

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE *CA 159* OF *1989*

NAME OF THE PARTIES *V. N. Singh* Applicant

Versus

..... *Union of India* Respondent

Part A.

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2	<i>order sheet</i>	<i>A 3 to 8</i> ✓
3	<i>Judgement 17-5-90</i>	<i>A 9 to 11</i> ✓
4	<i>Partition copy</i>	<i>A 12 to 30</i> ✓
5	<i>Annexure</i>	<i>A 31</i> ✓
6	<i>Power</i>	—
7	<i>Mis. Application No. 252/89</i>	<i>A 32 to 35</i> ✓
8	<i>Civil Mis. Appl. No. 267/89</i>	<i>A 36 to 40</i> ✓
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17		
18		

CERTIFICATE

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

Dated ...*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 LUCKNOW

INDEX SHEET

CAUSE 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.

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Shafiq

22-5-92

24/7/89

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

(A)

Recovery

Registration No. 159 of 1989 (L)

APPLICANT(S) Vishwa Nath Singh
RESPONDENT(S) Supdt. of Post Office

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent?
2. a) Is the application in the prescribed form?
b) Is the application in paper book form?
c) Have six complete sets of the application been filed?
3. a) Is the appeal in time?
b) If not, by how many days it is beyond time?
c) Has sufficient case for not making the application in time, been filed?
4. Has the document of authorisation/ Vakalatnama been filed?
5. Is the application accompanied by B.D./ Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?
c) Are the documents referred to in (a) above neatly typed in double space?
8. Has the index of documents been filed and paging done 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?

yes
yes
yes
Three sets
yes
—

yes
yes DD 4 782133 dt. 6.2
(50/-) 84

yes
yes

No

yes

yes

yes

No.

5

9

42

Particulars to be Examined

Endorsement as to result of examination

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

dinesh/

Register as o. A.
May be put up before court
On 11-7-1989. Unlisted.

10/7/89

(A3)

11.9.89Hon. D.K. Aggarwal - JM

Heard Sri Shakeel Ahmad,
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.

[Signature]
Member (J)

No sitting. Adj. to S.O. of
for admission.

18.7.89

In
B.O.C
As directed by the
Court's order dt. 18.7.89, no
amend application filed by the
learned counsel for the applicant
submits for admission.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 04 NO. 159/89 (L)
of 198 .

APPELLANT
APPLICANT

V. N. Singh

VERSUS

DEFENDANT
RESPONDENT

Union of India 203

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
9/89	<p><u>Hon'ble M. D.K. Agrawal, JM.</u></p> <p>Shri Hare Om Singh Counsel for the applicant heard at some length. Shri V.K. Chaulhany Addl. 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 is alleged in para 6 (a) of the application. Put up on</p> <p><u>for admission.</u></p>	

Recd by
affirmative
of

Admitted
19/9/89

Dr

J.M.

OR

Case is submitted
for admission.

25/9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 159/89(L) 198

APPELLANT
APPLICANT

V.N.Singh

VERSUS

RESPONDENT
RESPONDENT

Union of India & Others

Serial number of order and date	Chief 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 1-11-89 1-11-89 for <u>Admission.</u></p> <p style="text-align: right;"><i>J.M.</i> J.M.</p> <p><u>Hon' Mr. D.K. Agrawal, J.M.</u></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 <u>5-12-89.</u></p> <p style="text-align: right;"><i>J.M.</i> J.M.</p>	<p>OK No reply filed Submitted for order 4/12</p>

5.12.89

(sns)
Hon. Justice K. Nallu
Hon. Mr. K. J. Rama

Admit.

AM

JN

See original order
on main
petition

(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

Contd....2/-

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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.

2

(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/

(112)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW.

BETWEEN

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 6/7/89

Date of Receipt by Post.....

CA No 159 of 1989

Deputy Registrar(J)

Vishwa Nath Singh - - - - - Applicant

AND

Superintendent of Post Offices

Lakhimpur Kheri - - - - - Respondents.

DETAILS OF APPLICATION:

1. Name of the applicant : Vishwanath singh
2. Name of Father : Bhagwan singh
3. Age of applicant : 42 years
4. Designation and Particulars of Office:
- : Eastra Departmental Sub
Post Master, Ambara Branch
Post Office, Distt. Kheri
5. Office address : Not applicable
6. Address of service of notices : r/o village Ambara
Post Office Ambara
Lakhimpur Kheri.

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.

विश्वनाथ सिंह

(A-13)

-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.

विश्वनाथ सिंह

A14

-3-

- 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.

विश्वनाथ सिंह

(A15)

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.

विश्वनाथ सिंह

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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.

विश्वनाथ सिंह

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 : DD 782133
- 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.

विश्वनाथजी

AND

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 best of my knowledge and belief and that I have not suppressed any material fact.

Lucknow, dated 6/10/89

विश्वनाथ सिंह
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.

Lucknow, dated 6/10/89
Seal-

For REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH

A19

इन दी आनरेबुल हाईकोर्ट आफ जूडिकेयर स्ट इलाहाबाद,
लखनऊ बेंच, लखनऊ
=====

रिट पिटीशन नम्बर

सन् 1989

विश्वनाथ सिंह पिटीशनर

बनाम

भारत सरकारआदि रैस्पान्डेंट

एनेक्जर नम्बर-

=====

भारतीय डाक विभाग

कार्यालय अधीक्षक डाकघर, खीरी मण्डल, खीरी-262701

ज्ञापन संख्या- स्प-6/82-83

दिनांकित: खीरी 28-2-89.

