

A7

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. No. 182/89

Jetendra Singh

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A. B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant, whose father was Extra Departmental Branch Post Master in post office Uru, District Unnao, voluntarily because of his illness, /retired with effect from December, 1987, whereafter the vacancy occurred for the same. According to the applicant he took over the charge in place of his father on 13.1.88. The inspection reports were sent to the respondent No. 6 as well as overseer. It appears that during the service of his father the applicant worked as EDBPM from the year 1981 to 1988 sometimes for 22, 29, 7, 17, 16, 8 14, 26, 4, 8 and 13 days. Prior to this also the applicant had worked in the year 1980-81. The applicant contends that he is fully qualified for appointment to the post of E.D.B.P.M.. The respondents called for at least three suitable candidates for appointment from Employment Exchange within 30 days. Applicant also applied in response to the said notification and his name was duly sponsored by the Employment Exchange on 15.1.88 alongwith two other candidates.

W

AS

namely S/Shri Balwant Singh and Santosh Kumar. No selection was made from amongst these three persons. The applicant contends that the respondents were interesting in selecting somebody else and that is why without any rhyme or reason or explanation they were not selected. Thereafter, some other names were sponsored from the Employment Exchange in which the name of Virendra Nath Dixit, a favourite of Shri Gopi Nath Dixit, a political force in District Unnao, was sponsored. The applicant contends that the applicant was not selected, though he was qualified for the said post.

The respondents have tried to justify their action by way of counter affidavit, in which they have stated that though the applicant was qualified for the said post but his work was not satisfactory but they have not explained why the other persons were not appointed. The respondents stated that Shri Virendra Nath Dixit was found most suitable of all the candidates and he has been working since then. The settled state of affairs are not to be unsettled. Other names were taken later on. Things have not been done very fairly. Accordingly, although the applicant is not entitled to any relief, the respondents are directed to re-consider the case of the applicant for appointment to any other post within the delivery unit wherever he could be appointed and he shall not be deprived of his right, merely because his name was not sponsored and he has become over-age. With these observations, the application is disposed of finally.

Shakeel
A.M.

W
V.C.

Lucknow Dt. 4.11.91
Shakeel/

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCT NO. .

INDEX SHEET

CAUSE TITLE C.A. 1032 of 1981 (U)

Name of the parties _____

Plaintiff Defendant _____ Applicant.

Versus.

Plaintiff Defendant _____ Respondents.

Part A.B.C.

Sl No.	Description of documents	Page
1.	Answer	A1 - A2
2.	Order dated 1-	A3 - A6
3.	Interim order dated 04-11-91	A7 - A10
4.	Notice	A11 - A14
5.	Memorandum	A15 - A21
6.	Answer dated	A22 - A25
7.	Central Adminis- trative Tribunal Order dated	A26 - A31
8.	Plaintiff's Memorandum	A32 - A35

Certified that no further action is required to be taken and that the case is fit for being sent to the record room (D).

File is to be destroyed on 09-5-12.

03/12/2012
03/11/12

(K)

2.889.

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 182 of 1989(2).

APPLICANT(S) Jitendra Nath

RESPONDENT(S) Union of India & others

<u>Particulars to be examined</u>		<u>Endorsement as to result of examination</u>
1.	Is the appeal competent ?	Yes
2.	a) Is the application in the prescribed form ?	Yes
	b) Is the application in paper book form ?	Yes
	c) Have six complete sets of the application been filed ?	Yes
3.	a) Is the appeal in time ?	Yes
	b) If not, by how many days it is beyond time ?	No
	c) Has sufficient cause for not making the application in time, been filed ?	Yes
4.	Has the document of authorisation/ Vakalatnama been filed ?	Yes
5.	Is the application accompanied by B.O./Postal Order for Rs.50/-	Yes
6.	Has the certified copy/copies of the order(s) against which the application is made been filed ?	Yes
7.	a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	Yes
	b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes
	c) Are the documents referred to in (a) above neatly typed in double space ?	Yes
8.	Has the index of documents been filed and paging done properly ?	Yes
9.	Have the chronological details of representation made and the outcome of such representation been indicated in the application ?	Yes
10.	Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?	No

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

O.A. No. 182/89(L)
REGISTRATION NO. _____ OF 1989

APPELLANT
APPLICANT

Jitendra Singh

DEFENDANT
RESPONDENT

VERSUS
Union of India & ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
9/8/89	<p>Hon' Mr. D.K. Agrawal, J.M.</p> <p>Shri M. Dubey, learned counsel for the applicant is present and heard.</p> <p><u>ADMIT.</u></p> <p>Issue notice to respondents to file counter affidavit within six weeks, to which the applicant may file rejoinder, if any, within two weeks thereafter.</p> <p>List this case for hearing/orders as the case may be on <u>3-11-1989</u>.</p> <p>Issue notice to respondents to show cause as to why the interim prayer asked for by the applicant be not granted. Fix for hearing on interim relief on <u>21/9/89</u>.</p> <p>J.M.</p> <p>(sns)</p>	<p>As directed by the court's order dt 9-8-89, notices were issued on 10-8-89 by regd. Post.</p> <p>Neither reply nor any unsworn regd. cover has been return back so far submitted for order on interim matter</p> <p>2079</p>

(A)

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
3/11/89	<p><u>Hon' Mr. D.K. Agrawal, J.M.</u></p> <p>Shri M. Dubey counsel for the applicant and Dr. Dinesh Chandra counsel for the respondents are present. Counsel for the respondents files counter reply without any application giving the reason for delay in filing the reply. However, take the counter on record. The applicant may file rejoinder, if any, within 2 weeks hereof.</p> <p>List this case for <u>hearing on 29-1-90.</u></p>	
		R.A. filed today
		OK
		Case is ready for hearing
		29/1/90
		(sns)
29/1/89	<p>for Justice K. Pathak, V.C.</p> <p><u>Mr. K. J. Ramam, Am.</u></p>	
Dinesh		

(P) 182/89(L)

28-5-90

Hon. Mr. P. C. Jain, A.M.
Hon. Mr. J. P. Sharma, J.M.

Shri M. Dubey, proxy counsel
of Mr. B. Solomon, counsel for applicant
stated that counsel for applicant
has sought adjournment on
personal grounds. Counsel for
respondent has no objection.
List for hearing on 25-6-90.

(S)

De
J.M.

Cont
A.M.

OR

S. F. H.

L
19/6/90

25.6.90

Case not reached. Adjourn to
28.8.90

De
B.O.C.

28-8-90.

Hon'ble Mr. D. K. Agarwal J.M.
Hon'ble Mr. K. Obayegi - A.M.

None appear for the applicant
On the request of Mr. Dinesh
Chandre learned Counsel for the
Respondent the case is adj. to
22.11.90 for hearing.

De
A.M.

De
J.M.

AB

14.8.91

Hon. Mr. Justice K. Nath - V.C.

Hon. Mr. K. Obayya - AM

On the request of counsel
 for applicant case is adj.
 to 4.11.91 for final hearing.


 Obayya


 V.C.

4.11.91

Hon. Mr. Justice V.C. Springthorpe - V.C.

Hon. Mr. D.B. Gautham - AM

Argument heard. Judgement
 dictated separately.


 D.B. Gautham

V.C.


 V.C.
 18/11/91
 Dec 18/11/91

Received
 AM 6
 19/11/91

(A)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985

O.A. No. 182/89(L)

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing: 2.8.89

Date of Receipt by the Applicant

Jitendra Singh

Versus

Union of India and others

Deputy Registrar(J)

Respondents

INDEX

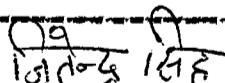
Sl. No.	Description of documents relied upon	Page
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Compilation No. 1

1.	Application	1 - 9
2.	Annexure No. A-3, True copy of impugned order dated 1.2.89. Vakalatnama	10

Compilation No. 2.

3.	Annexure No. A-1, true copy of charge report dated 13.1.88.	11
4.	Annexure No. A-2, true copy of charge list dated 13.1.88.	12
5.	Annexure No. A-4, true copy of representation dated 31.1.89.	13
6.	Annexure No. A-5, true copy of appeal dated 25.3.89.	14 to 18
7.	Annexure No. A-6, true copy of police report dated 28.6.89.	19 to 26
8.	Annexure No. A-7, true copy of report dated 5.7.89.	21
9.	Postal order for Rs.50.00	


Signature of the applicant

For use in Tribunal's office.

