

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 159 OF 19.89

NAME OF THE PARTIES V. N. Singh Applicant

Versus

..... Union of India Respondent

Part A.

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CERTIFICATE

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

Dated 14/6/2011

B/C destroyed on 9.5.12

Counter Signed.....



Section Officer/In charge

Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOWA
55INDEX SHEETCAUSE TITLE O.A. 159 of 1989 (L)

Name of the parties

V. N. Singh

Applicant.

Versus.

Union of India and others Respondents.Part A.B.C.

Description of documents

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Ghosh
22-5-92

24/7/89

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

(AI)

Recovery

Registration No. 159 of 1989

APPLICANT(S)

RESPONDENT(S)

Kishore Nath Singh (L)

Supdt. of Post offices

Particulars to be examined

1. Is the appeal competent?
2. a) Is the application in the prescribed form?
2. b) Is the application in paper book form?
2. c) Have six complete sets of the application been fixed?
3. a) Is the appeal in time?
3. b) If not, by how many days it is beyond time?
3. c) Has sufficient cause for not making the application in time, been filed?
4. Has the document of authorisation Vakalatnama been filed?
5. Is the application accompanied by B.D./Postal Order for Rs.50/-

Endorsement as to result of examination

Y/N

Y/N

Y/N

Three Sets

Y/N

Y/N - DD

782133 dt. 6/7

(50/-) 84

6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed?
7. b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?
7. c) Are the documents referred to in (a) above neatly typed in double space?

No

Y/N

Y/N

Y/N

No

8. Has the index of documents been filed and paginated properly?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?

X2

Particulars to be ExaminedEndorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ? *Yrs*
12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ? *Yrs*
 - b) Defective ? *Yrs*
 - c) Wanting in Annexures

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

dinesh/

Register as o. A

May be put up before Court

On 11-7-1989. unlisted.

1017/89

(A3)

11. 9. 89

Hon. D.K. Agarwal - JM

Heard Sri Shakeel Ahmed, counsel for the applicant. The learned counsel stated that recovery of Rs. 96000/- has been issued on account of arrears of money due on the alleged applicant during his service as extra department case. There is no proof on record that the recovery of Rs. 96000/- has been issued against the applicant as a result of arrears due on the applicant as a servant of the union of India. The learned counsel for the applicant desires one week's time to amend the application according to law.

Allowed, fixed 18.7.89, for admission.

Member (S)

18.7.89
No Sifters. Adj. to D.O.C
for admission.

b

B.O.C

PP As directed by the
Court's order dt. 18.7.89, no
amend application filed by the
learned counsel for the official
members for admission

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

(A5)

ORDER SHEET

REGISTRATION NO. OA NO. 159/89 (H)
of 198

APPELLANT
APPLICANT

V. N. Singh

DEFENDANT
RESPONDENT

Union of India Roy

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
9/89	<p>Hon' Mr. D.K. Agrawal, J.M.</p> <p>Shri Hare Om Singh Counsel for the applicant heard at some length. Shri V.K. Chauhan Adv. Standing Counsel for Union of India is present in the Court, takes notice on behalf of respondents.</p> <p>The primary question for consideration at the stage of admission or for the purpose of the interim relief is, as to whether the recovery of Rs. 94,600/- been issued with reference to the of the disciplinary authority. It -89 as alleged in para 6 (g) of the l application. Put up on Recdtly of affirmo. Abdul Address (9/9/89)</p> <p>for admission.</p>	<p>OR Case is submitted for admission. L 25/9</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 159/89(L) 196

APPELLANT
APPLICANT

V.N. Singh

DEFENDANT
RESPONDENT

VERSUS

Union of India & Others

Serial number of order and date	Brief Order, Mentioning Reference if necessary.	How complied with and date of compliance
31.10.89	<p><u>Hon'ble Mr.D.K.Agarwal, J.M.</u></p> <p>Shri S.Ahmad counsel for the applicant is present. List this case on 10.11.89 1-11-89 for Admission.</p> <p style="text-align: right;">J.M.</p>	
2/11/89	<p>Shri Shakeel Ahmed counsel for the applicant and Shri V.K. Chaudhary counsel for the respondents are present. This case had been placed for issuance of interim order by before a Single Judge Bench on 11.7.89 and on 19/9/89, before a Division Bench on 19.10.89. The Single Judge Bench or Division Bench did not consider it appropriate to issue interim order. On 19-10-89 specific direction was given to the applicant to file proof of the fact that the alleged recovery of Rs.96,000/- was in pursuance of the order of disciplinary authority dated 28.2.89. In compliance of the said order, a supplementary affidavit has been filed on 1-11-89. Therefore, the respondents are given time to file short reply within 2 weeks hereof. List this case for orders on interim relief on 5-12-89.</p> <p style="text-align: right;">J.M.</p>	
5.12.89	<p>(sns)</p> <p>Hon. Justice K.Nath Hon. Mr. K.J. Rama</p> <p>Admit.</p>	<p>OK</p> <p>No reply filed submitted for order</p>

See original order
on main
petition

AM

JN

A9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW

O.A. NO.159 of 1989 (L)

Vishwa Nath Singh Applicant.

Versus

Superintendent of Post
Offices Lakhimpur Kheri. Respondent.

Hon'ble Mr. Justice K. Nath, V.C.

Hon'ble Mr. K.J. Raman, A.M.

(Hon. Mr. Justice K. Nath, V.C.)

This is a writ petition under section 19 of the Administrative Tribunals, Act, 1985, for quashing proceedings of recovery of Rs.94,600.00 from the petitioner as arrears of land revenue.

2. The facts for the purpose of the present case are admitted.

3. The petitioner was working as an Extra Departmental Branch Post Master of Ambara Branch in District Kheri, when an inspection of post office was made on 27.4.1982. He was handling money received from the depositors in the Post Office Accounts to be credited to the government. It is alleged by the department that between 23.7.1977 to 7.4.1982, the applicant had mis-appropriated the sum of Rs.51,874.20; adding interest and penal interest, it amounts to Rs.94,638.70 upto 31.3.1989. The department considered the petitioner to be liable to pay sum of Rs.94,638.70 to the government. The details of the amount are contained in Annexure-R1 to

8
Contd....2/-

the counter affidavit. The recovery order was issued on 10.4.1989 to the Collector of the District in exercise of power under section 4 of Public Accountants Default Act, 1850 for recovery of the amount as arrears of the land revenue.

4. This petition was filed on the ground that the petitioner was not a Public Accountant within the meaning of the aforesaid Act and that even if he was, no recovery, could have been ordered without giving an opportunity to show cause in which proceeding the amount should have been determined.

5. We have heard the learned counsel for both the parties. We find that the petitioner is a Public Accountant within the meaning of the Act. Section 3 of the said Act defines Public Accountant of two different categories. Category No.1 concerns persons who are the official Assignee or trustee or Sarbarakar. Section 4 & 5 concern accountant who "include any person who, by reason of any office held by him in the Service of the Central Government or of Government of a State is entrusted with receipt, custody or control of any moneys or securities for money or the management of any lands belonging to such government." It is clear enough that the petitioner as Extra Departmental Branch Post Master, was in service of the Central Government and was entrusted with receipt of money of the depositors in the account of Post Office for credit to the Government Account. He is therefore undoubtedly a public accountant, and Under Section 4 of the Act his head of the office could proceed against him for any loss or defalcation in his accounts as if the amount was arrears of land revenue due to the government. The first point on behalf of the petitioner therefore fails.

(All)

6. But there is substance in the contention of the petitioner that his liability for amount in question could not be determined without giving an opportunity to the petitioner to meet the allegation made against him. It is the clear case of the petitioner that no opportunity whatsoever was given to the petitioner; the learned counsel for the respondents admits that the amount in question was determined without giving any opportunity to the petitioner in that respect. Indeed, counter affidavit does not even say that any opportunity was given to the petitioner.

7. The silence of the Act on question of an opportunity does not determine the question whether or not an opportunity to show cause should have been given. It is a fundamental principle of the rule of law known to our constitution that no adverse orders causing civil consequences against a person can be passed without giving an opportunity to meet the allegation. We hold therefore that order of recovery is liable to be quashed. It is of course open to the competent authorities to hold a proper enquiry and thereafter proceed in accordance with section 4 of the Public Accountant Default Act, 1850.

8. In view of the above, the proceedings for the recovery of Rs.94,638.70 from the petitioner under the department's order dated 10.4.1989 referred to in Para-3 of the counter affidavit are quashed. The amount, if any, recovered from the petitioner shall be refunded to the petitioner. It will be open to the department to determine the petitioners' liabilities, if any, in accordance with law bearing in mind the observations contained in the body of this judgement.



ADM. MEMBER



VICE CHAIRMAN

Dated: 17th May, 1990.

rrm/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW.

BETWEEN

Central Administrative Tribunal

Circuit each, Lucknow

Date of Filing 6/7/89

Date of Receipt by Post.....