श्री विश्वनाथ सिंह शाखा डाकपाल ।पुट आफ ड्यूटी।

अम्बारा को डाकतार अति० चि० एजेन्ट ।आचरण एवं सेवा। नियमावली, 1964 के नियम-8 के अन्तर्गत, दुराचार एवं दुरुव्यवहार के लांछनों का एक सिविल रिट कायालय के समसंख्यक ज्ञापन दिनांक 11-10-88 द्वारा दिया गया था । उनका अभ्यावेदन दिनांक 19-10-88 कायालय के ज्ञापन सं० सम दिनांक 25-10-88 द्वारा दी गयी जो उन्हें 27-10-88 को प्राप्त हुआ । चूंकि श्री विश्वनाथ सिंह ने लांछनों को नहीं स्वीकारा इसलिए केन्द्रीय सिविल सेवा वर्गीकरण नियंत्रण एवं अपील नियमावली 1965 के नियम 14 के आधार पर जांच करवाने का निर्णय लिया गया । श्री ए०के०दीक्षित, उप मण्डलीय निरीक्षक श्री गोला को जांच अधिकारी तथा श्री फूलचन्द कायालय सहायक मण्डलीय

कार्यालय खीरी को प्रेजेंटिंग आफिसर इस कार्यालय के ज्ञापन सं० सम दिनांक 30-11-88 द्वारा नियुक्त किया गया ।

जांच अधिकारी की जांच आरंभ दिनांक 25-2-89 सम्बन्धित प्रलेखों, गवाहों के बयानों, दोनों पक्षों के जांच सारांशों तथा श्री विश्वनाथ सिंह के बयानों 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 लान्छनों को अस्वीकार किया । दिनांक 24-1-89 को लिखित एक पत्र दिनांक कि कोई कागजात या गवाह 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 अभिलेख प्रस्तुत किये गये :-

- 1- अदायगी अधिपत्र खाता सं० 2700528 ए। दिनांक 17-10-81 मु० 3300/- पृष्ठार्थ क-1
- 2- श्री काशीराम पुत्र बल्दी राम का लिखित बयान दि० 19-3-86 क-2
- 3- ब०बे० पासबुक खाता सं० 2700528 ए। क-3
- 4- श्री राजकुमार सिंह पुत्र श्री खंजन सिंह का लिखित बयान दिनांक 6-3-86 क-4
- 5- श्री राजकुमार सिंह पुत्र श्री खंजन सिंह का लिखित बयान दिनांक 6-11-87 क-5
- 6- अदायगी अधिपत्र ब०बे०खाता सं० 2705784 दिनांक 16-10-80 मु० 900/- क-6

- 7- श्री रामबहादुर पुत्र श्री ^{बृजलाल} ~~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- ब०बे० 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- ब०बे० खाता 2701546 की अदायगी अधिपत्र दिनांक
4-3-81 मु० 1000/- क-16
- 17- ब०बे० खाता 2701546 की अदायगी अधिपत्र दिनांक
11-5-81 मु० 100/- क-17
- 18- अम्बारा ब०बे० पासबुक खाता सं० 2701546 क-18

जांच कार्यवाही में अभियोजन पक्ष की ओर से निम्नलिखित
गवाहों को प्रस्तुत कर उनके बयान जांच अधिकारी ने लिखे:-

- 1- श्री भगवती प्रसाद पुत्र श्री बृजलाल नि० ग्राम व डा० अम्बारा,
जिला खीरी ।
- 2- श्री रामबहादुर पुत्र श्री बृजलाल नि० ग्राम व डा० अम्बारा
जिला खीरी ।
- 3- श्री राजकुमार सिंह पुत्र श्री खमन सिंह ग्राम व डा० अम्बारा
जिला खीरी ।

4- श्री काशीराम पुत्र श्री बल्दीराम ग्राम रामालखना डा० अम्बारा जिला खीरी ।

5- श्री ए०के० श्रीवास्तव, सहा० अधीक्षक मुख्यालय खीरी ।

6- श्री शम्भू मनीहर लाल बघत विकास अधिकारी खीरी ।

गवाह श्री मूल चन्द पुत्र श्री भूखन लाल एवं श्री भगवती प्रसाद पुत्र श्री बाबूलाल जाँच अधिकारी के सम्मुख उपस्थिति नहीं हो सके यद्यपि इन्हें दिनांक 25-1-89 एवं 9-2-89 को सम्मन भेज कर बुलाया गया था परन्तु जाँच अधिकारी ने स्पष्ट नहीं किया कि उन्हें सम्मन मिल गया था या नहीं । एक गवाह श्री शिवनारायण सिंह की मृत्यु हो चुकी थी ।