Date of filing- 2.8.89
or

Date of receipt by post-

Registration No. 182/89(L)

Signature

for Registrar

Filed today
Filed for 9.8.89
M. Duley
PCR

(A10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW

Jitendra Singh aged about 39 years,
son of Sri Baboo Singh r/o village and
Post Office Ugu District Unnao.

Applicant

Versus

1. Union of India, through the Secretary to the Ministry of Communication, Government of India, Department Post, New Delhi.
2. Chief Post Master General, Uttar Pradesh, Lucknow.
3. Postmaster General, Kampur Region, Kanpur.
4. Superintendent of Post Offices, Kanpur Muffasil Division, Kanpur.
5. Sri Virendra Nath Dixit, s/o late Sri Ganesh Dutt, r/o village and P.O. Ugu, District Unnao.
6. S.D.I. Shafipur, District Unnao.

Respondents

Details of application:

1. Particulars of the order against which the application is made:
 - i) Number of the order : A-4/EDA/UGU/88-89
 - ii) Date of the order : 2.1.89
 - iii) The authority which has passed the order, against which the application is made.) Superintendent of Post Offices, Kanpur (M) Division, Kanpur.

Annexure A-3

2. Jurisdiction of the Tribunal:

The impugned order was made effective at Ugu District Unnao which is under the territorial jurisdiction of this Tribunal. The applicant declares that the subject matter of the order against which he wants redressal is within jurisdiction of the Tribunal.

3. ~~Administrative Limitation~~: The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunal Act 1985

- 4) Facts of the case : I) That initially the applicant's father Sri Baboo Singh was working as Extra Departmental Branch Postmaster in the Post Office Ugu, District Unnao. His work and conduct were satisfactory during his service of over 18 years and due to his ill health he sought retirement voluntarily and

All

he expressed his desire to the respondents no. 4 and 6 that the applicant who had worked off and on during his leave periods and had sufficient knowledge of working of the post office he appointed after him both in the interest of the Post Office in view of past experience as well as in his own interest so that the applicant could be of service in his illness and old age.

ii) That the applicant's father Sri Baboo Singh having been permitted to retire voluntarily due to his infirmity of illness in December 1987, the charge of the Post Office Ugu, District Unnao was taken over from him by the Postal Overseer who managed the post office till 13.1.88, when he handed over the charge to the applicant after express approval of the respondents no. 6 and 4 who are the competent authorities in matter of appointment for the post of Extra Departmental Branch Postmaster.

True copies of the charge report & charge list are annexures A-1 and A-2.

iii) That the applicant after having been allowed to take over the charge of the Ugu Post Office on 13.1.88 as Extra Departmental Branch Post Master, continued to work on the said post continuously without any complaint whatsoever, to the entire satisfaction of the authorities concerned and his work was periodically inspected by respondent no. 6 as well as by the Postal Overseer. The inspection reports were sent to the respondent no. 4 who is the appropriate appointing authority for the said post, and the same were found satisfactory. No adverse comment was ever made against the applicant.

iv) That prior to his taking over charge as ED BPM Ugu Post Office, District Unnao on 13.1.88, the applicant had worked for over 3 years as per details furnished below and had gained sufficient working knowledge of the Post Office.

From	To	Year	Month	Day
25.9.81	16.10.82	1	-	22
3.12.82	31.3.83		3	29
23.5.83	29.5.83			7
25.1.84	8.2.84			17
27.3.84	12.5.84		1	16
3.12.84	10.12.84			8
1.2.85	14.2.85			14
8.6.85	3.7.85			26
26.8.86	29.8.86			4
2.9.86	9.9.86			8
14.1.88	26.6.89	1	5	13

S/o S/148

A1

Prior to this the applicant had also worked as Extra Departmental Branch Postmaster in 1980-81.

v) That prior to his taking over charge as ED BPM Ugu Post office, District Unnao on 13.1.88, the applicant had worked in the leave vacancies of his father occasionally for over 3 years as per details furnished below.

v) That the applicant is fully qualified for the post of ED BPM Ugu, District Unnao. He is a young man of about 39 years his date of birth being 21.12.1950 as recorded in the High School Certificate. He has passed his High School Examination of 1965 from Allahabad Board and completed his graduation in 1973 from Vikram Vishwa Vidyalaya, Ujjain. He has landed property of over 7 Bighas in his name and his annual income from independent sources is assessed to be R.5000/- per year. He has also a house of his own with facility to accomodate the Post Office and transact its business smoothly and efficiently.

vi) That the respondent no. 4 by his letter no. A-4/EDA/Ugu dated 24.12.87 addressed the Employment Officer Unnao to send the names of at least three suitable candidates for appointment on the post of BPM Ugu within 30 days from the date of issue of the said notification. The candidates were required to fulfil certain qualifications mentioned in the notification i.e.

(1) The applicant should be the permanent resident of village Ugu where the Post Office is located (2) The applicant should be Junior High School, VIII standard passed, High School pass candidate will be preferred (3) The applicant must have adequate means of income from independent sources of livelihood. (4) The applicant should be able to offer suitable accomodation for the purpose of functioning of the Post Office. (5) The applicant should not be less than 18 years of age. (6) The candidate selected will be required to furnish the security in cash or in shape of personal Bonds from U.P. Postal Cooperative Bank. (7) All the stipulated applicants should be sent in one instalment within/ time.

vii) That the applicant also applied in response to the said notification and his name was duly sponsored by the Employment Exchange, Unnao by its letter No. 10 A/65/87 dated 15.1.88,

15/1/88

alongwith two other names of S/S Balwant Singh and Santosh Kumar. The respondent no. 4 was under an obligation to make selection from amongst the said three candidates sponsored by the Employment Exchange, Unnao in response to the requisition sent by him. But maliciously and surreptitiously, the selection was kept pending and manipulation was made to obtain some more names a favourite of Sri Gopi Nath Dixit, including the name of one Sri Virendra Nath Dixit, a political force in District Unnao and consequently second list of three candidates was further sent by the Employment Exchange, Unnao with its letter no. 10A-65/87 dated 27.1.88 including the names of S/S Shiva Gopal Dixit, Amlesh Kumar Dixit and Virendra Kumar Dixit. It may be stated in this connection that the second list sent on 27.1.88 was sent after the stipulated time as laid down in the requisition dated 24.12.87 according to which no names of candidates could be sent after 23.1.88 and the list dated 27.1.88 was, thus, time barred, invalid and not be acted upon.

viii) That the respondent no. 4 wrongly and illegally took into consideration the names contained in the list dated 27.1.88 and on the recommendation and pressure of Sri Gopi Nath Dixit, aforesaid, selected Sri Virendra Nath Dixit s/o late Sri Ganesh Dutt Dixit for appointment to the post of ED BPM, Ugu, to the prejudice of the applicant who is in all respect superior and better than the said Sri Virendra Nath Dixit arrayed as respondent no. 5 in this application. A true copy of the appointment order dated 2.1.89 in favour of Sri Virendra Nath Dixit is annexure A-3. No order was passed in respect of the applicant.

ix) That the applicant on coming to know at the time of taking his salary for January 1989 that some Virendra Nath Dixit had been appointed to the post of ED BPM Ugu and the applicant was only an officiating incumbent, submitted a representation dated 31.1.89 to the respondent no. 4 with its copy to the respondent no. 6, in which it was stated that the applicant had been working since 13.1.88 continuously and drawing his pay regularly on the A. Rolls but no mention of his being in officiating capacity was ever made. The applicant also requested

Recd

P.M.

the respondent no. 4 to clarify his position on the post of ED BPM Ugu in case some other arrangement had been made and favour him with orders for further compliance. A true copy of this representation Dt. 31.1.89 is Ann. A-4. No reply has so far been received by the applicant.

x) That the applicant being aggrieved with the manner of selection made by the respondent no. 4 and the appointment order Dt. 2.1.89 made in favour of respondent no. 5 to the prejudice of the applicant, preferred an application before this Hon'ble Tribunal, which was registered as OA. No. 13 of 1989. While the case was pending before the Tribunal, the respondent no. 6 pressurised the applicant to submit a representation to the Director Postal Service, Kanpur who has since been designated as Postmaster General Kanpur, respondent No. 3 and withdraw the case from the Tribunal. He assured that the grievance of the applicant would be remedied. On his assurance and persuasion, the applicant yielded to his wishes and submitted an appeal dated 25.3.89 to the Director Postal Services now designated as Post Master General Kanpur, respondent no. 3, and expecting a favourable reply from him, the applicant moved an application before this Hon'ble Tribunal to withdraw the case which was allowed by order dated 7.4.89.