6A. No 159 of all)

Deputy Registrar(J)

AND

Superintendent of Post Offices

Lakhimpur Kheri - - - - - Respondents.

DETAILS OF APPLICATION:

2) PARTICULARS OF RESPONDENT

i) Name of respondent : Superintendent of Post Offices, Kheri Division Distt. Kheri (U.P.)

ii) Name of the Father : Not applicable

iii) Age of the respondent : Not applicable

iv) Designation and particulars of office : Superintendent of Post Offices, Kheri Division Distt. Kheri (U.P.)

v) Office address : As above

vi) Address for service : As above.

ପିତ୍ତୁର ଲାଭ ଏବଂ ନୀତି

413

-2-

3) PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION IS MADE:

i) The application is : F-6/82-83
against the order No.

ii) Date :
iii) Passed by : Superintendent of Post Offices
Kheri Division,
Kheri.

iv) Subject in brief : The respondent has sent a
recovery certificate with
reference to order no. F-6/
82-83 for recovery of
Rs. 94,600/- to Collector, Kheri

4) JURISDICTION OF THE TRIBUNAL

: The applicant declares that the
subject matter of order
against which the petitioner
wants redressal is within the
jurisdiction of this Tribunal

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

6) FACTS OF THE CASE :

a) That the applicant was appointed as Extra Departmental Branch Post Master of Ambara Branch in District Kheri under the provisions of Posts and Telegraph Extra Departmental Agents (Conduct and Service) Rules, 1964 in the year 1972.

10/01/2018

b) That the respondent no.1 by a notice dated 11.10.1988 informed the petitioner that there is a proposal to take action against the petitioner on the allegation that there are certain irregularities in the maintenance of official record and irregularities in account Books, and Accounts of Account Holders in the Post Office, thereby causing a financial loss to central Govt.

c) That the petitioner made a representation dated 17.10.1988 and thereafter by notice no. Nil dt. 25.10.1988 a charge sheet was served on the petitioner on 27.10.1988.

d) That after an enquiry the appointing authority on the basis of the report of the enquiry officer & other material on record came to a conclusion that the applicant is guilty of misconduct and that the applicant has violated the Rule 17 of the Posts and Telegraph Extra Departmental Agents (Conduct and Service) Rules, 1969. The appointing authority by his order dated 28.2.1989 has terminated/removed from services. No other punishment has been awarded against the petitioner.

e) That thereafter the applicant has preferred the appeal before Director Posts, Postal Deptt.

FACSIMILE

Lucknow Zone, Lucknow which has been received in his office on 17th May 1989 and that appeal is still pending.

f) That according to the order dated 26.2.1989 the loss caused to the Union of India is about Rs. 5300/-only.

g) That the respondent in reference to his order No. F-6/82-83 dated 28.2.1989 has sent a recovery certificate to the Collector Kheri to recover an amount of Rs. 96000/- from the applicant. When the applicant tried to know on what account this amount is sought to recovered, the respondent did not give any reply.

h) That the Amin of Tehsil Lakhimpur Kheri went to arrest the applicant on 30th June 1989, in pursuance of the aforesaid recovery of Rs. 96000/-as arrears of land revenue, but as the applicant was not present at his house, the applicant could not be arrested.

i) That the recovery is absolutely illegal as there is no provision to recover the amount as arrears of Land Revenue. Moreover the recovery of 96000/- is absolutely illegal and without jurisdiction.

Temporary

7) DETAILS OF REMEDY EXHAUSTED:

The appeal against the order dated 28.2.1989 is still pending and that it not subject matter of this application. No remedy is available against the proceedings of recovery of amount as arrears of land revenue.

8) MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

The applicant further declares that he has not previously filed any application writ or suit regarding the matter in respect of which application has been made.

9) RELIEFS SOUGHT

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

- i) the respondent may be restrained from recovering any amount as arrears of land revenue,
- ii) in any case the respondent may be restrained from recovering the amount of Rs.96,000/- from the petitioner as this amount is not due against the petitioner and the appeal against the order no.

F-6/82-83 dated 28.2.1989 is still pending

before the Director of Post, Lucknow.

10/20/91 M/G/E

On the ground that

- a) there is not provision for recovering any amount as arrears of land revenue.
- b) the respondent has not given any opportunity of hearing to the applicant before issuing a recovery certificate. The order for recovery of amount is against the principles of natural justice.
- c) the appeal against the order No.F-6/82-83 dated 28.2.1989 is still pending.

10.) INTERIM ORDER PRAYED FOR :

The respondent may be restrained from recovering the amount of Rs.96000/- from the applicant during the pending of this application.

11) Not applicable.

12) PARTICULARS OF POSTAL ORDER IN RESPECT OF APPLICATION FEE

- a) No. of Postal order : 4782133
- b) Name of issuing post office : G. P.O. LUCKNOW.
- c) Date of Postal order : 6.7.1989
- d) Post office at which payable. : G. P.O. LUCKNOW.

13) LIST OF ENCLOSURES:

A copy of the order No.F-6/82-83 dated 28.2.1989

as Annexure No.I.

19.2.1989

AHO

VERIFICATION

I, Vishwanath singh son of Bhagwan singh aged about 42 years working as Extra Departmental Sub Post Master in the office of Extra Departmental Sub Post Master Ambara Branch Post Office, district-Kheri, resident of Village-Ambara Post Office Ambara distt. Kheri do hereby verify that the content of paras 1 to 4, 6, 8, 11, 12, 13 are true to my personal knowledge and those of paras 5, 7, 9, 10 are to be true on legal advice and that I have not suppressed any material fact

10.10.2021
Lucknow, dated 6/10/09

VISHWANATH SINGH
SIGNATURE OF THE APPLICANT

RECEIPT SLIP

Receipt of the application filed in the Central Administrative Tribunal Lucknow Bench by Shri Vishwanath singh working as Extra Departmental Sub Post Master in the Ministry/department/office of Postal residing at village and Post Ambara district Kheri is hereby acknowledged.

10.10.2021
Lucknow, dated 6/10/09

Seal-

For REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

ਇਨ ਦੀ ਆਨਰੇਬੁਲ ਹਾਈਕੋਟ ਆਫ ਜੂਡਿਕੇਚਰ ਸਟ ਇਲਾਹਾਬਾਦ,
ਲਖਨਤੁ ਬੈਂਚ, ਲਖਨਤੁ

रिट पिटीशान नम्बर

संस्कृत 1989

विश्वनाथ सिंह पिटीड़ानर

ବିଜ୍ଞାନ

भारत सरकारआदि रेस्पॉन्डेंट

एनेक्षर नम्बर-

भारतीय डाक विभाग

कायांत्य अधीक्षक डाकघर, खीरी मण्डल, खीरी-262701।

ब्राष्णन संख्या- एप्र-6/82-83

दिनांकित: खीरी 28-2-89।

श्री विश्वनाथ सिंह शाखा डाकपाल ।पुट आफ ड्यटी ।

अम्बारा को डाक्तार अतिं चिं एजेन्ट आचरण सर्व सेवा। नियमा
बली, 1964 के नियम-8 के अन्तर्गत, दुराचार सर्व दुव्यर्वहार के लांचनों
का एक मिवरण इस कायांलिय के समर्थक ज्ञापन दिनांक 11-10-88
द्वारा दिया गया था। उनका अभ्यावेदन दिनांक 19-10-88 इस
कायांलिय के ज्ञापन सं सम दिनांक 25-10-88 द्वारा दी गयी जो उन्हें
27-10-88 को प्राप्त हुआ। चूंकि श्री विश्वनाथ सिंह ने छाँस लांचनों
को नहीं स्वीकारा इसलिए केन्द्रीय तिविल सेवा वर्गीकरण नियंत्रण
सर्व अपील। नियमावली 1965 के नियम 14 के आधार पर जाँच करवाने
का निर्णय लिया गया। श्री स०००दीक्षित, उप मण्डलीय निरीक्षक छाँस
गोला को जाँच अधिकारी तथा श्री फूलचन्द कायांलिय सहायक मण्डलीय

कायालिय छीरी को प्रेजेंटिंग आफिसर इक्स कायालिय के इक्सापन सं० सम दिनांक 30-11-88 द्वारा नियुक्त किया गया ।

जांच अधिकारी की जांच आख्या दिनांक 25-2-89 सम्बन्धित पुलेखों, गवाहों के ब्यानों, दोनों पक्षों के जांच सारांशों तथा श्री विश्वनाथ सिंह के ब्यानों का मैने गहनता से अध्ययन किया ।

इस मामले में जांच कार्यवाही 20-12-88, 11-1-89, 24-1-89, 25-1-89 एवं 9-2-89 को हुई । दिनांक 20-12-88 को श्री विश्वनाथ ने बिना बचाव सहायक के कुछ कहने से मना किया उन्होंने अपने प्रार्थना पत्र दिनांक 11-1-89 में कहा कि जांच में कोई बचाव सहायक नहीं रखेगा और अपने ऊपर लगाये लांचनों को अस्वीकार किया । दिनांक 24-1-89 को लिखित एक पत्र दिनांक कि कोइस कागजात या गजाह भी प्रस्तुत नहीं करने है । इस तरह श्री विश्वनाथ सिंह को जांच अधिकारी ने समुचित अवसर देते हुए जांच पूरी की ।