श्री विश्वनाथ सिंह पर लगाये लान्छन निम्न प्रकार है :-

यह कि उक्त श्री विश्वनाथ सिंह ने अगस्त 72 में अप्रैल 82 तक शाखा डाकपाल अम्बारा के पद पर कार्य करते हुए ब०बे/टी०डी० खातों से फर्जी (फि कासिया) कर तथा ब०बे/टी०डी० पासबुकों में जमा के इन्द्राज कर सरकारी अभिलेखों में प्रदर्शित न कर स्वयं के निजी प्रयोग में लेकर शाखा डाकघर नियमावली के नियम 131, 133, 134 व 141 के प्रावधानों का पालन नहीं किया तथा सत्य निष्ठा एवं कर्तव्य परायणता बनाये नहीं रखी । ऐसा कर उन्होंने डाक तार अतिरिक्त विभागीय रेजिस्ट्रार सेवा एवं आचरण नियमावली के नियम-17 का उल्लंघन किया ।

श्री विश्वनाथ सिंह शाखा डाकपाल अम्बारा के पद पर माह अगस्त 72 से अप्रैल 82 तक कार्य करते हुए श्री मूल चन्द्र पुत्र श्री भूखन लाल ग्राम व पो० अम्बारा से दिनांक 20-9-79 को ब०बे/टी०डी० खाता सं० 2705784 की पास बुक ब्याज हुत प्राप्त की और पासबुक की रसीद एक सादे कागज पर दे दी जिसमें अवशेष रू० 119-50 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 रुपया निकालने के आवेदन पर तत्ता अदायगी अधिपत्र 1एस0बी0-71 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 रामालखना डो0 अम्बारा की ब0बै0 खाता सं0 2701545 से दिनांक 4-3-81 को भीरा डोकघर से 1000/- की निकासी की गयी इसमें उक्त श्री विश्व नाथ सिंह ने भीरा जाकर स्वयं जमा कर्ता की गवाही लिखी जबकि निकासी फार्म पर जमाकर्ता के हस्ताक्षर नहीं थे। इस निकासी के बाद पासबुक में 11-45 शेष जमा वर्ष 1979-89 का ब्याज 95-10 जोड़ने 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 उपररक्त श्री विश्वनाथ सिंह ने पासबुक में अवशेष 1006-55 लिखा और दिनांक 19-3-82 को 50/- जमा करने के बाद अवशेष 1056-55 लिखा जब कि 56-55 होना चाहिए था।

श्री भगवती प्रसाद पुत्र श्री बाबूराम निवासी अम्बारा की 5 साला टी0डी0 खाता सं0 106062 की पासबुक दि0 13-10-81 को ले ली तथा एक सादे 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 कार्यालय नहीं भेजी गयी। इस प्रकार उन्होंने इस खाते में 100/- के दुर्विनियोजन से विभाग को क्षति पहुँचाई।

श्री मुरलीधर पुत्र श्री काशीराम ग्राम रामालखना अम्बारा की पासबुक ब0बै0 खाता सं0 2700528 से दिनांक 17-10-81 को 3300/- की निकासी की गयी। इस निकासी का इन्द्राज पास बुक में नहीं किया गया। जमाकर्ता ने निकासी के आवेदन पत्र व

निकासी अधिपत्र पर अपने अगूठे का निशान होने से भी इन्कार किया है । इसप्रकार उन्होंने शाखा डाकखर नियमावली के नियम 134 का उल्लंघन किया ।

लांछन- । श्री मूल चन्द्र खाता दार बचत खाता सं० 2705784 के बयान प्रदर्शक-13 के अनुसार श्री विश्वनाथ सिंह ने पासबुक लेकर एक सादे कागज में रसीद दिनांक 20-9-79 प्रदर्शक-111 हस्ताक्षर व तारीख मोहर सहित दी जिसमें रकम 1117-50 लिखी है । आरोपित अभिकर्ता ने अपने बयान दिनांक 9-2-89 का जांच अधिकारी को दिये हैं, में कहा है कि खातेदार द्वारा पासबुक उन्हें दी ही नहीं कयी 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 और नहीं हैंड राइटिंग है आरोपित अभिकर्ता का कथन गलत है क्योंकि बी०ओ० डेली एकाउन्ट दिनांक 20-9-79 प्रदर्शक-12 में उक्त पासबुक की प्रविष्टि आरोपित अभिकर्ता द्वारा की गयी है । प्रदर्शक-12 व रसीद प्रदर्शक-11 की लाल स्याही मिलती है । सिस फार्म एम-1 पर बी०ओ० डेली एकाउन्ट दिनांक 20-9-79 प्रदर्शक-12 बनाया गया है उसी फार्म एम-1 पर रसीद दिनांक 20-9-79 प्रदर्शक-11 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 बयान दिनांक 8-4-87 प्रदर्शक-13 में 900/- की निकासी करना स्वीकार नहीं किया है और नहीं प्रदर्शक-6 में हस्ताक्षर और नहीं रकम प्राप्त करना स्वीकार किया है । दिनांक 16-10-80 को निकासी प्रार्थना पत्र प्रदर्शक-6 में गवाही श्री भगवती प्रसाद कह है श्री भगवती प्रसाद ने अपने बयान दिनांक 27-5-87 प्रदर्शक-8 में लेखस्वीकार किया था परन्तु उनके सामने श्री मूलचन्द्र ने हस्ताक्षर नहीं किये थे । परन्तु श्री भगवती प्रसाद गवाह ने दि० 24-1-89 को कहा है कि उस बयान प्रदर्शक