xi) That the respondent no. 3 did not consider the appeal dated 25.3.89 and did not pass any order on it and his decision on the said appeal has not yet been communicated to the applicant. A true copy of the appeal dated 25.3.89 is annexure A-5.

xii) That the applicant having fallen ill, went to Kanpur for his treatment, providing his brother Sri Anil Singh, as his substitute to carry on the work of the post office and in absence of the applicant the SDI Shafipur combined with certain Policemen and Virendra Nath Dixit respondent no. 5 and one Sri Prem Prakash Misra came to the Post office, on 28.6.89 behaved rudely and took away all the articles of the Post office arbitrarily without any prior information or notice to the applicant. A report of the said incidence was lodged by Sri Anil Singh with the Supdt. of Police Unnao, the same day. A true copy of the said report dated 28.6.89 is annexure A-6. A report was also made to the Postmaster General, U.P. Circle with copies to the Director Postal Services, Kanpur, Supdt. of Post Offices (M) Kanpur

15/6/89
and Supdt. Police Unnao by the applicant vide letter dated 5.7.89 but neither any action was taken by them nor any reply has been received from any of them. A true copy of the report dated 5.7.89 is Annexure A-7.

xiii) That no reply to the representation and appeal dated 31.1.89 and 25.3.89 (Annexures A-4 & A-5) made to the respondents No. 4 and 3 respectively has been given to the applicant and yet he has been divested of his post of ED BPM Ugu maliciously prejudicial and arbitrarily on 28.6.89.

xiv) That the Post & Telegraph Department is an industry and the applicant is a workman to be entitled and governed by the provisions of Industrial Dispute Act 1947 and other labour laws. The applicant having put in more than 240 days continuous¹⁵ service cannot be terminated or removed from service in terms of sections 25B and 25F of the A.D. Act 1947 without following the procedure laid down therein.

xv) That the action of the respondents in removing the applicant from his post of ED BPM Ugu is arbitrary, malicious, malafide, prejudicial and illegal and the respondent no. 5 has no right to be appointed to the post in preference to the applicant who is better and superior in all respects to the respondent no. 5. Besides, the name of ----- respondent no. 5 was sponsored by the Employment Exchange after the prescribed time and in view of this his candidature could not even be considered. The impugned order dated 2.1.1989 (annexure A-3) is liable to be quashed.

xvi) That there are standing instructions from the Chief PMG U.P. Circle that the persons who have put in service in temporary arrangement and have past experience should be given preference over others and in view of this the attempt to divest the applicant of his post ^{is} arbitrary, malafide, /and unjust.

xvii) That the respondents have arbitrarily and maliciously withheld the earned wages of the applicant for May and June 1989 which they are under obligation to pay.

5. Grounds for relief with legal provisions :

I) Because the impugned order dated 2.1.89 (annexure A-3) passed by the respondent no. 4 selecting and appointing Sri Virendra Nath Dixit in place of the applicant is wholly arbitrary, prejudicial and illegal in as much as he is less qualified and possessing much less facilities than the applicant.

D.D. 15/6/89

II) Because the name of Sri Virendra Nath Dixit was not sponsored by the Employment Exchange within time as prescribed in the requisition placed by the respondent No. 4 and for ~~reas~~ ^{for selection and} reasons of that his name could not even be considered/appointment.

III) Because the applicant is entitled to be given appointment in place of his father who had taken premature voluntary retirement due to his prolonged illness and due to the past ^{during leave periods of} experience gained by the applicant while working/his father.

IV) Because the applicant having worked continuously and satisfactorily without any complaint for more than a year is entitled to be made regular under the protection envisaged under sections 25 B and 25F of the Industrial Dispute Act 1947.

V) Because the appointment made in favour of respondent No. 5 is in a most arbitrary and illegal manner without application of mind by the appointing authority, merely on the basis of letter written and influence exercised by Sri Gopi Nath Dixit, a noted political leader of District Unnao to the prejudice caused to the applicant.

VI) Because the services of the applicant have not been terminated till date and without prior termination, no fresh appointment could be made on his place.

VII) Because the removal of the applicant is in violation of Chief Post Master General's standing instructions that person having past experience should be preferred.

6) Details of the remedies exhausted: The applicant declares that he has availed of the remedies available to him under the relevant service rules. The applicant submitted a representation dated 31.1.89 (Annexure A-4) to the Supdt. of Post Offices Muffasil Division Kanpur and an appeal dated 25.3.89 (Annexure A-5) to the Director Postal Services Kanpur Region but no reply has been received by him so far.

7. Matters not previously filed or pending with any other court: The applicant filed an application before this Hon'ble Tribunal in January 1989, which was registered as OA No. 13 of 1989(L) but the same was subsequently withdrawn and the

*15/10/89
15/10/89*

withdrawal application was allowed by the Tribunal by its order dated 7.4.89. No other application, writ petition or suit regarding the matter in respect of which this application has been made, had been previously filed before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. **Reliefs sought:** In view of the facts mentioned in para 4 above the applicant prays for the following reliefs:

- i) To issue a writ, order or direction declaring the inclusion of the name of the respondent No. 5 within the purview of selection and his ultimate selection and appointment for the post of ED BPM Ugu District Unnao as illegal and void.
- ii) To issue a writ, order or direction in the nature of certiorari thereby quashing the impugned order dated 2.1.89/A-3
- iii) To issue a writ, order or direction in the nature of mandamus commanding the respondents no. 1 to 4 and 6 to allow the applicant as continuing as Extra Departmental Branch Post Master Ugu, District Unnao even on and after 26.6.89 with all consequential benefits including pay and allowances of the post
- iv) To allow wages for May & June 1989 with interest.
- v) To issue any other appropriate writ, order or direction which this Hon'ble Tribunal may deem just and proper in the nature and circumstances of the case.
- vi) To award the cost of this application in favour of the applicant.

9. **Interim order, if any prayed for:** Pending final decision ^{interim} on the application, the applicant seeks the following/relief-

That in view of the facts and circumstances of the case stated above, it is most respectfully prayed that the impugned order dated 2.1.89 (annexure A-3) be kindly stayed and the applicant allowed to work on ED BPM Ugu District Unnao, as he had been working upto 28.6.89 and the wages for May and June 1989 be ordered to be paid forthwith with interest.

On sides of the
10. The application will be presented personally through the applicant's counsel.

11. Particulars of postal order filed in respect of the/fee:

1. Number of Indian Postal order DD 795474
2. Name of issuing Post Office: Lucknow EPO

A18

3. Date of issue of Postal Order 1-8.1989

4. Post Office at which payable- Allahabad G.P.O.

12. List of enclosures :

1. Annexure 1, true copy of charge report dated 13.1.88.
2. Annexure 2, true copy of the charge list dated 13.1.88.
3. Annexure 3, true copy of order dated 2.1.89.
4. Annexure 4, true copy of representation dated 31.1.89.
5. Annexure 5, true copy of appeal dated 25.3.89.
6. Annexure 6, true copy of Police Report dated 28.6.89.

7. " 7, True copy of report dated 6.7.89.

VERIFICATION

I Jitendra Singh son of Sri Baboo Singh, aged about 39 years working as Extra Departmental Branch Postmaster in the office of Ugu Post Office, District Unnao, resident of village Ugu and P.O. Ugu, District Unnao do hereby verify that the contents of paras 1 to 4, 6, 7 and 10 to 12 are true to my personal knowledge and paras 5, 8 and 9 believed to be true on legal advice. That I have not suppressed any material fact.

Dated: July 31, 1989.

Place Lucknow

09/07/89

Signature of Applicant.

M. Dukhey
PdV

In the Central Administrative Tribunal, Circuit
Bench, Lucknow
Office of the
S. P. S. V. S. & others
of 1989 (A)
Jitendra Singh v/s U.P. & others
Annexure A-3

(10)

INDIAN POST DEPARTMENT

OFFICE OF THE S. P. S. V. S. & others
No. A-4/ED-A/U.P./88-89/ldd at 1/Jan/89

Sri Virendra Nath Dutt & Son Ganesh Dutta is

hereby appointed as ED BPM with effect from
the date to cover. He shall be paid such all
allowances as are consequential admissible from time
to time.