जांच कार्यवाही में निम्न उल्लिखित प्रस्तुत किये गये :-

1- अदायगी अधिपत्र खाता सं० 2700528 इ। दिनांक पुदशा

17-10-81 मु० 3300/- क-।

2- श्री काशीराम पुत्र बलदी राम का लिखित ब्यान दि०

19-3-86 क-2

3- ब०ब० पात्तबुक खाता सं० 2700528 इ।

क-3

4- श्री राजकुमार सिंह पुत्र श्री खेंजन सिंह का लिखित

ब्यान दिनांक 6-3-86 क-4

5- श्री राजकुमार सिंह पुत्र श्री खेंजन सिंह का लिखित

ब्यान दिनांक 6-11-87 क-5

6- अदायगी अधिपत्र ब०ब०खाता सं० 2705784 दिनांक

16-10-80 मु० इ। 900/- क-6

-3-

7- श्री रामबहादुर पुत्र श्री बृजलाल का लिखित बयान
दिनांक 5-3-86

क-7

8- श्री भगवती प्रसाद पुत्र श्री बृजलाल का लिखित बयान
दिनांक 27-5-87

क-8

9- श्री भगवती प्रसाद पुत्र श्री बाबूराम का लिखित बयान
दिनांक 19-3-86

क-9

10- 5 वर्षीय डी०डी० खाता सं० 106062 की रसीद
दिनांक 13-10-81

क-10

11- ब०ब० पासबुक खाता सं० 2705784 की रसीद दि०
28-9-79

क-11

12- अम्बारा बी०ओ० डेली एकाउन्ट दि० 20-9-79 क-12

13- श्री मूलचन्द पुत्र श्री भृजलाल का बयान दि० 8-4-87 क-13

14- श्री शिव नरायन सिंह पुत्र श्री उदय सिंह का लिखित
बयान दिनांक 7-04-87 क-14

15- श्री शिव नरायन सिंह पुत्र श्री उदय सिंह का लिखित
बयान दि० 7-11-87 क-15

16- ब०ब० खाता 2701546 की अदायगी अधिपत्र दिनांक
4-3-81 मु० 1000/- क-16

17- ब०ब० खाता 2701546 की अदायगी अधिपत्र दिनांक
11-5-81 मु० 100/- क-17

18- अम्बारा ब०ब० पासबुक खाता सं० 2701546 क-18

जाँच कार्यवाही में अभियोजन पक्ष की ओर से निम्नलिखित
बुमियाँ गवाही को प्रस्तुत कर उनके बयान जाँच अधिकारी ने लिखे:-

1- श्री भगवती प्रसाद पुत्र श्री बृजलाल नि० ग्राम व डा० अम्बारा,
जिला खीरी ।

2- श्री रामबहादुर पुत्र श्री बृजलाल नि०ग्राम व डा० अम्बारा
जिला खीरी ।

3- श्री राजकुमार सिंह पुत्र श्री खजून सिंह ग्राम व डा०अम्बारा
जिला खीरी ।

४- श्री काशीराम पुत्र श्री बलदीराम ग्राम रामालखना डॉ अम्बारा जिला खीरी ।

५- श्री ए० कौ० श्री वास्तव, सहा० अधीक्षक मुख्यालय खीरी ।

६- श्री श्वरेश मनोहर लाल बघत विकास अधिकारी खीरी ।

गवाह श्री मूल चन्द्र पुत्र श्री भूखन लाल एवं श्री भगवती प्रसाद पुत्र श्री बाबूलाम जाँच अधिकारी के सम्मुख उपस्थिति नहीं हो सके यद्यपि इच्छांक 25-१-८९ एवं ९-२-८९ को सम्मन भेज कर बुलाया गया था परन्तु जाँच अधिकारी नेटवर्क नहीं किया कि उन्हें सम्मन मिल गया था या नहीं । एक गवाह श्री शिवनारायन सिंह की मृत्यु हो चुकी थी ।

श्री विश्वनाथ सिंह पर लगाये लाँचन निम्न प्रकार है :-

यह कि उक्त श्री विश्वनाथ सिंह नेआस्त 72 में अप्रैल ८२ तक शाखा डाक्याल अम्बारा के पद्ध पर कार्य करते हुए ब०ब०/टी०डी० खातों से पञ्जी० का सिंया कर तथा ब०ब०/टी०डी० पास बुकों में जमा के इन्द्राज कर सरकारी अभिलेखों में प्रदर्शित न कर स्वयं के निजी प्रयोग में लेकर शाखा डाकघर नियमावली के नियम १३१, १३३, १३४ व १४१ के ग्रावधानों को पालन नहीं किया तथा सत्य निष्ठा एवं कर्तव्य परायणता बनाये नहींखी । ऐसा कर उन्होंने डाक तार अतिरिक्त विभागीय ऐन्ट सेवा एवं आचरण नियमावली के नियम-१७ का उल्लंघन किया ।

श्री विश्वनाथ सिंह शाखा डाक्याल अम्बारा के पद पर माह अगस्त ७२ से अप्रैल ८२ तक कार्य करते हुए श्री मूल चन्द्र पुत्र श्री भूखन लाल ग्राव व पौ० अम्बारा से दिनांक २०-९-७९ को ब०ब० खाता सं० २७०५७८४ की पास बुक ब्याज हुत प्राप्त की और पासबुक की रसीद एक सादे कागज पर दे दी हैसिमें अवश्येष रु० । १५-५० दिखाया गया । इस पासबुक को ब्याज के लिए लेखा कार्यालय

नहीं भेजा गया और नियम 141 का उल्लंघन किया । दिनांक 16-10-80 को उक्त खाते से 900/- निकासी की गयी किन्तु रूपया निकालने के आवेदन पर तस्वा अद्यायगी अधिपत्र इस0बी0-71 पर जमा कर्ता के हस्ताक्षर नहीं करवाये । जमाकर्ता को इसका भुगतान भी नहीं किया गया तथा नियम 134 का उल्लंघन किया ।

श्री शिव नारायण सिंह पुत्र श्री उदय सिंह ग्राम रामालखनडा0 अम्बारा की ब0बै० खाता सं0 2701546 से दिनांक 4-3-81 को भीरा डीक्घर से 1000/- की निकासी की गयी इसमें उक्त श्री विश्वनाथ सिंह ने भीरा जाकर स्वयं जमा कर्ता की गवाही लिखी जबकि निकासी फार्म परर जमाकर्ता के हस्ताक्षर नहीं थे । इस निकासी के बाद पासबुक में 11-45 शेष जमा वर्ष 1979-89 का ब्याज 95-10 जौड़ने पर अवशेष 106-55 हो गया । दिनांक 11-5-81 को इस खाते में 1000/- की निकासी की गयी और अवशेष 6-55 रहना चाहिए था जब कि उपराक्त श्री विश्वनाथ सिंह ने पासबुक में अवशेष 1000-55 लिखा और दिनांक 19-3-82 को 50/- जमा करने के बाद अवशेष 1056-55 शेष लिखा जब कि 56-55 होना चाहिए था ।

श्री भगवती प्रसाद पुत्र श्री बाबूराम निवासी अम्बारा की 5 साला टी०डी० खाता सं0 106062 की पासबुक टिं0 13-10-81 को ले ली तथा एक साटे कागज पर अवशेष 600/- दिखाते हुए दी जब कि 9-11-78 को 100/- निकासी के उपरान्त इस खाते में अवशेष केवल 500/- था यह पासबुक ब्याज के लिए लेखा क्यालिय नहीं भेजी गयी । इस प्रकार उन्होंने इस खाते में 100/- के दुर्विनियोजन से विभग को धृति पहुंचाई ।

श्री मुरलीधर पुत्र श्री काशीराम ग्राम रामालखना अम्बारा की पासबुक ब०बै० खाता सं0 2700528 इसक से दिनांक 17-10-81 को 3300/- की निकासी की गयी । इस निकासी का इन्द्राज पासबुक में नहीं किया गया । जमाकर्ता ने निकासी के आवेदन पत्र व

निकासी अधिपत्र पर अपने अगूठे का निशान होने से भी इन्कार किया है। इसपुकार उन्होंने शार्हा डाक्षर नियमावली के नियम 134 का उल्लंघन किया।