कृ० क-8। में यह बात झूठी लिखी है कि मेरे सामने श्री मूल चन्द्र ने हस्ताक्षर नहीं किये थे झूठी बात बयान देने वाले अधिकारी के कहने से लिख दी थी। श्री भगवती प्रसाद का कथन विश्वासनीय नहीं है क्योंकि एक अधिकारी झूठी बात लिखवायेगा जब कि उन्हें हस्ताक्षर डराया व धमकाया नहीं था फिर उन्हें याद नहीं है कि प्रार्थना पत्र पहले से भरा हुआ था या नहीं, यह उनके द्वारा गवाही लिखने के बाद भरा गया। इसी तरह निकासी फार्म प्रदर्श क-6। में दिनांक 22-10-80 को श्री राज कुमार सिंह ने गवाही की थी उनके बयान प्रदर्श क-5। में स्पष्ट है कि उनके सामने हस्ताक्षर नहीं किये थे और नहीं नौ सौ रुपये 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 प्रदर्श क-5। में कुछ झूठी बातें लिख दी थी क्योंकि मूल चन्द्र मौके पर मौजूद थे। उनका कथन गलत है क्योंकि श्री मूल चन्द्र के बयान प्रदर्श क-13। दिनांक 8-4-87 को लिये जा चुके थे। उनके बयान प्रदर्श 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 क्योंकि पासबुक की रसीद दिनांक 20-9-79 प्रदर्श क-11। जमाकर्ता के पास थी अन्यथा वह रसीद, पासबुक वितरण के बाद डाकघर में होनी चाहिए थी। इस तरह आरोपित अभिकर्ता ने शाखा डाकघर नियमावली के नियम 14। व 134 में दिये गये प्रावधानों का पालन नहीं किया। मैं जांच अधिकारी के कथन से सहमत नहीं हूँ कि यह आरोप पूर्णरूपेण सिद्ध साबित नहीं होता है। उपरोक्त तथ्यों के आधार पर आरोपित अभिकर्ता पर लगाया लांछन, पूर्णरूपेण सिद्ध है।

लांछन-2 श्री शिव नारायण सिंह खातेदार की मृत्यु हो चुकी है उनके बयान दि० 7-4-87 प्रदर्श क-14। व 7-11-87 प्रदर्श क-15।

को सनाक्त गवाह श्री मनोहर लाल जिनके सम्मुख बयान दिये गये थे
ने किया है। श्री शिव नारायण 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 सं०
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 मु०
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 इन्दराज को भिटाया गया है इस 1000/- रु० की
निकासी को लेकर ब्याज लगाकर बकाया 106-55 आता है जिसे
1106-55 बनाया गया स्पष्ट लगता है फिर 11-5-81 को 100/-
निकासी प्रदर्श क-17 कर आरोपित अभिकर्ता ने बकाया पासबुक
प्रदर्श क-17 में मु० 10006-55 लिखा है परन्तु निकासी फार्म में
6-55 लिखा है इसी तरह दि० 19-3-82 को 50/- रु० जमा के बाद
पासबुक प्रदर्श क-18 में बकाया 1056-55 लिखा है आरोपित अभिकर्ता
ने अपने बयान दि० 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 विश्वासनीय 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।

11111 मु० 1000/- की निकासी फार्म प्रदर्श क-16, दिनांक 4-3-81
को ही भरा गया और 4-3-81 को ही भीरा उप डाकघर से भुगतान
हुआ दोनों और गवाही आरोपित अभिकर्ता की है रूपया निकालने का प्र
प्रार्थना पत्र में आरोपित अभिकर्ता ने लिखा है कि " मैं हिसाब शिव
नारायण सिंह भली जानता पहचानता हूँ इन्होंने यह हस्ताक्षर
मेरे सामने किये हैं " दूसरी ओर लिखा है " मैं हिसाबदार शिवनारायण

सिंह को भली भांति जानता व पहचानता हूँ इन्होंने मेरे सामने हस्ताक्षर करके 1000/- एक हजार रुपया प्राप्त किया "जब कि आरोपित अभिक्ता ने अपने बयान दिनांक 9-2-89 में प्रस्तुत कर्ता द्वारा पूछे गये प्रश्न "क्या प्रदर्श 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 मुझे कुछ भी नहीं कहना है इसके बारे में लेखा कार्यालय का भुगतान कर्मचारी जाने । जब कि निकासी फर्म प्रदर्श क-16 में गवाही स्पष्ट लिखी है इससे स्पष्ट है कि शिव नरायन सिंह के हस्ताक्षर प्रदर्श क-16 में फर्जी थे । अपने बयान दिनांक 9-2-89 में आरोपित कर्मचारी ने कहा है कि "हो सकता है कि मैंने अपने डाकघर से ही गवाही की होगी तथा मु० 1000/- का भुगतान तत्कालीन खातेदार ने भीरा से लिया होगा जाल साजी स्वयं खातेदार ने ही होगी उन्हें महज फंसाने के लिए । यह बयान भी आरोपित कर्मचारी का गलत है । प्रदर्श क-16 में स्पष्ट लिखा है कि मेरे सामने हस्ताक्षर करके 1000/- प्राप्त किया "इसलिए सारी कार्यवाही आरोपित अभिक्ता ने अपने सामने की थी इस प्रकार उन पर लगाया लांछनपूर्ण सिद्ध है । मैं जांच अधिकारी की जांच आख्या से सहमत हूँ ।