2. Sri Virendra Nath Dutt should clearly understand
that his employment as ED BPM shall be in
the nature of contract liable to be terminated
by them or by the undersigned by notifying
the other in writing and that his conduct and
service shall also be governed by the posted
extra departmental agents (conduct & service) rules
1964 as amended from time to time.

3. If these conditions are acceptable to him he
should communicate his acceptance in the
engaged form.

Superintendent of Post Office
Kanpur (M) Division
KANPUR-208001

Copy forwarded for information and
necessary action to —

(1) Sri Virendra Nath Dutt & Son Ganesh Dutta v/s P.
U.P. U.P. M.A.O.

(2) S.D.I. Sikandarpur-Safipur. It will please observe
formalities — e.g. Security Rs 2000/- which shall be
over charge to the person appointed. They will
also arrange to send attested duplicate copy of
this office as noted para 3. Medical certificate of
health be also obtained.

(3) P.M. U.P. M.A.O.

(4) O.P.

19/1/89
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M. Dutt

बायदालत श्रीमान

C A T Circuit Bench

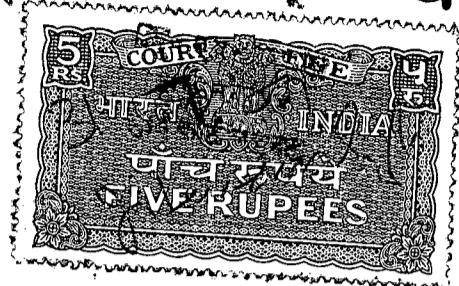
नेल्लूर

महोदय

वादी (मुद्दा)
मुद्दा (मुद्दालेह)

Jitendra Singh

का



वकालतनामा

Jitendra Singh

नं० मुद्दमा

बनाम ५०९ others प्रतिवादी (रेस्पान्डेन्ट)

सन पेशी की ता०

१९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री B. Solomon, Advocate, High Court

Mudmaw and M. Dubey, Advocate, 4th
Home, Rawaiya, Ganeshganj, Nellore 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 रहूँगा। 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।

जितेन्द्र सिंह

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

३।

महीना

७

सन् १९४८ ई०

Accepted by Solomon
① M. Dubey
② Adv.

R2

Central Administrative Tribunal महाराष्ट्र
 व अदालत श्रीमान Circuit Bench, Lucknow
 [वादी] अपीलान्ट श्री
 प्रतिवादी [रेस्पान्डेंट]

वकालतनामा

टिकट

(वादी अपीलान्ट)

J. L. Sandhu Singh

बनाम *Pratibha Devi (Respondent)*

नं० मुकदमा 182 सन् 1989 पेशी की ता० १६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री *Chandu*

Addl. Comm. Court, Standing Counsel
 Lucknow

बकील
 महोदय
 एडवोकेट

को अपना बकील नियुक्त करके प्रतिज्ञा(इकरार) करता हूं और लिखे देता हूं कि इस मुकदमा में बकील महोदय स्वयं अथवा अन्य बकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनाम व इकबालदावातथा अपील निगरानीहमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त(हस्तखती)रसीद लेवें या पंच नियुक्त करें बकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूंगा अगर मुकदमा अदालत पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे बकील पर नहीं होगी इसीलिए यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम थावे ।

मुकदमा नं० नाम
 मुकदमा

बनाम
 करीकेन

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक महीना सन् १६ ई०

In the Central Administrative Tribunal, Circuit Bench, Lucknow
Jitendra Singh v/s UOS & others
of 1989
Annexure A-1

11
A22

Am 22. und 23. Okt. 1932 auf dem Berg (2200 m) von Bremgarten

1910-3148 (13-1-88)

لهم اني اسألك ملائكة السموات السبع

and building

Westerly 1000

Me to Mr. Dubin

~~09/07/11~~ 10/11/11 *pdw*

Table 1

In the Central Administrative Tribunal, Circuit

Bench, Lucknow

Office of 1989

Fitendra Singh v/s UO& others

(12)-

RP/23

Annexure A-2

Sl. No.	Item Description	Quantity	Rate	Total Value
1.	22931 3	25 -	Rs 96.00/-	1Kg
2.	Small 13	26 -	50.00/-	1
3.	21930 301	27 -	20	412
4.	22930 1	28 -	Rs 100.00/-	1
5.	22930 1	29 -	11	55.00/-
6.	22930 1	30 -	11	55.00/-
7.	22930 1	31 -	11	55.00/-
8.	22930 1	32 -	11	55.00/-
9.	22930 1	33 -	Rs 100.00/-	1
10.	22930 1	34 -	11	55.00/-
11.	22930 1	35 -	11	55.00/-
12.	22930 1	36 -	11	55.00/-
13.	22930 1	37 -	11	55.00/-
14.	22930 1	38 -	11	55.00/-
15.	22930 1	39 -	11	55.00/-
16.	22930 1	40 -	11	55.00/-
17.	22930 1	41 -	11	55.00/-
18.	22930 1	42 -	11	55.00/-
19.	22930 1	43 -	11	55.00/-
20.	22930 1	44 -	11	55.00/-
21.	22930 1	45 -	11	55.00/-
22.	22930 10Kg	46 -	11	55.00/-
23.	22930 5Kg	47 -	11	55.00/-
24.	22930 2Kg	48 -	11	55.00/-

Amount Due

Amount Due

Amount Due

Amount Due

Amount Due

Amount Due

Attested
True copy
M. Duleep
P.W.

22930 10Kg

In the Central Administrative Tribunal, Circuit
Bench, New Delhi
Date of 1989
Jitendra Singh v/s 609 & others
Annexure - A-4

(13)
AP-4

वेताम्
श्रीगान् अ वी दक्षक डाक बार
दुर्युक्ति कानपुर
कानपुर १०८०१

दर्शन - श्रीगान् अ वी दक्षक डाक बार दुर्युक्ति कानपुर
उन्नीसी ई विवरण रिपोर्ट करने के साक्षर में।

महादेव

महादेव है कि प्रार्थी ने आजादिलालू ३१-१-८७ के
शामी के दूसरे दिन पर होते हुए उपना गांव जानवरों ४७ का वेतन
आप के वेतन विवरण दिलालू ३१-१-८७-१३-३/१५ के हारा प्राप्त
किया।

प्रार्थी को व्याप के वेतन दिया गया है जाहानवरी ८७ हारा आजादी मी
परता दला है कि प्रार्थी इस डाक बारे दूसरे दिलालू पर लगवस्था के
उन्नीसी ई वार्ष कर रहा है। भाव किञ्चित रन्द कुमार दीक्षित
का इस डाक बारे दूसरे दिलालू डाक बार के बिपर्ये उसकी जिग्यामी को
तिथ गांव जानवरी ८७ के वेतन विवरण प्राप्त किया।

Kamalur NOA-4/F DA/UG/88-89/4 P १-८७ लिखित किया।

प्रार्थी ने इस पर लिखित है उपना अंदर अंदर सेवा माजनकली
उपना के गांव में दिलालू १३-१-८७ का उपन का आगामी मेजा था। रात
प्रार्थी गांव दूसरे दिलालू के पर १३-१-८८ से लगा लगा करता है।
तब से दिलालू ८८ लगा लगा लगा लगा में इस तरह का उल्लेख
नहीं किया गया है।

यदि आप ने श्रीगान् अ वी दक्षक डाक बार उन्नीसी ई विवरण
करते पर देखा जी तो उसके दूसरे दिन के बाप-साथ गुम्फे उपना
दिलालू है तो उम्मीद उपन की कुपार करेगा।

प्रार्थी

१५८ B.P.M
31-89
31-89

प्रार्थी दक्षक डाक

प्रार्थी दक्षक डाक
(3 m)

True copy
M. Dubey
P.D.W.