लांचन- । श्री मूल चन्द्र खाता दार बचत खाता सं 2705784 के ब्यान प्रदर्श क-13। के अनुसार श्री विश्वनाथ सिंह ने पासबुक लेकर एक साते कागज में रसीद दिनांक 20-9-79 प्रदर्श क-11। हस्ताक्षर व तारीख मेहर सहित दी जिसमें रकम 1117-50 लिखी है। आरोपित अभिकर्ता 'ने अपने ब्यान दिनांक 9-2-89 का जाँच अधिकारी करे दिये हैं, में कहा है कि खातेक्षर द्वारा पासबुक उन्हें दी ही नहीं रखी थी और नहीं कोई पन्जी रसीद दी गयी उनसे पूछे गये प्रश्न के उत्तरमें कहा कि विभाग के किसी भी कर्मचारी या अधिकारी के द्वारा पिछली तारीखमें बदल कर लगायी गयी है उनके हस्ताक्षर नहीं है आर नहीं है राइटिंग है आरोपित अभिकर्ता का कथन गलत है क्यों कि बीओओ डेली एकाउन्ट दिनांक 20-9-79 प्रदर्श क-12। मूँ उक्त पासबुक की प्रविष्ट आरोपित अभिकर्ता द्वारा की गयी है। प्रदर्श क-12 व रसीद प्रदर्श क-1। की लाल स्थानी मिलती है। सिस फार्म एम-1। पर बीओओ डेली एकाउन्ट दिनांक 20-9-79 प्रदर्श क-12। बनाया गया है उसी फार्म एम-1। पर रसीद दिनांक 20-9-79 प्रदर्श क-1।। भी बनायी गयी है। इससे स्पष्ट है कि पासबुक खातेदार से लेकर, रसीद आरोपित अभिकर्ता 'ने ही दी। इसी बचत खाता से दिनांक 29-10-80 को 900/- निकासी कर ली गयी। खातेदार ने अपने ब्यान दिनांक 8-4-87 प्रदर्श क-13। में 900/- की निकासी करना स्वीकार नहीं किया है और नहीं प्रदर्श क-6 में हस्ताक्षर और नहीं रकम प्राप्त करना स्वीकार किया है। दिनांक 16-10-80 को निकासी प्रारंभना पत्र प्रदर्श क-6। में गवाही श्री भगवती प्रसाद कह है श्री भगवती प्रसाद ने अपने ब्यान दिनांक 27-5-87 प्रदर्श क-8। में लेखस्वीकार किया था परन्तु उनके सामने श्री मूलचन्द्र ने हस्ताक्षर नहीं किये थे। परन्तु श्री भगवती प्रसाद गवाह ने दिन 24-1-89 को कहा है कि उस ब्यान प्रदर्श

क्र० क-8। में यह बात झूठी लिखी है कि मेरे सामने श्री मूल चन्द्र ने हस्ताक्षर नहीं किये थे झूठी बात बयान ले वाले अधिकारी के कहने से लिख दी थी। श्री भ्रगवती प्रसाद का कथन विश्वासनीय नहीं है क्यों कि एक अधिकारी झूठी बात लिखवायेगा जब कि उन्हें द्वारा प्रश्न डराया व धमकाया नहीं था फिर उन्हें याद नहीं है कि पुरार्थना पत्र पहले से भरा हुआ था या नहीं, यह उनके द्वारा गवाही लिखने के बाद भरा गया। इसी तरह निकासी फार्म प्रदर्शन क-6। में दिनांक 22-10-80 को श्री राज कुमार सिंह ने गवाही की थी उनके बयान प्रदर्शन क-5। में स्पष्ट है कि उनके सामने हस्ताक्षर नहीं किये थे और नहीं नी सौ रुपया उनके सामने भुगतान किया गया था परन्तु दिनांक 24-1-89 के बयान में कहते हैं कि उनके सामने हस्ताक्षर किया 900/- दिये जमाकर्ता श्री मूल चन्द्र के भव से अपने बयान प्रदर्शन क-5। में कुछ झूठी बातें लिखी दी थीं क्यों कि मूल चन्द्र मौके पर मौजूद थे। उनको कथन गलत है क्यों कि श्री मूल चन्द्र के बयान प्रदर्शन क-13। दिनांक 8-4-87 को लिये जा चुके थे। उनके बयान प्रदर्शन क-5। दिनांक 6-11-87 को लिया गया था इसीलिए श्री मूलचन्द्र मौके पर मौजूद नहीं थे। इन सब से यह स्पष्ट है कि खातेदार मूलचन्द्र ने 900/- की निकासी दिनांक 22-10-80 को नहीं की थी क्यों कि पासबुक की रसीद दिनांक 20-9-79 प्रदर्शन क-1।। जमाकर्ता के पास थी अन्यथा वह रसीद, पासबंक वितरण के बाद डाकघर में होनी चाहिए थी। इस तरह आरोपित अभिकर्ता ने शाखा डाकघर नियम वली के नियम 14। व। 34 में दिये गये प्रवधानों का पालन नहीं किया में जांच अधिकारी के कथन से सहमत नहीं हूँ कि यह आरोप पूर्णस्पैष्टा सिद्ध साबित नहीं होता है। उपरोक्त तथ्यों के बाधार पर आरोपित अभिकर्ता पर लगाया लांचन, पूर्णस्पैष्टा सिद्ध है। लांचन-2 श्री शिव नरायण सिंह खातेदार की मृत्यु होचुकी है उनके बयान दिन 7-4-87 प्रदर्शन क-14। व 7-11-87 प्रदर्शन क-15।

को सनाक्त गवाह श्री मनोहर लाल जिनके सम्बुद्ध ब्यान दियेगे थे ने किया है। श्री शिव नरायन सिंह ने स्वीकार किया था कि निकासी फार्म दिनांक 4-3-81 प्रदर्श क-16। में न तो उनके हस्ताक्षर हैं और नहीं उन्होंने 1000/- की निकासी की उनकी पासबुक सं 2701546 प्रदर्श क-18। में बकाया दिनांक 11-5-81 को 100/- की निकासी करने तथा 19-3-82 को 50/- जमा करने के बाद मु 1056 -55 है।

1111 प्रदर्श क-18, प्रदर्श क-16 व प्रदर्श क-17 का मिलान करने पर यह स्पष्ट है कि पासबुक प्रदर्श क-18। में दिनांक 4-3-81 भीरा उप डाकघर की इन्द्राज को मिटाया गया है इस 1000/- रु 0 की निकासी को लेकर ब्याज लगाकर बकाया 106-55 आता है जिसे 1106-55 बनाया गया स्पष्ट लगता है पिछे 11-5-81 को 100/- निकासी प्रदर्श क-17। कर आरोपित अभिकर्ता ने बकाया पासबुक प्रदर्श क-17 में मु 10006-55 लिखी है परन्तु निकासी फार्म में 6-55 लिखा है इसी तरह दि 19-3-82 को 50/- रु 0 जमा के बाद पासबुक प्रदर्श क-18 में बकाया 1056-55 लिखा है आरोपित अभिकर्ता ने अपने ब्यान दि 9-2-89 में स्वीकार किया है कि पासबुक प्रदर्श क-18। में उनके हस्ताक्षर व तारीख मुहर है परन्तु उनके द्वारा बकाया 6-55 व 56-55 ही लिखा गया था उनका कथन विवातनीय नहीं है क्यों कि प्रदर्श क-18 में बकाया 1006-55 व 1056-55 स्पष्ट लिखा है। और बाद को बढ़ाया गया नहीं दिखता है स्याही भी एक ही है।

1111 मु 1000/- की निकासी फार्म प्रदर्श क-16, दिनांक 4-3-81 को ही भराया और 4-3-81 को ही भीरा उपर्युक्त डाकघर से भुगतान हुआ दोनों और गवाही आरोपित अभिकर्ता कहे हैं रुपया निकालने का प्रार्थना पत्रमें आरोपित अभिकर्ता ने लिखा है कि "मैं हिंसाब शिव नरायन सिंह भली जानता पहचानता हूँ इन्होंने यह छलका हस्ताक्षर मेरे सामने किये हैं" दूसरी ओर लिखा है "मैं हिंसाबदार शिवनरायन

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सिंह को भली भाँति जानता व पहचानता हूँ इन्होने मेरे सामने हस्ताक्षर करके 1000/- एक हजार रुपया प्राप्त किया "जब कि आरोपित अभिकत ने अपने ब्यान दिनांक 9-2-89 में प्रस्तुत कर्ता द्वारा पूछे गये पृष्ठन 'ब्यान प्रदर्शा' क-16 पर बने जमाकर्ता के हस्ताक्षर शिवनरायन सिंह के ही है और आपके सामने बनाये गये थे" के उत्तर में कहा कि "इन हस्ताक्षरों के बारे में कुछ कुछ भी नहीं कहना है इसके बारे में लेखा कार्यालय का भुगतान कर्मचारी जाने। जब कि निकासी फर्म प्रदर्शा क-16 में गवाही स्पष्ट लिखी है इससे स्पष्ट है कि शिव नरायन सिंह के हस्ताक्षर प्रदर्शा क-16 में फर्जी है। अपने ब्यान दिनांक 9-2-89 में आरोपित कर्मचारी ने कहा है कि "हो सकता है कि मैंने अपने डाकघर से ही गवाही की होगी तथा मुझे 1000/- का भुगतान ताङ्केह खातेदार ने भीरा से लिया होगा जाल साजी स्वर्य छातेदार ने भी होगी उन्हें महज फैसाने के लिए। यह ब्यान भी आरोपित कर्मचारी का गलत है। प्रदर्शा क-16 में स्पष्ट लिखा है कि मेरे सामने हस्ताक्षर करके 1000/- प्राप्त किया "इसलिए सारी कार्यवाही आरोपित अभिकर्ता ने अपने सामने की थी इस प्रकार उन पर लगाया लांछनपूर्णसिद्ध है। मैं जाँच अधिकारी की जाँच आँख्या से सहमत हूँ।