लांछन 3 ।।। श्री भगवती प्रसाद खातादार 5 साला टीडी खाता संख्या 106062 ने अपने बयान दिनांक 19-3-86 प्रदर्श क-9 में कहा है कि रसीद दिनांक 13-10-81 प्रदर्श क-10 के बाद न तो रुपया जमा किया और नहीं रुपया निकाला था । आरोपित अभिक्ता ने ब्याज लगाने के बहाने पासबुक ले ली थी तथा रसीद दिनांक 13-10-81 प्रदर्श क-10 जिसमें बकाया मु० 600/- लिखा है दी थी आरोपित अभिक्ता अपने बयान 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 और

लाइन-4 ॥ ब०बै० खाता सं० 2700528 ॥ए॥ में से दि० 17-10-81 को 3300/- की निकासी की गयी परन्तु पासबुक प्रदर्शक-3॥ में इन्दराज नहीं किये गये । श्री काशीराम जिसके द्वारा इस खाते का संचालन होता था, ने अपने बयान दिनांक 19-3-86 प्रदर्शक-2॥ व बयान 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 प्रदर्शक-1॥ में न तो उनके अंगूठे हैं और न ही धन प्राप्त किया गया है श्री राम कुमार सिंह ने अपने बयान दि० 6-3-86 प्रदर्शक-4॥ में कहा था कि उनके सामने 3300/- प्राप्त नहीं किया था और नहीं निशानी अंगूठा लगाया था । परन्तु अपने बयान दि०

24-1-89 को जांच अधिकारी को दिये, मैं कहा है "मेरे सामने अगूँठा लगाया था और मेरे सामने 3300/- रुपया प्राप्त किया था उन्हें नहीं मालूम कि पासबुक पर कुछ लिखा था या नहीं। काशीराम इस खाते की पासबुक साथ लाया था। यह बयान इनका विश्वासनीय नहीं है क्योंकि श्री काशीराम के बयान दिनांक 19-3-86 प्रदर्शक-2 भी इनके ही द्वारा लिया गया तब भी इन्होंने कोई आपत्ति नहीं की इसी तरह गवाह श्री राम बहादुर ने अपने बयान दिनांक 5-3-86 प्रदर्शक-7 में कहा था कि प्रदर्शक-1 में उनका लेख नहीं है नहीं उनके सामने काशीराम ने अगूँठा लगाया था परन्तु दिनांक 24-1-89 के बयान में कहते हैं कि अपने हस्ताक्षर प्रदर्शक-1 में पहचान लिये हैं परन्तु भुगतान पत्र मैंने नहीं भरा था यह पहले से ही भरा था उनके सामने नाबालिका प्रमाण पत्र एवं राखी 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।

1111 आरोपित अभिकर्ता ने अपने बयान दिनांक 9-2-89 में कहा है कि "मिस्री भी धनराशि का उनके द्वारा कोई फर्जी लेन-देन नहीं किया गया खाते दार अब अपना मि०ओ न बताकर जो भी कहता है वह बिल्कुल झूठा एवं निराधार है "आरोपित अभिकर्ता का कथन सत्य नहीं है क्योंकि पासबुक प्रदर्शक-3 भीराउप डाकघर से नई दिनांक 12-9-81 को बनी थी और उसी दिन निकासी फार्म प्रदर्शक-1 बनाया गया तथा इसे 17-10-81 को भुगतान में अम्बारा बी०ओ० आरोपित कर्मचारी ने दिखाया। यदि यह निकासी खातेदार ने की होती तो पासबुक प्रदर्शक-3 में अवश्य ही प्रविष्टि होती जो कि नहीं है। इन सब तथ्यों से स्पष्ट है कि आरोपित अभिकर्ता पर लगाये लॉछन पूर्णसिद्ध हैं जांच अधिकारी के तर्क से मैं सहमत हूँ कि श्री काशी राम ने निशानी अगूँठा नहीं लगाया और 3300/- का भुगतान नहीं प्राप्त

A30

-12-

किया सम्बन्धित पासबुक में इस निकासी का इन्दराज भी नहीं है ।

इस तरह श्री विश्वनाथ सिंह ने अगस्त 72 से अप्रैल 82 तक शाखा डाकपाल अम्बारा के पद पर कार्य करते हुए डाकघर नियमावली के नियम 131, 133, 134, व 141 में दिये गये प्रावधानों का उल्लंघन किया तथा सत्य निष्ठा एवं कर्तव्य परायणता बनाये नहीं रखी जिससे विभाग को क्षति पहुँचाई ऐसा करके उन्होंने डाक तार अतिरिक्त विभागीय एजेंट 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 श

मैं दया राम अधीक्षक डाकघर, खीरी मण्डल, खीरी श्री विश्वनाथ सिंह शाखा डाकपाल 'पुट आफ ड्यूटी' अम्बारा की सेवा से निष्कासन का दण्ड देता हूँ तोतत्काल प्रभावी होंगे ।