In the Central Administrative Tribunal, Circuit
Bench, Lucknow
Jitendra Singh vs 609 & others of 1989
Annexure A-5

(14)
(A25)

श्री मान् निदेशक महोदय पोस्ट अफिस

कानपुर- 200001

जितेन्द्र सिंह बी.पी.एम. झू निवासी कस्बा पोस्ट झू

जिला- उन्नाव ₹ 10 प्र०

बनाम ---- अपीलार्डी

1- श्री वीरेन्द्र नाथ दीक्षित पुत्र श्री गणेश दत्त दीक्षित निवासी कस्बा
-व पोस्ट झू जिला उन्नाव

2- श्री मान् अधीक्षक महोदय मुक्तिस्ल प्रब्लेम कानपुर- 200001
---- रेस्पान्डेन्ट

अपील खिलाफ आदेश आधीक्षक महोदय पोस्ट अफिस कानपुर -
दिनांक 2-1-1989 ई० बावत नवीनयुक्त बी.पी.एम. पर कस्बा पोस्ट
झू जिला उन्नाव निम्न आधारों पर।

आधार अपील

=====

पारा-1 यह कि प्रतिवेदक आपकी सेवा में प्रस्तुत अपील प्रेषित करके
आशा करता है कि उसका ध्येय प्रक्रिया में ही अनियमितता
की छाँचबीन करके प्रार्थी लो नियुक्त कर सुअवसर प्रदान
करावे।

पारा-2 यह कि इस तंत्रज्ञान में प्रार्थी प्राप्ति का पूर्ण विवरण प्रेषित कर-
ता है।

झू छाक्खर में शाखा डाकपाल का पद पर्याप्त समय से छाली
यल रहा था उस पद पर नियुक्त होने आवेदन पत्र जिला -
नियोजन कार्यालय द्वारा माध्यम से आमंत्रित किये गये।
प्रार्थी भी उनमें से एक था उसका भी नाम ध्येय सुधिका में
धा परन्तु उसकी नियुक्ति नहीं की गयी लेकि वह ध्येय
का पूर्ण अधिकारी था क्योंकि वह सभी ध्येय की द्वारा
पूरी करता था जोकि निम्नांकित पर्याप्ति है :-

त्रिट्युटी

₹ 10 प्र० 30

अ- यह कि उसकी जन्मतिथि 21-12-1950 ई० है इसके अनुसर उसकी आय १४ वर्ष से अधिक थी।

ब- यह कि जहाँ तक शैक्षिक योग्यता का प्रश्न है वह निम्नांकित है - हार्डस्टूल तृतीय श्रेणी इण्टर, बी०८० तृतीय श्रेणी।

स- यह कि जिला उच्चान प्रश्नपूर्देश में प्रार्थी के व्यक्तिगत नाम से ७ बीचे जमीन है तथा ज्यू कस्बा में उसके पास मकान डाकघर रखने के लिए था और वह अब भी है।

द- यहाँके प्रार्थी की प्रमाणित आय ५००८/- स्पष्ट प्रतिवर्ष रही है जिसका कि प्रमाण पत्र तहसीलदार महोदय जल्लैन द्वारा दिनांक १५-०९-१९८८ ई० को दिया गया था जिसकी कि प्रतीतिलिपि आवेदन-पत्र के साथ भेजी गयी थी।

ग- यहाँके प्रार्थी पिछ्डी जाति का है जिसका प्रमाणीकरण तहसील सफीपुर - उन्नाव द्वारा किया गया था।

र- यहाँके प्रार्थी कस्बा ज्यू का स्थाई निवासी भी है जोकि तहसील सफीपुर - उन्नाव द्वारा प्रमाणित किया गया।

प्रारा०-३ यहाँके प्रार्थी अपने पिता श्री बाबूसिंह के अवकाश प्राप्त होने की दशा में दिनांक १४-०१-१९८८ ई० से शाखा डाकघाल ज्यू के पद पर भी काम करता रहा है। तत्सम्बन्धी विषयों के पुष्टीकरण के सम्बन्ध में प्रार्थी ने सभी दस्तावेजों की फोटोस्टेट प्रतीतिलिपियाँ आवेदन-पत्र के साथ भेजी गयी थीं परन्तु दस्तावेजों प्रमाण भी सत्यता की परिधि से बाहर समझे गये जिसका सिद्धीकरण निम्नांकित तर्जों से तिक्ष्ण हो जावेगा :-

प्रारा०-४ यह कि अधीक्षक डाकघर मुफ्तस्ल के नापन संख्या - पी०४/ई०.डो०.स०/ ज्यू - ८८-८९ दिनांक २-१-१९८९ ई० के अन्तर्गत श्री वीरेन्द्र नाथ दीक्षित की नियोक्त उक्त पद पर की गयी है जबकि श्री वीरेन्द्र नाथ दीक्षित से प्रार्थी सभी मामलों में वरिष्ठ था।

₹१०५०.००

16
4/17

धारा-5	यहीकि श्री वीरेन्द्र नाथ दीक्षित केवल हाईस्कूल की द्वीपीक्षक योग्यता रखते थे।
धारा-6	यहीकि उनके पास केवल छेद द्वीपे से कम अपनी सम्पत्ति रही है।
धारा-7	यहीकि श्री वीरेन्द्र नाथ दीक्षित के पास अपना मकान नहीं है जब कि जिस मकान में वह रहते हैं वह मकान उनके भाईयों ने बनवाया है और वह मकान केवल उनके भाईयों के नाम है और न ही वह शुरुगी मकान है।
धारा-8	यहीकि आवेदन में देय एक बिन्दु के अनुसार श्री - वीरेन्द्र नाथ दीक्षित के पास इस पद पर काम करने का कोई भी अनुभव नहीं था और अगर शुन्य की संका दी जावे तो अतिशयोक्ति नहीं होगी। इसप्रकार से प्रार्थी की नियुक्ति से विचित करके नियुक्ति अधिकारी ने उसे उसके संवैधानिक संरक्षण से विचित किया है व उसके मौलिक अधिकार, जीविकोपार्जन से विचित किया है जिसको निम्न तथ्यों के आधार पर आरेम छन बड़ा जा सकता है।
धारा-9	श्री वीरेन्द्र नाथ दीक्षित के पास उक्त पद पर काम करने का अनुभव शुन्य था। जबकि आवेदन पत्र के क्रमांक ४: १६ के अनुसार वह भी अनिवार्य था, जिसका कि अवलोकन आवेदन पत्र के क्रमांक ६ से मालूम किया जा सकता है निरीक्षण रिपोर्ट दिनांक ०२-०६-१९८८ ई० से ही भौतिकोत्तर स्पष्ट है कि प्रार्थी दिनांक १४-०१-१९८८ ई० से लगातार उक्त पद पर काम करता रहा है अगर उस अनुभव को प्रभावहीन मानना था तो उसकी आवश्यकता ही नहीं थी।
धारा-10	यहीकि प्रार्थी की शैक्षक योग्यता स्नातक रही है परन्तु उसका पठन नहीं किया और सब हाईस्कूल पास व्यक्ति का पठन किया। इस सम्बन्ध में यह निवेदन करना है कि पठन विषयों में देय शैक्षक - योग्यता में यह केवल निर्दीशित है कि आठवीं कक्षा

ପ୍ରକାଶନ ତଥା

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- हाईस्कूल या उसके समकालीन को वरीयता दी जाते। परन्तु उसके अंतरिक्त और किसी भी स्थान पर यह संकेत नहीं है वैकिं एक हाईस्कूल के ऊपर के व्यक्ति को अयोग्य समझा जावे और अगर ऐसा स्पष्ट उल्लेख नहीं है तो प्रार्थी की स्नातक की शैक्षिक योग्यता को नगण्य करना राष्ट्रीय नीति के विपरीत है इस बिन्दु पर गहन पर्वक्षण की आवश्यकता है। बिना किसी निर्देशन के प्रार्थी की शैक्षिक योग्यता को न मानना एक नियुक्ति व्यक्ति के पक्ष में अन्योग्य है।

धारा-11 यहाँके प्रार्थी के नाम 7 बीघे के लगभग जमीन जपनी सम्पत्ति के रूप में है और इससे होने वाली आय वार्षिक - 5000/- रुपये है। अतः प्रार्थी का पयन छेद बीघे की जमीन के ग्रालिक के सामने न करना प्रार्थी का एक प्रकार से स्पष्ट पक्ष-पात का ज्वलंत उदाहरण है। इस सम्बन्ध में अपके विभागीय निर्देशनों के अनुसार आय तथा सम्पत्ति के ग्रालिकोंने की परिभाषा में यह दर्शाया गया है, कि इसके माने यहाँहोते हैं कि डाक की कार्यवाही पलाने के लिए अभ्यार्थी के पास जगह होनी चाहिए और वह ऐसी जगह हो जिसते डाक व्यवसाय का काम छिना अवरोध के घल तेके। अतः प्रार्थी के पास मकान था और इसका स्पष्ट उदाहरण है कि वह बराबर दिनांक 14-01-1988 ई0 से उकता पद के भार को बहन करता रहा है और न किसी प्रकार की शिकायत इस सम्बन्ध में है कि उसके पास मकान नहीं है।