लांछन ३ ॥।। श्री भगवती प्रसाद खातादार ५ साला टीड़ी खाता संख्या 106062 ने अपने ब्यान दिनांक 19-3-86 प्रदर्शा क-9। में कहा है कि रसीद दिनांक 13-10-8। प्रदर्शा क-10। के बाद न तो रुपया जमा किया और नहीं रुपया निकाला था। आरोपित अभिकर्ता ने ब्याज लगाने के बहाने पासबुक ले ली थी तथा रसीद दिनांक 13-10-8। प्रदर्शा क-10। जिसमें बकावा मुझे 600/- लिखा है दी भी आरोपित अभिकर्ता अपने ब्यान दिनांक 9-2-89 में कहते हैं कि "नहीं" पासबुक ली, नहीं रसीद दी, नहीं कोई फर्जी लेन-देन किया, नहीं कोई फर्जी रसीद दी, इससे स्पष्ट है कि वास्तव में यह फर्जी रसीद नहीं है आर-

100/- की निकासी दि 09-11-78 को करना स्वीकार किया है।

111। जांच अधिकारी ने रसीद दिनांक 13-10-81 प्रुदश क-101 जिसमें रकम 600/- दर्ज है आरोपित अभिकर्ता द्वारा दिया जाना सिद्ध किया तथा पासबुक लेना भी श्री भगवती प्रसाद से आरोपित अभिकर्ता द्वारा लिया जाना भी सिद्ध किया है और आरोपित अभिकर्ता ने दिनांक 9-11-78 को 100/- की निकासी करना भी छपने ब्यान दिनांक 9-2-89 में स्वीकार किया है जांच अधिकारी ने यह श्री भी स्वीकार किया है कि 9-11-76 को 100/- निकासी के बाद बकाया 13-10-81 को 500/- होना चाहिए था रसीदभी 500/- की दी जानी चाहिए थी। इससे स्पष्ट है गया कि 100/- औरोपित अभिकर्ता ने गबन 0 कर लिया और इसे छिपाने के लिए रसीद 600/- की दी तथा पासबुक गायब कर दी जिसकी पुष्टि गवाह श्री मनोहर लाल सर्वे श्री श्रीकान्त श्रीवास्तव ने की है। इसलिए मैं जांच अधिकारी के तर्क से सहमत छूं नहीं हूं कि श्रीबालस्वरूपश्रीकृष्णेष्वः*ः*ःहस्तशिष्येष्वः*ः*ःश्रीर्षेष्वः*ः*ःश्रीर्षेष्वः*ः*ः "100/- इस खाते में दुर्विनियोजन सिद्ध नहीं होता क्यों कि न तो उसके लिए कोई प्रलेख और नहीं कोई गवाह प्रस्तुत किये गये।

लांचन-4 ॥। ब0बै० खाता सं० 2700528 इ। मैं से दि० 17-10-81 को 3300/- की निकासी की गयी परन्तु पासबुक प्रुदश क-3। मैं इन्द्राज नहीं किये गये। श्री काशीराम जिसके द्वारा इस खाते का संचालन होता था, ने अपने ब्यान दिनांक 19-3-86 प्रुदश क-2। व ब्यान दि० 24-1-89 को जांच अधिकारी को दिये हैं के अनुसार 3300/- की निकासी इस खाते से नहीं थी। निकासी फार्म दिनांक 17-10-81 प्रुदश क-1। मैं न तोउनके अगूठे हैं और न ही धन प्राप्त किया गयाह श्री राम कुमार सिंह ने अपने ब्यान दि० 6-3-86 प्रुदश क-4। मैं कहा था कि उनके सामने 3300/- प्राप्त नहीं किया था और नहीं निशानों झूँगठा लगाया था। परन्तु अपने ब्यान दि०

K29

24-1-89 को जांच अधिकारी को दिये, मैं कहा है "मेरे सामने अंगूठा लगाया था और मेरे सामने 3300/- रुपया प्राप्त किया था उन्हें नहीं मालूम कि पासबुक पर कुछ लिखा था या नहीं । काशीराम इस खाते कीपासबुक साथ लाया था । यह बयान इनका विवातनीय नहीं है क्यों कि श्री काशीराम के बयान दिनांक 19-3-86 प्रदर्शन क-2। भी इनके ही द्वारा लिया गया तब भी इन्होंने कोई अपत्ति नहीं की इसी तरह गवाह श्री राम बहादुर ने अपनेबयान दिनांक 5-3-86 प्रदर्शन क-7। मूँ कहा था कि प्रदर्शन क-। मैं उनका लेख नहीं है नहीं उनके सामने काशीराम ने अंगूठा लगाया था परन्तु दिनांक 24-1-89 के बयान में कहते हैं कि अपने हस्ताक्षर प्रदर्शन क-। मैं पहचान लिये हैं परन्तु भुगतान पत्र मैंने नहीं भरा था यह छ पट्टे से ही भरा था उनके सामने नाबालिका प्रमाण पत्र एवं राजेश सिंह की गवाही नहीं लिखी थी । जांच अधिकारी के कथन से मैं सहमत हूँ कि इनके बयान दिनांक 24-1-89 संदेहास्पद प्रतीत होते हैं ।

111। आरोपित अभिकर्ता ने अपने बयान दिनांक 9-2-89 में कहा है कि "मिसी भी धनराशि का उनके द्वारा कोई फर्जी लेन-देन नहीं किया गया छाते दार अब अपना मिठान न बताकर जो भी कहता है वह बिलकुल झूँठा एवं निराधार है" आरोपित अभिकर्ता का कथन सत्य नहीं है क्यों किपासबुक प्रदर्शन क-3। भीरातप डाकघर से नई दिनांक 12-9-81 को बनी थी औरउसी दिननिकासी कार्यप्रदर्शन क-। बनाया गया तथा इसे 17-10-81 को भुगतान में अम्बारा बीठोंगो आरोपित कर्मचारी ने दिखाया । यदि यह निकासी खातेदार ने की होती तो पासबुक प्रदर्शन क-3 में अवश्य ही प्रविष्ट होती जो कि नहीं है । इन सब तथ्यों से स्पष्ट है कि आरोपित अभिकर्ता पर लगाये लाँचन पूर्णसिद्ध हैं जांच अधिकारी के तर्क से मैं सहमत हूँ कि श्री काशी राम ने निशानी अंगूठा नहीं लगाया और 3300/- का भुगतान नहीं प्राप्त

(A30)

- 12 -

किया सम्बन्धित पासबुक में इस निष्कासी का इन्द्राज भी नहीं है ।

इस तरह श्री विश्वनाथ सिंह ने अगस्त 72 से अप्रैल 82 तक शाखा डाक्याल अम्बारा के पद पर कार्य करते हुए डाकघर नियमावली के नियम 131, 133, 134, व 141. में दिये गए प्राक्षिकानों का उल्लंघन किया तथा सत्य निष्ठा एवं कर्तव्य परायणाता बनाये नहीं रखी जिससे विभाग को क्षति पहुँचाई ऐसा करके उन्होंने डाक तार अतिरिक्त विभागी सेवा एवं आचरण। नियमावली 1964 के नियम 17 का स्पष्ट उल्लंघन किया। श्री विश्वनाथ सिंह की सेवा में रखने का कोई औचित्य प्रतीत नहीं होता है ।

आ दे शा

मैं देया राम अधीक्षक डाकघर, खीरी मण्डल, खीरी श्री विश्वनाथ सिंह शाखा डाक्याल। पुत आफ छ्यूटी। अम्बारा को सेवा से निष्कासन का दण्ड देता हूँ तोतत्काल प्रभावी होंगे ।

८०/-

। देया राम ।
अधीक्षक डाकघर
खीरी मण्डल,
खीरी- 262701,

प्रतिलिपि - रजिस्टर्ड

- 1- श्री विश्वनाथ सिंह ग्राम व पो० अम्बारा जाँच अख्या दि० 25-2-89 की एक पुति संलग्न है ।
- 2- दण्ड रजिस्टर ।
- 3- पोस्टमास्टर खीरी 4- स्थापना अनुभाग-5 उपमण्डलीय जिरी० पलिया ।
- 6- कायालिय 7- अतिरिक्त ।

जोशी/280289

81CM189

सत्य प्रतिलिपि ।

(A3)

In the Court of Central Administrative Tribunal, Circuit Bench, Lucknow

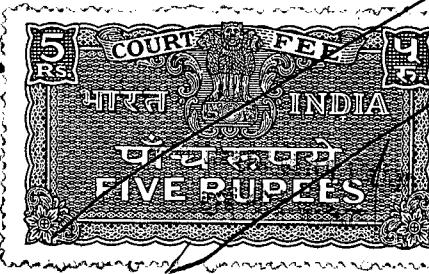
बायदालत श्रीमान **महोदय**

वादी (मुद्र्द्दी)
मुद्र्द्दी (मुद्रालेह)

का

Vishwanath Singh

७४



Superintendent of Post Office
Lalchandpur - 141101

बनाम प्रतिवादी (रेस्पान्डेन्ट)

नं० मुद्रमा

सन पेशी की तातो

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Sri Hanuman Singh, B.I.C. Magistrate

वकील
एडवोकेट महोदय

को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या, सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को मेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर 1/वृषभन्धा/१५६

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

ई०

6/7/89

In the Court of Central Administrative, Tribunal
Allababad Circuit Bench Lucknow.