हो/-

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

प्रतिलिपि - रजिस्टर्ड

- 1- श्री विश्वनाथ सिंह ग्राम व पो० अम्बारा
जाँच आख्या दि० 25-2-89 की एक प्रति संलग्न है ।
- 2- दण्ड रजिस्टर ।
- 3- पोस्टमास्टर खीरी 4- स्थापना अनुभाग-5 उपमण्डलीय निरी०
पलिया ।
- 6- कार्यालय 7- अतिरिक्त ।

जोशी/280289

BKMS

सत्य प्रतिलिपि ।

बअदालत श्रीमान

2nd Floor Court of Central Administration Tribunal, Circuit Bench

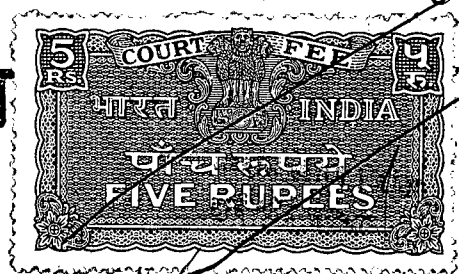
महोदय

वादी (मुद्दई)
मुद्दई (मुद्दालेह)

का

व

Vishwanath Singh



Superintendent of Post Office

Lachhman - Khera

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकद्दमा

सन

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Sh. Hari Om Singh B. K. Maishra

Sh. Shabeel Ahmad Sin S. S. Srivastava

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 भेजता 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 विश्वनाथ सिंह

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

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(A32)

In the Court of Central Administrative, Tribunal
AllababadCircuit 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.

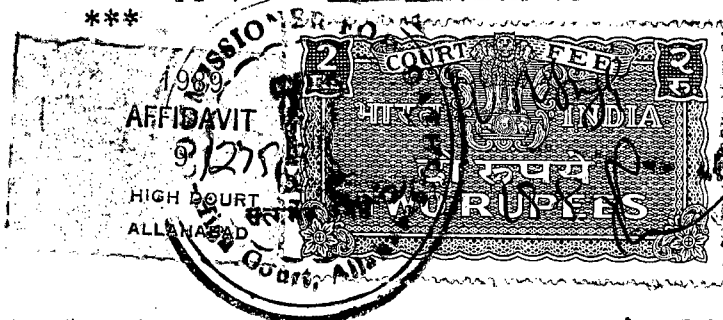
Lucknow
Dated 19/8/89

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

433

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

Misc. Appeal No. /1989



Vishwa Nath Singh...

....Applicants

Versus

Superintendent of Post Office
Kheri and others.....

....Opp. parties

A F F I D A V I T

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 case 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.



विश्वनाथ सिंह

834

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

Lucknow
Dated 19.8.57

Verification

Signature
Deponent.

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 19.8.57

Signature
Deponent.

I identify the deponent who has signed before me.

Signature
Advocate.

Solemnly affirmed before me on 19.8.57 at 11:30 AM by Sri Vishnu Nath Singh the deponent who is identified by Sri Hariom Singh Advocate of this Court.

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

Signature
Harikesh Sharma Jch
OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench

No. 7/225
Date 19.8.57

1335

Before the U.P. Administrative Tribunal

Kishor Nath Singh vs. State of U.P.

Amicus Curiae H. A. E.

31/07/1971

संख्या

संख्या

संख्या

विश्वनाथ सिंह व. अमान सिंह

आवेदन संख्या (अमान सिंह) 12/01/71

प्रमाणित 25/07/71 94,600/-

की प्रमाणित प्रतिलिपि आदेश द्वारा है, इसलिये यदि अर्थ पूरी प्रमाणित
तथा इस प्रमाणित-पत्र का प्रमाणित शीघ्र ही प्रमाणित तब तो प्रमाणित
प्रमाणित है कि प्रमाणित दिनांक 28-07-89 को अमान-
सिंह के तब प्रमाणित प्रमाणित में प्रमाणित हैं

मेरे द्वारा तथा मेरे कार्यालय की मंजूरी के साथ आज प्रमाणित
प्रमाणित की जारी किया गया।

20-7-89

प्रमाणित

प्रमाणित

प्रमाणित प्रमाणित प्रमाणित

आपको यह ज्ञात हो कि यदि आप उचिततम समय पर प्रमाणित
प्रमाणित नहीं तो आपकी प्रमाणित तथा प्रमाणित का प्रमाणित
प्रमाणित की प्रमाणित प्रमाणित का प्रमाणित जारी किया
प्रमाणित है।

प्रमाणित प्रमाणित



436

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

...
Civil Misc. Appn. No. 267 of 1989 (4)

..

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

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. "

P.T.
W
6/10/89

J.F. 13.10.89

2.

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

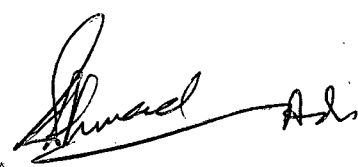
P r a y e r

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.

