be bound to appear before the court and if may/our said advocate deth appear in the said case he shall be entitled to an outstation fee and other expenses of travelling, lodging etc. Provided ALSO that if the case be dismissed by default, or if it be proceeded exparte, the said advocate(s) shall not be held responsible for the same. And all whatever my/our said advocate (s) shall lawfully do, I do here by agree to and shall in future ratify and confirm.

ACCEPTED :—

1. Jaipal Singh Advocate
2. Advocate

Signature of Client.....
लवणेश कुमार यादव
 O.P. No. 4

~~Sheet~~
WD
Keep

A/
103

without date

To,
The Deputy Registrar,
Central Administrative Tribunal,
Lucknow Bench, Lucknow.

MP. - 194/94

J.N. Pathak Applicant.
Versus

~~Unknown~~
Director of Post Offices and others.. Opp. Parties.

O.A. No. 154 of 89
Last date 26.11.1993
(W.D.).

APPLICATION FOR LISTING OF THE CASE FOR HEARING

Sir,

The above named applicant most respectfully

submits as under:-

1. That/the above noted case since filing till today (no counter affidavit has been filed.) X.
2. That the case is converted by earlier decision of this Hon'ble Tribunal.
3. That for the ends of justice and equity the case deserves to be listed for hearing.

Wherefore, it is most respectfully prayed that the above noted case may kindly be listed for hearing for the ends of justice and equity.

Lucknow.

T.N. Gupta
(T.N. Gupta)
Advocate

Dated: 01-2-1994

Counsel for the applicant.

July
Rk1-
Hon'ble

CARRA has been
exchanged

Place before the
Registrar
V.C.
2-2-94

File today
2-2-94