Mis. Appeal No 252 of 1989 (U)

Viswa Nath Singh son of Sri Bhagwan Singh aged
about 42 years resident of village Ambare District
Kheri.

....Applicant

Inre:

Mr.R.S. No 159 of 1989

Viswa Nath Singh....

....Applicants

Versus

Superintendent of Post Office
Kheri and others....

..Respondents

1. That the Amin has served the citation to appear before the applicant calling upon the applicant to pay Rs. 4,600/- towards the recovery of posted department.

A correct copy of the citation to appear is being filed as Annexure No. I to this affidavit.

2. That this deponent has not taken any loan from postal department or from any Bank.

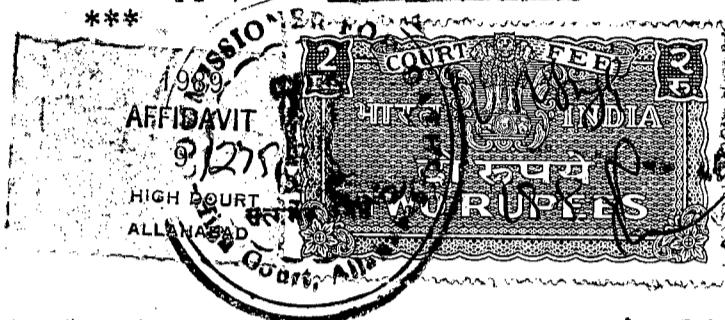
Lucknow
Dated 19/8/89

Hari Om Singh
(Hari Om Singh)
Advocate.
Counsel for the Applicant.

(A33)

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

Misc. Appeal No. 1989



Vishwa Nath Singh...

...Applicants

Versus

Superintendent of Post Office
Kheri and others....

...Opp. parties

AFFIDAVIT

I, Vishwa Nath Singh aged about 42 years son of Sri Bhagwan Singh resident of village Ambare District Kheri do here by solemnly affirm and state on oath as under:-

1. That the deponent is the applicant of the cause and he is fully conversant with the facts of the case.

2. That the Amin has served the citation to appear before the applicant calling upon the deponent to pay Rs. 44,600/- towards the recovery of posted department.

A correct copy of the citation to appear is being filed as Annexure No. 1 to this affidavit.



22/10/1969

834

3. That the deponent has not taken any loan from postal department or from any Bank.

Lucknow
Dated 19.8.25

Signature
Deponent.

Verification

I, the above named deponent do here by verify that the contents of paras 1 to 3 of this affidavit are true to the personal knowledge of the deponent no part of it is false and nothing material has been concealed. So help me God.

Lucknow
Dated 19.8.25

Signature
Deponent.

I identify the deponent who has singed before me.

Harwan Singh
Advocate.

Solemnly affirm before me on 19.8.25 at 11.30 AM by Sri Vishnu Nath Singh, the deponent who is identified by Sri Harwan Singh Advocate of this Court.

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

Ch. Sharma
Harikesh Sharma
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench
No. 9/225
Date 19.8.25

AB36

In the Central Administrative Tribunal Allahabad,
Circuit Bench : Lucknow.

...
Civil Misc. Appn. No. 267. of 1989 (U)

Vishwa Nath Singh s/o Bhagwan Singh,
R/o village & Post Ambara, Dist. Kheri.....Applicant

P.T.
6/10/89
J.F. 13.8
In re:

O. A. No. 159 of 1989
Fixed for 13.10.1989.

Vishwa Nath Singh ... Applicant

Vs.

Superintendent of Post Offices,
Lakhimpur Kheri ... Respondent.

Application for Amendment.

The applicant most humbly begs to state as under :

1. That the applicant has filed the aforesaid petition with an Annexure.

2. That on the first page of the Annexure, the following headline is wrongly typed in Hindi (Devnagri script.) :

"In the Hon'ble High Court of Judicature at Allahabad Lucknow Bench : Lucknow."

Instead of "In the Central Administrative Tribunal Allahabad, Circuit Bench, Lucknow."

837

2.

3. That, the said Annexure could not be numbered as Annexure No. I.
4. That, the aforesaid errors are clerical and typing errors.

Prayer

Wherefore, it is most respectfully prayed that the Hon'ble Court may be pleased to allow to cut out the headline of Annexure :

"In the Hon'ble High Court of Judicature at Allahabad Lucknow Bench, Lucknow" and be allowed to add : " In the Central Administrative Tribunal, at Allahabad, Circuit Bench, at Lucknow" and be further allowed to number as Annexure No. I.

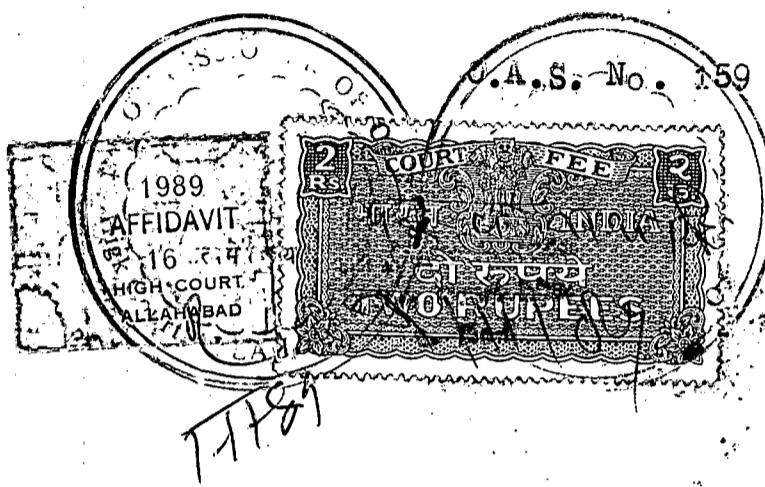
Lucknow dated

6/10/1989


Advocate,
Counsel for the Applicant

R 30

In the Hon'ble High Central Administrative Tribunal,
Circuit Bench : at Lucknow.



Vishwa Nath Singh. Applicant

Vs.

Superintendent of Post Offices,
Kheri. Respondent.

Supplementary Affidavit

I, Vishwa Nath Singh aged about 42 years s/o.

Sri Bhagwan Singh r/o. village Ambara, district
Kheri, do hereby solemnly affirm and state on
oath as under :-

1. That the deponent is the applicant of the case and
is fully conversant with the facts of the case.

2. That, the deponent has seen the certificate for
recovery of Rs. 25 94,600/- issued by the ~~maxxix~~
~~maxx~~ Superintendent of Post Office Kheri to the
Collector, Kheri, in reference of order bearing

19/2/1989/152
contd 2/-

X39

2.

No. F-6/82-83 dated 28.2.89, contained in the Annexure No. 1 to the petition.

3. That, the certificate for recovery issued against the deponent is in the custody of the Collector, or and Tehsildar at Kheri and the copy is in the custody of respondent, which is not available to the deponent.
4. That, the deponent has not taken any loan from any financial institution or from any bank or postal department.
5. That, the Tahsildar, Kheri has mentioned " Dak-Vibhag" on the citation, which shows that the recovery, against deponent, is going to be made for the postal Department.
6. That, the notices of the petition have been served on Sri V.K. Chaudhary, Advocate, Counsel for the respondent, on.....

Lucknow, dated

1/11/1989

Deponent.

Verification

I, the deponent named above do hereby

(AU)

In the Central Admnistrative Tribunal at Allahabad
Court Bench, Lucknow.

H.C. App. No. 335 of 1989 (L)

on Behalf of Respondent.

In Case

Cs. No. 159 of 1989.

Vishwanath Singh. — Applicant

Vess.

Circle & Post Office, Dakhiparkar — Respondent.

Application for Condonation of Delay in filing the Cmdr-
affidavit by Respondent.