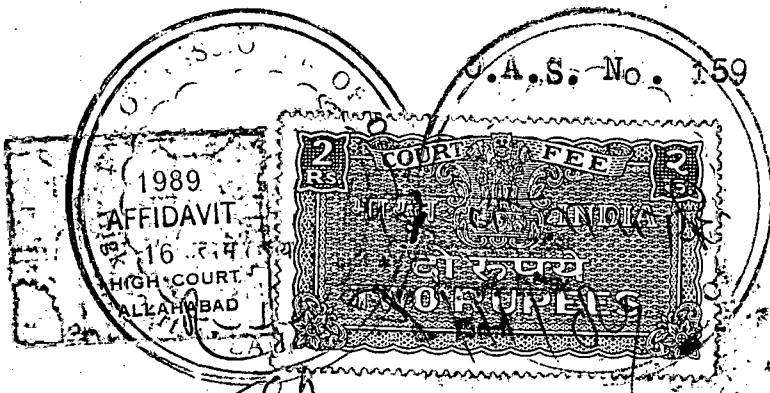
Lucknow dated

6 /10/1989


Advocate,
Counsel for the Applicant

A-38

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



C.A.S. No. 159 of 1989.

Vishwa Nath Singh.

...

Applicant

Vs.

Superintendent of Post Offices,

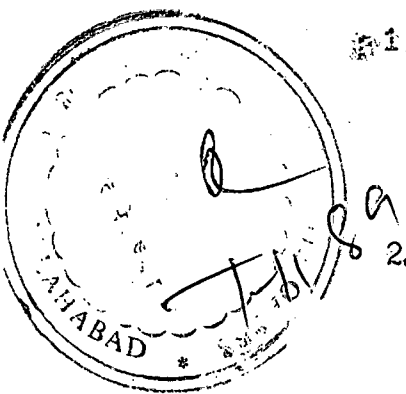
Kheri.

...

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 ~~deputy~~ ~~magistrate~~ Superintendent of Post Office Kheri to the Collector, Kheri, in reference of order bearing

contd 2/-

(A39)

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

A. R. Chaudhary
Deponent.

Verification

I, the deponent named above do hereby

(40)

3.

verify that the contents of paragraph to 6 of
this Supplementary 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

1/11/1989

A. 24 714 145
Deponent

I identify the deponent
who has signed before me *he is passully Kine name*

Shakil Ahmad

(Shakil Ahmad)
Advocate

h
2-14-89

R. P. SINGH
Seth Commissioner High Court, Allah
Lucknow Bench
S. No. _____
Date _____

Solely appeared before me on 1/11/89
at 08.43 AM by the deponent Vishwa Nath
Sri who is identified by Sri Shakil
Ahmad, Advocate, High Court Bench
Allahabad.
I have satisfied myself by
examining the deponent that he understood
the contents of this affidavit
which have read over to him
I explained by me.

R
R. P. SINGH
Seth Commissioner High Court, Allah
Lucknow Bench
S. No. 16
Date 1-11-89

R. P. Singh

(AW)

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

Ex. App. No. 335 of 1989 (1)
on Behalf of Respondent.

In case

Case No. 159 of 1989.

Vishnu Nath Singh

Applicant

Versus

Super & Post Office, Lakhimpur Kheri — Respondent.

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

In the above case it is submitted as under:

1. That the Civil 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 Civil affidavit of the Opp. Respondent is now ready and is being filed without further delay.
3. That the delay in filing the Civil affidavit is bonafide and not deliberate and is liable to be condoned.

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

Date 4/12
85

D. Chandra

Counsel for the Respondent.

(B42)

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 :-

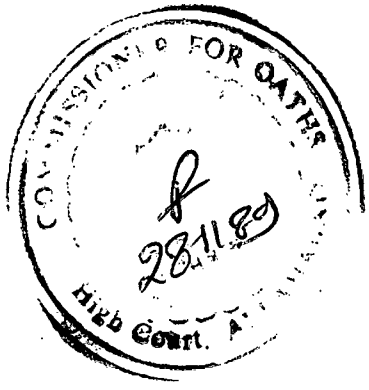
1. That the deponent is well conversant with the facts of the case deposed hereinafter.
2. That the deponent has gone through the application filed by Shri Vishwa Nath Singh and has understood the contents thereof.
3. That in order the Hon'ble Tribunal may appreciate the para-wise comments submitted 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,

Shri

contd. ... 2..



443

-: 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 deponent. 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. 51,874.20 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

contd. 3...



(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 recovery -ing the said amount as arrears of land revenue.

PARA-WISE COMMENTS

3. 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.



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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 defalcation 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-



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.

[Signature]

Deponent.

Verification

I, the above named deponent do hereby verify that the contents of paras 14 ✓ are true to the best of my knowledge and the contents of those paragraphs 3, 4, 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

[Signature]

Deponent.

I identify the deponent who has signed before me.

[Signature]
Advocate.