जैसा कि उपरोक्त पर्याप्त है कि नियुक्ति व्यक्ति श्री वीरेन्द्र नाथ दीक्षित के पास अपना मकान भी नहीं है वह अपने भाईयों के मकान में ठाक्कर रखने की व्यवस्था करेंगे जैसा कि नियमों के विवरण है। अतः उपरोक्त बातों से यह स्पष्ट है कि प्रार्थी के साथ लूताराधार किया गया है।

धारा-12 यह क्षण अतिशयोक्त न होगी, किंके वल श्री गोपीनाथ दीक्षित, मंत्री उत्तर-प्रदेश सरकार की भाई-भतीजावाद ही कानून का एक मात्र आधार बना और इसी के आधार पर सारे धर्म नियमों का गता घोटा गया परन्तु नियुक्त अधिकारी का यह दायित्व था, किंवद्दन नियमों के अन्तर्गत ही उनके उम्मीदवार का पक्ष बरता, परन्तु एक दो पक्ष भी गोपीनाथ दीक्षित के आने पर ही नियुक्त

କୃପାତ୍ମ

८९ अप्रैल १९८४

-अधिकारी ने नियमों को ताछ पर रख करके न्याय तथा अपनी प्रदृष्ट शक्ति का दृष्टियोग किया, जो कि भारत सें जनतंत्रात्मक देश के लिए एक दृष्टियोग्य सिद्ध हुआ।

आपके अपर भारत के संघार विभाग का उत्तरदायित्व है कि आप इस नियुक्ति की जाँच-प्रृष्टाल करके उधित शक्ति को नियुक्ति का अवसर दिलायें।

घारा-13 यहाँ सबसे आपचर्य की बात है कि इस घटन में इतनी अधिकारी प्रदृष्टि की गयी है कि श्री बीरेन्द्र नाथदीर्घात का आवेदन पत्र जो रोलगार कार्यालय को दिया गया वह सभ्य ले अन्दर नहीं आया था। बाद में एक मास ले समयोंपर अन्त परक लिस्ट के हारा उनका आवेदन पुछाण्डीय लायकिय से प्राप्त हुआ फिर भी इस सभ्योंपर अन्त आवेदन पत्र लो वरीयता दे लरके उस पर प्रयुन किया गया जो कि सम्बन्धित निर्देशों का एक प्रकार से गला घोटना है। तीस दिवस की जो सीमा रोलगार दफ्तर से नियुक्त अधिकारी के पास सूची जाने की निर्धारित की गयी है क्या उसे एक कोरी विहम्बना कहा जा सकता है? या कि वह लेवल एक पात्र दिखावा है लिसके अन्तर्गत नियुक्त अधिकारी ने छूट देने की क्षमता हो।

प्रार्थना

ज्ञातः श्री मान् जी से प्रार्थना है कि प्रस्तुत अपील स्वीकार कर प्रधनगत आदेश बावत नवीनियुक्त बी.पी.एम. ज्यू द्वारा अधीक्षक महोदय कानपुर दिनांक 02-01-1989 ई0 निरस्त कर प्रार्थी अपीलार्थी की पूर्ववत् बी.पी.एम. ज्यू नियुक्ति करने को लृपा करें तथा प्रस्तुत अपील स्वीकार करें।

अपीलार्थी
जितेन्द्र सिंह
जितेन्द्र सिंह
बी.पी.एम. ज्यू
25-3-89
लिंग-उन्नाव

Attested
True copy

M. Jitendra
Adv

जितेन्द्र सिंह

Jitendra Singh v/s UOS & others ^{07/10/1989} of 1989

Annexes - A - 6

सेवा में

श्री मान् पुलित अधीक्षक महोदय, उन्नाव ।

सेवा

निवेदन है कि प्रार्थी ग्राम उग्र धाना पतेपुर नौरासी जिला उन्नाथ का निवासी है प्रार्थी का भाई जितेन्द्र प्रिंस प्रान्त पोस्ट मास्टर जूँ है वह बीमार है और अन्न इलाज कराने कानपुर गया है आज ईकांक 28-6-39 को लाभग 9 बजे हुबल पोस्ट अफिस के इन्सेन्टर श्री दुष्टीलाल डाकघर निरीक्षक प्रिंसी श्री राजीपुर उन्नाथ पुलिस के कुछ कर्मचारी और धरीरेन्द्र नाथ दीक्षित व प्रेम प्रकाश मिशन के साथ आये और अनानक प्रार्थी के डाकघाने के अन्दर रहे सभी सामान को उठाकर बांधे लो प्रार्थी के माले कले पर वह मुश्ति पुलिस दबारा बन्द कराने व मास्टे की धामकी दी तो मीलसे के बगांव के श्री बलवन्तसिंह बाबू सत्य नराम, आदि लोग आ गये और उन्होंने पूछा कि क्या बात है तो उन लोगों को भी धामकाया और डाकघाने के इन्सेन्टर श्री दुष्टीलाल जी जबरदस्ती धमकी फैकर नीचे लिखा सामान उल्ल से गये प्रार्थी ने जब उनको माला किया और लिखा कर ले को कहा तो गांतियाँ लै लो इस कारण प्रार्थी कुछ कह न सका । सूची सामान जो दुष्टीलाल हन्से कठर अने पुलिस कर्मचारियों के साथ उद्ध ले गये हैं की क्रमवार सूची स्तंभ प्रार्थी-पत्र के साथ दी जा रही है ।

अतः यी मानवी रे प्रार्था है तेक ये ऐक्यता स्थाना की स्थिरीट दर्श कराकर उनित कर्त्तव्यही करने की दृष्टा करे ।

द्वितीयपि द्वे वित्त -

ਸੀਮਾਨ् ਡੀ0ਜੀ0ਡਿੱਤਾਰ ਪ੍ਰੈਕਾ ਲਖਾਨਾਂ ।

2-ਥੀ ਮਾਨਡੀ0ਆਈ0 ਲਈਨਾਂ ।

દુર્ગા-
અનુભૂતિ-

ਕੁ ਅਨਿਲ ਸਿੰਘ ੨੪-੬-੪੭

पुत्र श्री स्वर्ग युज्नाथ रिंह

ग्राम अपोख्ट उगू धाना पत्तेषु र बौरासी
जिला उन्नाप ।

फिल्म- 23-5-1989 ₹ 1.

१९७८

In the Central Administrative Tribunal, Circuit Bench, Lucknow (20)

Jitendra Singh v/s U.O. & others of 1989

Annexure A-

श्री मान् पुलिस अधीक्षक मर्लीका, उन्नाव।

प्रिवरण रूपी

1- केराबाक्स मध्य रूपी के

2- डाकघाने के सभी रजिस्टर व कागजात मध्य बी0ओ० रिट्रैट के

3- डाकघर में अपौग लेने वाला समस्त सामान पर्चाचर, मोहर आदि

4- मेरे जेब में पड़े 500/- रुपया नकद जो मान निर्माण समबन्धी प्रार्थी के पास मौजूद थे जोरकरकरी यह बारोप लगाते हुए ले गये कि उपरोक्त सम्बन्ध डाकघर की ही सम्बन्धित है।

5- कमरे में रखे हुए छेटे 2 बक्से जिनमें ताला लगा हुआ था जो कि प्रार्थी के निजी रूप रखे सामान जिनको प्रार्थी नहीं बता सकता है ले गये।

प्रार्थी-

अनिल सिंह 28-6-89
इ. अनिल सिंह

पुलिस कार्यालय शुक्रावर सेवा
ग्राम वपोर्ट उग्र ग्राम पर्सेष्युर छौरा सी
जिला उन्नाव।

दिनांक- 28-6-1989 ₹०।

M. Wesley
True copy
M. Duley
P.W.

जिलेकी

In the Central Administrative Tribunal, Circuit Bench, New Delhi
Jitendra Singh vs. No. 54100 of 1989 & others
Annexure - A-7