In the above case it is submitted as under:

1. That the Cmdr-affidavit of the opposite Party in the above case could not be prepared due to subsisting illness of the Counsel of the Respondent.
2. That the Cmdr-affidavit of the ~~of~~ Respondent is now ready and is being filed without further delay.
3. That the delay in filing the Cmdr-affidavit is bona fide and not deliberate and is liable to be condoned.

Therefore, it is humbly requested that the delay in filing the Cmdr-affidavit may kindly be condoned and the same may be permitted to be filed now.

Dated 4/2
1989

J. (Lal)

Amrit for the Respondent.

(A42)

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

Registration No. 159 of 1989.

Vishwa Nath Singh Applicant.

Versus.

Supdt. of Post Offices, Lakhimpur Kheri .. Respondent.

COUNTER AFFIDAVIT BY THE RESPONDENT.

I, Daya Ram aged about 52 years, son of Shri Bachchi Ram, Superintendent of Post Offices, Lakhimpur Kheri, do hereby solemnly affirm and state as under :-

1. That the deponent is well conversant with the facts of the case deposed hereinafter.
2. That the deponent has gone through the application filed by Shri Vishwa Nath Singh and has understood the contents thereof.
3. That in order the Hon'ble Tribunal may appreciate the para-wise comments submitted by the deponent in this case, it will be worthwhile to give below a brief history of the present case.

BRIEF HISTORY OF THE CASE

The applicant misappropriated Savings Bank and Time Deposit amounts of a number of depositors amounting to Rs. 51874.20 when he was Extra Departmental Branch Post Master of Ambara Branch post office under Bhira Sub office and under over all control of Kheri Head Post Office during the period 23.7.77 to 7.4.82. The matter came to light when the Sub Divisional Inspector,

AV/3

-: 2 :-

Kheri (North) visited Ambara Branch Post Office for inspection on 27.4.82. The applicant failed to produce the cash for verification. Examination of a few Savings Bank Pass Books also revealed that the amount of deposits entered in the Pass Books were also not accounted for. The applicant was, therefore, put off from duty on 29.4.82 by the department. After conducting further enquiry into the matter, F.I.R. in respect of the following accounts were lodged with the Police Station Bhira (Kheri) on 25.4.84 by the S.D.I. Kheri (N) and ^a criminal case under Section 409/420 I.P.C. was registered against the petitioner :-

<u>3 Years T.D. A/c. No.</u>	<u>Savings Bank Account No.</u>
\$ 56018	54704, 210941, 2700909,
	2707092-A, 2707895, 2710853,
	2710768, 2710712, 2702084.

In continuation of previous F.I.R., cases in respect of Saving Bank Account No. 2701738 and 3 years Time Deposit Account No. 56053 were also reported to the police by the S.D.I. (N) Kheri vide his letter No. F/Ambara dated 6.4.87. Investigation into the matter further revealed misappropriation as indicated in the Chart Annexed as R-1.

Thus the applicant misappropriated and caused loss of an amount of Rs. 51,674.20 to the Govt. After adding interest and penal interest on this amount, the net amount works out to be Rs. 94638.70 as indicated in Annexure R-1. The claim of the depositors are, however, being settled.

The applicant was charge-sheeted under Rule 8 of the Posts and Telegraphs Extra Departmental Agents

flc
contd. 3...



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(Conduct and Service) Rules, 1964 by the deponent. After careful consideration of the enquiry report, the applicant was removed from the service vide Memo No. F.6/82-83 dated 28.2.1989.

As per details furnished in Annexure R-1, the applicant misappropriated an amount of Rs.51,874.20 which works out to be Rs. 94,638.70 upto 31.3.1989 after including interest and penal interest on the defrauded amount. The Postal Department was thus put to a loss of Rs. 94,638.70 upto 31.3.1989 which is recoverable from the applicant and his sureties as arrears of land revenue under Section 4 of the Public Accountants Default Act (XII of 1850). Accordingly, an order No. F-6/82-83 dated 10.4.89 was issued by the deponent for recovery of Rs. 94,600/- from the applicant as arrears of land revenue under the said Act. The applicant has approached the Hon'ble Tribunal for restraining the respondent from recovering the said amount as arrears of land revenue.

PARAWISE COMMENTS

4. That the contents of paras 1 to 5 need no comments.
5. That the contents of paras 6 (a) and 6(b) are admitted.
6. That in reply to the contents of para 6(c) it is submitted that the applicant's representation dated 17.10.88 against the charge sheet issued to him vide deponent's office memo No. F.6/82-83 dated 11.10.88 was received on 24.10.88.
7. That the contents of para 6(d) and 6(e) are admitted.



Ans

8. That the contents of para 6(f) are admitted. It is, however, clarified that in the charge sheet dated 11.10.88, only four involving an initial amount of Rs. 5350/- (net amount Rs. 8742.40) relating to Account No. 2701546, 2701784, 106062 and 2700528-A were indicated. Actually the applicant committed misappropriation and fraud relating to number of other Saving Bank & Time Deposit Account indicated in Annexure R-1 involving an initial amount of Rs. 51,874.20 which increased to Rs. 94,638.70 after adding interest and penal interest till 31.3.89 on the defrauded amount. This amount was recoverable from the applicant under the provisions of the Public Accountants Default Act (XII of 1850) and, therefore, the Collector, Lakhimpur Kheri, had to be approached for recovering the said amount as arrears of land revenue from the applicant.

9. That the contents of para 6(g) relating to the recovery certificate are admitted. Rest of the contents are denied.

10. That the contents of para 6(h) do not relate to the respondent. Recovery orders for Rs. 94,600/- & not for Rs. 96,000/- were issued.

11. That the contents of para 6(i) are not admitted and hence denied. In this connection it is submitted that the applicant is a "Public Accountant" for the purpose of Section 1 and 2 of the Public Accountants Default Act (XII of 1850) and under Section 4 of the said Act, the loss caused by the defalcetion of a 'Public Accountant' is recoverable from him as arrear of land revenue. As such the action taken by the Respondent is proper, justified and within the ~~provi-~~



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(R46)

provisions of Section 4 of the said Act.

12. That the contents of para 7 are admitted to the extent that the appeal against the order of removal of the applicant from service is still pending. But the said appeal is not the subject matter of the present application. The applicant has not made any representation with regards to the orders of recovery of the defrauded amount as arrears of land revenue.
13. That the contents of para 8 need no comments.
14. That in view of the submissions made in the foregoing paragraphs, the relief and the interim relief prayed for in para 9 and 10 are not admissible and is liable to be rejected.
15. That the contents of para 11 to 13 need no comments.

In view of the submissions made in the foregoing paragraphs, the application is liable to be dismissed with cost.


Deponent.

Verification

I, the above named deponent do hereby verify that the contents of paras 14 & 15 are true to the best of my knowledge and the contents of those paragraphs 3 & 15 are believed by me to be true as per records and legal advise. No part of it is false and nothing material fact has been concealed, so help me God.

Signed and verified this the 28 day of November, 1989 within the court compound at Lucknow.

Lucknow ;

Dated : 28-11-89


Deponent.

I identify the deponent who has signed before me.


D. G. S
Advocate.

34/9

Annexure-b-1

Details of SB / TD a/cs in which Govt. money misappropriated.

Sl.	Account No.	Defrauded Amt.	Int. upto 31-3-89	Penal Intt. @ 2.5%
1.	एसबी खाता ५० 2707491	503-10	236-70	106-55
2.	" 2707432	1250-00	540-00	245-45
3.	" 2701540	1050-00	463-70	210-00
4.	" 2703106	1500-00	599-40	272-45
5.	" 2705734	900-00	413-10	190-05
6.	" 2701704	1195-00	459-20	208-75
7.	" 2710768	1495-00	651-25	296-00
8.	पांच कर्डिय टीडी 106112	1412-00	1138-65	44-15
9.	तीन कर्डिय टीडी 56053	810-00	622-35	172-35
10.	" 56058	236-00	174-00	41-40
11.	पांच कर्डिय टीडी 106061	210-00	231-20	55-05
12.	" 106062	100-00	114-30	25-95
13.	एसबी खाता ५० 54724	520-00	235-90	107-20
14.	" 2710853	350-00	151-80	69-00
15.	" 2707895	500-00	224-25	101-90
16.	" 2707092-ए	800-00	319-75	145-35
17.	" 2701738	259-00	153-90	69-95
18.	" 2700231	300-10	134-30	61-05
19.	" 2706380	150-00	62-90	28-60
20.	" 2701494	350-00	130-65	82-10
21.	दो कर्डिय टीडी 41003	325-25	287-90	34-65
22.	पांच कर्डिय टीडी 56026	350-00	390-65	93-00
23.	एसबी खाता ५० 2710941	1400-00	555-65	252-55
24.	" 2700909	3900-00	1705-40	775-20
25.	तीन कर्डिय टीडी 56018	2800-00	2270-75	630-75
26.	दो कर्डिय टीडी 44657	1903-50	1315-20	386-80
27.	एसबी खाता ५० 2710659	1800-00	916-20	416-45
28.	" 2701316/18	3726-00	1954-15	
29.	पांच कर्डि टीडी 106084	1728-00	1350-20	440-50
30.	तीन कर्डि टीडी 56008	1859-95	1402-20	399-45
31.	" 56005	1600-00	1215-00	476-40
32.	पांच कर्डि टीडी 106005	2284-50	2739-50	652-00
33.	एसबी खाता ५० 2710779	3710-00	1762-45	801-10
34.	" 2700528-ए	3300-00	1354-05	65-45
35.	" 80831	3000-00	1326-80	603-10
36.	" 2703836	650-00	410-00	140-95
37.	" 2710514	795-00	348-25	158-30
38.	" 2700900	300-00	127-05	57-75
39.	" 27101885	2582-00	2098-30	726-50
Total		51874-20	31640-80	11123-70
				31640-80
				51874-20
Note :- The claims in r/o following SB a/cs		प्रति रोध	94638-70	
not taken in the above due to non settlement.				
1. SB A/C 2710712 Rs. 1000/- Without interest/penal Interest.				
2. SB C/C 2702084 Rs. 800/- Without interest/penal Interest.				