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 नं० 2707491	503-00	236-70	106-55
2.	" 2707432	1250-00	540-00	245-45
3.	" 271040	1050-00	463-70	210-00
4.	" 2703106	1500-00	599-40	272-45
5.	" 2705734	900-00	418-10	190-05
6.	" 2701704	1195-00	459-20	208-75
7.	" 2710768	1495-00	651-25	296-00
8.	पांच वर्गीय टीडी 106112	1412-00	1138-65	44-15
9.	तीन वर्गीय टीडी 56053	800-00	622-35	172-85
10.	" 56058	236-00	174-00	41-40
11.	पांच वर्गीय टीडी 106061	210-00	231-20	55-05
12.	" 106062	100-00	114-30	25-95
13.	एसबी खाता नं० 54774	500-00	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	300-00	134-30	61-05
19.	" 2706380	150-00	62-90	28-60
20.	" 2701494	350-00	180-65	82-10
21.	दो वर्गीय टीडी 41003	325-25	287-90	34-65
22.	पांच वर्गीय टीडी 56026	350-00	390-65	93-00
23.	एसबी खाता नं० 2710941	1400-00	555-65	252-55
24.	" 2700909	3900-00	1705-40	775-20
25.	तीन वर्गीय टीडी 56018	2800-00	2270-75	630-75
26.	दो वर्गीय टीडी 44657	1903-50	1315-20	386-80
27.	एसबी खाता नं० 2710650	1800-00	916-20	416-45
28.	" 2701316/18	3725-00	1954-15	
29.	पांच वर्गीय टीडी 106084	1728-00	1850-20	440-50
30.	तीन वर्गीय टीडी 56008	1859-95	1402-00	389-45
31.	" 56005	1600-00	1715-00	476-40
32.	पांच वर्गीय टीडी 106005	2284-50	2738-50	652-00
33.	एसबी खाता नं० 2710779	3710-00	1762-45	801-10
34.	" 2700528-ए	3300-00	1354-05	615-45
35.	" 80831	3000-00	1326-80	603-10
36.	" 2703836	650-00	410-00	140-95
37.	" 2710914	795-00	348-25	158-30
38.	" 2700900	300-00	127-05	57-75
39.	" 27101885	2582-00	2098-30	726-50

योग=

51874-20 31640-80

11123-70

31640-80

51874-20

94638-70

Note :- The claims in r/o following SB a/cs not taken in the above due to non settlement -

1. SB a/c 2710712 Rs. 1000/-)

2. SB a/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.

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.

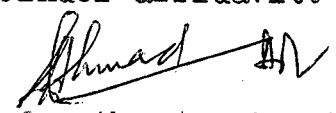
The applicant, above named, most respectfully beg
to submit as under :-

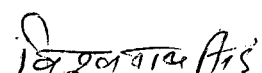
1. That because of the illness, the applicant
could not file the rejoinder-affidavit within
time, allowed by this Hon'ble Tribunal.
2. That it is in the interest of justice, equity
and expediency that the delay in filing the
rejoinder-affidavit be condoned.

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.

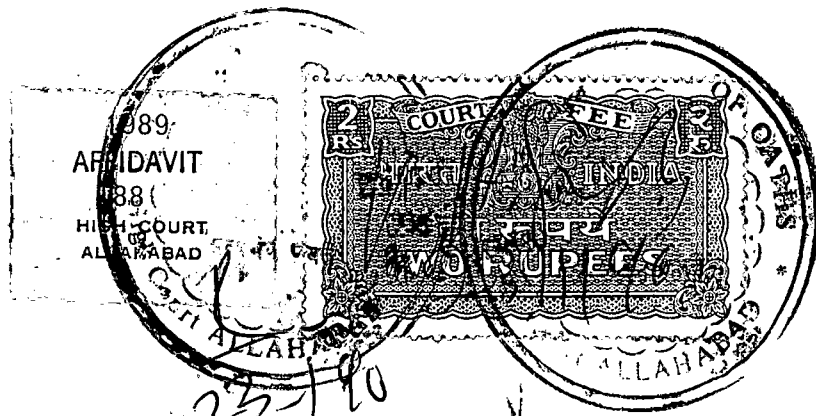

Counsel for the Applicant.



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

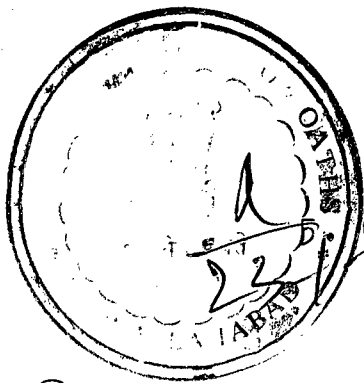


Contd...2...

(A30)

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.



14/2/74

6.

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

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

Contd....3...

(451)

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.



विश्वनाथ भट्ट

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

Contd....4....

A-5-2

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.



विशेष न्यायाधीश

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.

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

14553

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.

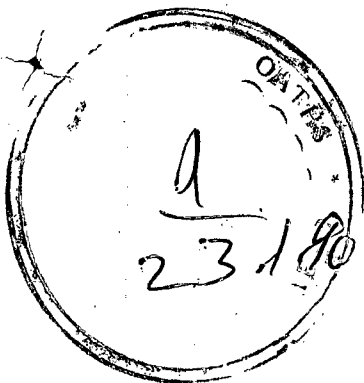
Lucknow, Dated:

January 23rd, 1990.

विश्वनाथ शर्मा
DEPONENT.

VERIFICATION.

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 ~~the~~ 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.



विश्वनाथ शर्मा

So help me God.

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

Lucknow, Dated:

January 23rd, 1990.

विश्वनाथ शर्मा
DEPONENT.

I, identify the deponent who has signed before me.

Advocate.

A-5-4

Solemnly affirmed before me
on 23-1-90 at 08:19 a.m./p.m. by the
deponent of the above named, who is
identified by Sri Shaked 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.



वि २७३१५/१७२

OATH COMMISSIONER.

R. P. SINGH

Oath Commissioner High Court, Allah
Lucknow Bench

C. No.

Date

88
23-1-90

G. no 1951