(21)

(A32)

सेवा में

दिनांक 5-7-89

श्रीमान पोस्ट मास्टर जनरल,
लालनगर उत्तर प्रदेश।

विधाय :- पोस्ट आफिस ऊँग का सम्मिलन सामान जबरन उठा ले जाने की
सूचना।

महोदय,

निवेदन है कि प्राप्ती 26-6-89 को अचानक बीमार होने के कारण
कान्चनपुर चला गया था। और ऐसे स्थान पर श्री अनिल सिंह पोस्ट आफिस
का कार्यभार देखा व कर रहे थे। जब मेरी बीमारी के बाद दिनांक -
5-7-89 को ऊँग वापस आया और पोस्ट आफिस का सारा कार्य बन्द
पाया पूछने पर मालूम हुआ कि दिनांक 28-6-89 को सुबह श्रीमान बुद्धीलाल
जी इंस्पेक्टर पोस्टआफिस जी सफीपुर उन्नाव। कुछ पुलिस कर्मचारियों तथा
कुछ अन्य व्यक्तियों के साथ पोस्ट आफिस का सभी सामान उठाकर ले गये।
श्री अनिल सिंह ने इसकी रिपोर्ट पुलिस विभाग में कर दी है। मेरी श्रीमान जी
की सेवा में भी उक्त रिपोर्ट की कांपी प्रेषित कर रहा हूँ। कृपया इस
पर आपेक्षित कार्यवाही अधिलम्ब करने का कष्ट करें।

संलग्न - उपरोक्त।

प्राप्ती
जीतेन्द्र सिंह बी.पी.एम
जीतेन्द्र सिंह। ऊँग-उन्नाव
बी०पी०एम० - ऊँग - उन्नाव।

प्रतिलिपि :- सूचनार्थी एवं आवश्यक कार्यवाही हेतु 5-7-89
निम्नांकित को प्रेषित।

१। निदेशक, पोस्ट आफिस एवं परिमाडल, कान्चनपुर।

२। अधीक्षक, डाकाधार मुफ्तिसल डिवीजन, कान्चनपुर।
फोड नं० - 20800।

३। सुपरिण्डेंट पुलिस, उन्नाव।

हस्ताक्षर
जीतेन्द्र सिंह बी.पी.एम

दिनांक - 5-7-89

ऊँग-उन्नाव

जीतेन्द्र सिंह एवं
M. Buhens
Adv.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH : LUCKNOW

CASE NO. 182 of 1989 ()

Jitendra Singh

... Applicant

Versus

Union of India & others

.. Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO.1 TO 4
AND 6.

I, K. B. Sharma, aged about 55 years, son of Late Mr Shyam Behari Suptd. of Post Offices, Kanpur (M) Division, Kanpur do hereby solemnly affirm and state as under :

1. That the deponent is the Suptd. of Post Offices, Kanpur (M) Division, Kanpur and as such he is fully conversant with the facts of the case deposed hereinafter.
2. That the deponent has gone through the petition filed by the applicant and has understood the contents thereof.
3. That the deponent is competent to swear this affidavit on behalf of Respondents No.1 to 4 and 6.
4. That the contents of paras 1 to 3 need no comments.
5. That in reply to para 4(i) of the petition it is admitted that the applicant's father Shri Babu Singh had worked as Extra Department

Subs

Cont...2.

2.

Branch Post Master in Post Office Ugu, district Unnao and resigned from the post on 1.9.87 which was accepted on 19.11.87. There is no provision that the son of the employee shall be appointed on the post having fallen vacant on the resignation of his father from the said post.

6. That in reply to the contents of para 4 (ii) and 4(iii) of the application it stated that Sri Babu Singh was relieved of the charge of the E.D. Branch Post Office Ugu on 19.11.87 by Sri Ganga Vishun, Mail Overseer who took over the charge of the said Post Office. Shri Ganga Vishun, Mail Overseer, engaged the applicant on 13.1.88 as his substitute without obtaining approval from the Respondent No.4 & 6. In the mean time process for regular appointment to the post had been started by ~~inviting~~ ~~writing~~ names of suitable candidates from the local Employment Exchange.

7. That the contents of para 4 (iv) are not admitted. It is clarified that the engagement of the applicant for short spells as indicated in the para had never been approved by the competent authority.

8. That in reply to the contents of para 4 (v) of the applicant it is submitted that through the applicant was qualified for the post of E.D. Branch Post Master but the other candidates were better qualified for the post.

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9. That the contents of para 4(vi) are admitted.

10. That the contents of para 4(vii) and 4 (viii) are admitted to the extent that the name of the applicant was sponsored in the first list dt. 15.1.88 of the Employment Exchange, Unnao. In the second list dt. 27.1.88 submitted by the said Employment Exchange, the names of another three candidates, including that of the Respondent no.5 were sponsored. It is further submitted that the Employment Exchange was required to send the nomination within a period of thirty (30) days from the date of sending requisition to the Employment Exchange as provided under Instruction No.12(2) contained in Section II of the E.D.A. Conduct and Service Rules, 1964. In this connection it is submitted that the regulation for nomination was despatched under Postal Registration receipt No.4518 dt. 29.12.89 to the Employment Exchange and the Employment Exchange had sent their nominations within the prescribed period of thirty days on 27.1.89. Accordingly all the candidates sponsored by the Employment Exchange were considered for appointment in a fair and dispassionate manner without being influenced by any person.

11. That the contents of 4(ix) of the application are not admitted. No representation from the applicant has since been received.

12. That the contents of para 4(x) are denied. The applicant was neither advised to withdraw his application No.13 of 1989 filed before the

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Tribunal nor was he ever pressurised to submit any representation to Respondent No.3

13. That in reply to the contents of para 4 (xi) of the petition it is stated that the applicant has not preferred any appeal through proper channel.

14. That in reply to the contents of para 4 (xii) of the application it is submitted that the applicant was himself a substitute who was not even approved by the defendant; as such the applicant could not appoint a substitute in his ^{own} place. The applicant avoided handing over charge of the Branch Post Office to the duly appointed E.D. Brand Post Master and absconded.

15. That in reply to para 4 (xiii) of the application it is submitted that no representation has been ^{from} received by the applicant through proper channel.

16. That in reply to the contents of para 4 (xiv) it is stated that recruitment to the post of Extra Departmental Brand Post Master is governed by the provisions of the Posts and Telegraphs Extra Departmental Agents (Conduct and service) Rules, 1964. The contention of the applicant in this regard is misconceived.

17. That in reply to the contents of para 4 (xv) of the application, submissions made in para 10 above are re-iterated.

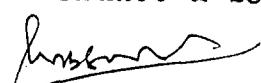
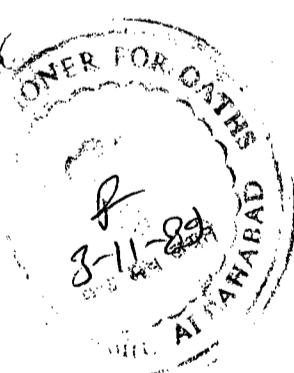
18. That in reply to the contents of para 4 (xvi) and 4(xv ii) of the application it is submitted that the appointment of Respondent No.5 has ^{been} made strictly

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in accordance with the recruitments^{rules} contained in the Posts and Telegraphs Extra Departmental Agents (Conduct and Service Rules), 1964. There are no instructions from the Respondent No.2 that the persons who have put in service in temporary arrangement as unauthorised substitutes and have past experience should be given preference over other candidates at the time of making regular appointment to the post of E.D. Branch Post Master.

19. That in reply to para 5 (i) of the application it is submitted that the appointment of E.D. Branch Post Master is made on the basis of marks obtained by the candidates ~~by them~~ in the High School Examination. Shri Virendra Nath Dixit had secured 45% marks while the applicant has obtained 40.8% marks. Otherwise also Sri Virendra Nath Dixit was found more suitable for the post than the applicant.
20. That in reply to the contents of para 5 (ii) of the application, the submissions made in para 10 above are reiterated.
21. That in reply to para 5(iii) it is stated that there does not exist any provision in the recruitment rules for providing employment to the son of a person who has since resigned his post.
22. That in reply to para 5 (iv) it is stated that Industrial Dispute Act 1947 is not applicable to the present case.
22. That in reply to para 5 (v) it is stated that the appointment was made strictly in accordance with the provision of EDA Conduct & Service

Rules 1964 are not under any political pressure.