Supdt. of Post Offices,
Kheri Division
Kheri

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

ANB

C.M. APPLICATION NO.

OF 1990.

In re :-

O.A. NO. 159 OF 1989.

Vishwa Nath Singh, Applicant.

Versus:

Superintendent of Post Offices, Respondent.
Lakhimpur-Kheri.

APPLICATION FOR CONDONATION OF DELAY.

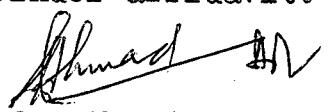
The applicant, above named, most respectfully beg
to submit as under :-

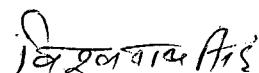
1. That because of the illness, the applicant
could not file the rejoinder-affidavit within
time, allowed by this Hon'ble Tribunal.
2. That it is in the interest of justice, equity
and expediency that the delay in filing the
rejoinder-affidavit be condoned.

It is, therefore, most respectfully prayed
that this Hon'ble Tribunal may kindly be pleased to
condone the delay in filing the rejoinder-affidavit.

Lucknow, Dated:

January 23, 1990.

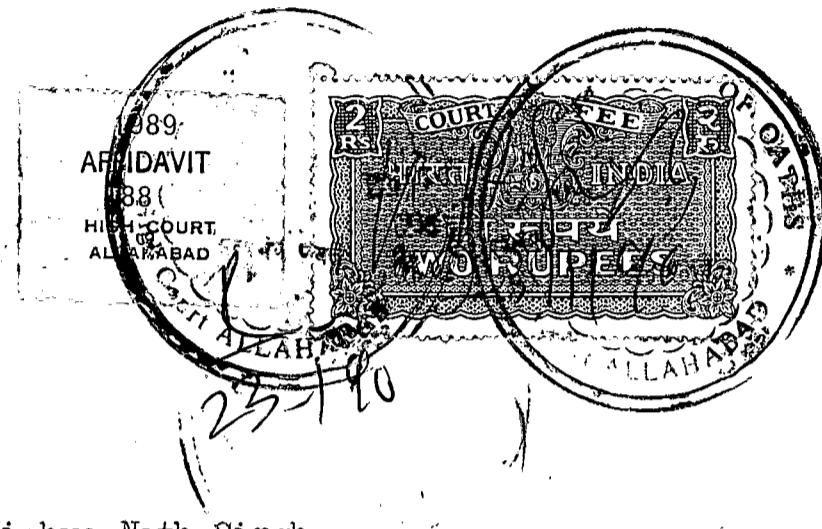

Counsel for the Applicant.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

O.A. NO. 159 OF 1989.



Vishwa Nath Singh, Applicant.

Versus:

Superintendent of Post Offices,
Lakhimpur-Kheri. Respondent.

REJOINDER-AFFIDAVIT.

I, Vishwa Nath Singh, aged about 42 years, son of Sri Bhagwan Singh, resident of Village Ambara, District - Kheri, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the applicant of case and is fully conversant with the facts of the case.
2. That the deponent has read the counter-affidavit and has understood the contents thereof.
3. That the contents of paragraphs 1 and 2 of the counter-affidavit need no reply.
4. That the contents of paragraph 3 of the counter-affidavit



10/20/89 AF

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are wrong and denied. It is submitted that the First Information Report under Section 409 I.P.C. was lodged against the petitioner. The petitioner appeared before the Court. The petitioner was enlarged on bail. Since then to the knowledge of the deponent; no charge-sheet has been submitted against the petitioner in that case. It is further submitted here that there is no mis-appropriation of any amount, as alleged in paragraph 3 of the counter-affidavit, filed by the respondent. The petitioner has never caused any loss to ~~the~~ the respondent. Even before the Enquiry Officer - holding the departmental enquiry against the petitioner, the embezzlement of alleged amount of - Rupees 50,000/- is not proved, nor there was any such allegation before the Enquiry Officer.

The petitioner is not a public Accountant as defined under the Public Accounts Default Act, 1850. In the circumstances, the provisions of the Public Accountants Default Act, can not be utilised for recovery any amount from the petitioner.

That the contents of paragraph 4 of the counter-affidavit do not require any reply.

6. That the contents of paragraph 5 of the counter-affidavit do not require any reply.

19/2/1982



7. That the contents of paragraph 6 of the counter-affidavit do not require any reply.
8. That the contents of paragraph 7 of the counter-affidavit do not require any reply.
9. That the contents of paragraph 8 of the counter-affidavit, so far those are contrary to the contents of paragraph 6 of the petition are wrong and denied. It is denied that the deponent has mis-appropriated any amount. It is also denied that any fraud has been committed by the deponent. The contents of Annexure R-1, of the counter-affidavit are wrong and denied. There is no proof any embezzlement, nor there is any order passed by any competent Authority for recovery of any amount.
10. That the contents of paragraph 9 of the counter-affidavit, so far as those are not contrary to the allegations of paragraph 6-g, of the petition are not denied. The other contents of paragraph 9 of the counter-affidavit are wrong and denied.

That the contents of paragraph 10 of the counter-affidavit are not admitted, the alleged recovery being illegal, without jurisdiction and arbitrary.



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12. That the contents of paragraph 11 of the counter-affidavit are wrong and denied, and the contents of paragraph 6 (I) of the application are re-iterated.

It is denied that the deponent is a Public Accountant and it is also denied that the respondent have any authority to recover the amount under the provisions of Public Accountants Default Act. If, at any time, it be found that the deponent is a Public Accountant within the meaning of the Public Accountants Default Act, even in that circumstances, the amount can not be recovered as arrears of land revenue without affording any opportunity of hearing to the deponent. In the present case, before initiating the proceedings for the recovery of the alleged amount, no notice has been given to the deponent and nor the deponent have been afforded any opportunity of hearing to show that the amount is not recoverable. In the circumstance, the provisions of the Public Accountants Default Act are ultra-vires, being violative of principles of natural justice.

That the contents of paragraph 12 of the counter-affidavit, so far as those are contrary to the allegations made in paragraph 7 of the application are wrong and denied. The other contents of paragraph 12 of the counter-affidavit are wrong and denied.

13. That the contents of paragraph 13 of the counter-

1356

affidavit do not require any reply.

15. That the contents of paragraph 14 of the counter-affidavit are wrong and denied.

16. That the contents of paragraph 15 of the counter-affidavit do not require any reply.

17. That the contents of this rejoinder-affidavit are true no part of this affidavit is false and nothing material has been concealed.

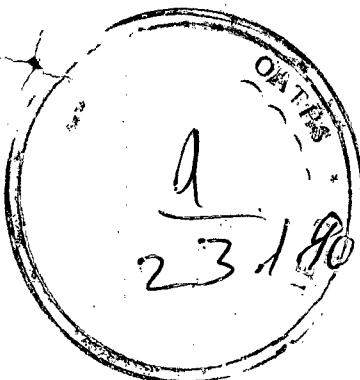
Lucknow, Dated:

January 23rd, 1990.

1356
DEONENT.

V E R I F I C A T I O N.

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 10, 13 to 17 of this rejoinder-affidavit are true to ~~my~~ the own knowledge and on the basis of records of the deponent and the contents of paragraphs 11, 12 of this rejoinder-affidavit are true to the belief and legal advice of the deponent and no part of it is false and nothing material has been concealed.



So help me God.

Signed and verified on 23rd day of January, 1990 at Lucknow.

Lucknow, Dated:

January 23rd, 1990.

I, identify the deponent who has signed before me.

1356
DEONENT.

Abdul Aziz
Advocate.

454

Solemnly affirmed before me
on 23-1-90 at 08:49 a.m./p.m. by the
deponent of the above named, who is
identified by Sri Shakeel Ahmad, Advocate,
High Court Bench at Lucknow.

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

OATH COMMISSIONER.

R. P. SINGH

Oath Commissioner High Court, Allah
Abad Bench

C. No. 80

Date 23-1-90

S. No. 1951