23. That in reply to para 5 (vi) it is stated that the applicant was working on the post without approval of deptt. When the applicant was not appointed under the authority of an order of the defendant, the question of his termination of ^{through an order of the deptt} his services does not arise. His engagement on the post was ab initio void
24. That in reply to para 5 (vii), submissions made in para 6 above are re-iterated. There are no instructions for giving weightage to persons having past experience or being related to an ex- employee of the defendant department
25. That in reply to para 6 of the application it is stated that the applicant did not make any representation to the appropriate authority through proper channel.
26. That the contents of para 7 need no comments.
27. That the relief prayed for in para 8 are not admitted in view of the submissions made in foregoing paragraphs. Respondent no.5 was selected for the post and has been working on it since 28.6.89. Regarding payment of salary to the applicant for the months of May and June 1989, the applicant should have approached the competent authority for the same so that necessary action could have been taken in this regard.

28. That in reply to the contents of para 9 of the application it is stated that as Respondent No.5 has already been working on the post of E.D. Branch Post Office since 28.6.89, the prayer for interim relief is not admissible.

29. That the contents of para 10 to 12 of the application need no comments.

In view of the facts and circumstances mentioned in the above paragraphs the application is liable to be dismissed with cost.

Dated:

K. B. Ghosh
DEPONENT

VERIFICATION

I, the abovenamed deponent do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and those of paras 13 to 25 are true on belief and paras to be true on legal advise. No part of its is false and nothing material has been concealed. So help me God.

Signed and verified this 3, day of November 1989
at Lucknow.

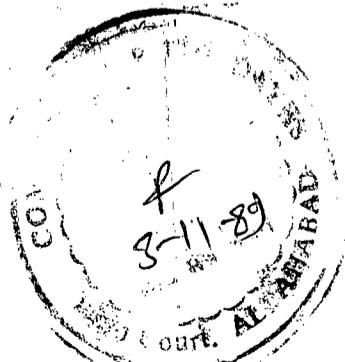
Date: 3-11-89

K. B. Ghosh
DEPONENT

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

Solemnly affirmed before me by the deponent K. B. Ghosh at 10.30 am/pm on 3-11-89 who is identified by Sri D. Chandra
Advocate, High Court, Lucknow.

I have fully satisfied that by examining his that he understands the contents of this affidavit which have been explained by me to him.



Rawal M.
Court of Commissioner
Aligarh, Allahabad
Subordinate Revenue
Re. 3-11-89

Qualified
Re. 3-11-89

In the Centralized Tribunals at Aligarh (Utt. Benz, India)

Case No: 182/Regd/89

Jilendra Singh, MUDRIK JOURNAL ^{to} BRANCH

Aligarh Regd. No. 100

For Uninsured Registered article of the Letter Mail (e.g. Letter Packets)
Journal of uninsured Registered Letter posted by

(Full Name and address of senders)

at the

Post Office on the 29-10-89 198

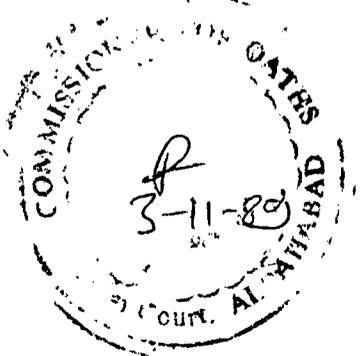
Number	Name of addressee	Post Office of destination	Amount of Postage paid Rs. P.	REMARKS
4516	दिल्ली की गोपनीया	गोपनीया	84/387/1989/18/20	
4517	श्री रामेश्वर मुख्या (जिल्हा)	गोपनीया	84/387/1989/18/20	
✓ 4518	मिस्ट्री नरेन्द्र कुमार	गोपनीया	84/387/1989/18/20	
4519	दिल्ली की गोपनीया	गोपनीया		
4520	रामेश्वर मुख्या	गोपनीया	84/387/1989/18/20	
4521	कामला कुमारी	गोपनीया	84/387/1989/18/20	
4522	दिल्ली की गोपनीया	गोपनीया	84/387/1989/18/20	
4523	रामेश्वर मुख्या	गोपनीया	84/387/1989/18/20	
4524	दिल्ली की गोपनीया	गोपनीया	84/387/1989/18/20	
4525	दिल्ली की गोपनीया	गोपनीया	84/387/1989/18/20	
4526	रामेश्वर मुख्या	गोपनीया	84/387/1989/18/20	
4527	दिल्ली की गोपनीया	गोपनीया	84/387/1989/18/20	
4528	दिल्ली की गोपनीया	गोपनीया	84/387/1989/18/20	
4529	दिल्ली की गोपनीया	गोपनीया	84/387/1989/18/20	
4530	दिल्ली की गोपनीया	गोपनीया	84/387/1989/18/20	

Date-Stamp 30

S. K. Printers, Lko.-1984

Sender's Signature

Initials of the Receiving Officer



(A.M.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW.

OZA. No. 182 of 1989

Jitendra Singh

Applicant

Versus

Union of India and others

Respondents

REJOIN DER AFFIDAVIT OF THE APPLICANT IN REPLY TO THE
COUNTER AFFIDAVIT OF RESPONDENTS Nos. 1 TO 4 AND 6.

PF 29.1.90

I, Jitendra Singh, aged about 39 years, S/o Sri Baboo Singh, R/o village & Post Uru, District Unnao, do hereby state on oath as under -

1. That the deponent is the applicant in the above noted case and he is fully conversant with the facts deposed to in this rejoinder affidavit. The deponent has read the counter affidavit filed by respondents Nos. 1 to 4 and 6, understood its contents and is replying to the same.
2. That the contents of paras 1 & 2 need no reply.
3. That in reply to the contents of para 3 it is stated that the respondent No. 4 has not furnished any authority for swearing the affidavit on behalf of respondents No. 3 and 2 who are respectively the appellate and reviewing authority of the deponent.
4. That the contents of para 4 needs no reply.
5. That in reply to the contents of para 6 of the counter it is stated that the deponent had served as Extra Departmental Branch Postmaster Uru from time to time and continuously from 14.1.88 to 26.6.89, till he was forcibly divested of the post, for a total period of over 3 years and in view of his past experience and thorough knowledge of the working of the post office he was/is entitled to be regularly appointed to the post of E.D. Branch Post Master, Post Office Uru. Besides, the deponent having worked from 14.1.88 to 26.5.89 continuously has become regular on the post under section 25B of the I.D. Act & he cannot be terminated/dislodged without following the

S. Jitendra Singh

provisions envisaged under section 25F and N of the said Act. The respondents could not oust the deponent arbitrarily and forcibly. The rest of the contents of para under reply are denied and those of para 4(i) of the application are reiterated.

6. That in reply to the contents of para 6 of the counter it is stated that the charge of the Post Office Uru District Unnao was transferred to the deponent by the Postal Overseer Shafipur on 13.1.88, 4.6.88 after express approval of the respondents No. 4 & 6. It is wrong and malicious to say that Sri Ganga Vishan, Mailoverseer, engaged the deponent without obtaining approval from the respondents no. 4 & 6. It is further pointed out that Uru Branch Post Office was inspected by the Mail Overseer Shafipur on 3.6.88, 4.6.88, 22.10.88, 10.1.89, 14.3.89 and 25.5.89 and his inspection reports were sent to the respondents No. 4 & 6. The respondent No. 6 also visited the Post Office and checked the account register which is now in their possession. The Superintendent of Post Offices Kanpur Muffasil Division, respondent No. 4 inspected the Post Office on 2.6.88. The pay and allowances were drawn and disbursed to the deponent which is permissible only in case of a valid appointment. The contents of para under reply contrary to the aforesaid averments are denied and the contents of para 4 (ii) and (iii) of the application are reasserted. A photo copy of the Inspection report dated 2.6.88 is annexure R-1.

7. That the contents of para 7 are denied and those of para 4(iv) of the application are restated. The deponent has worked for more than 3 years on the post without any complain or adverse remark, as detailed in the application. His continuous working from 13.1.88 to 26.6.89 when he was forcibly ousted without any prior intimation or notice, cannot be said to be without approval of the competent authority when his appointment was duly acknowledged by the payment of pay and allowances and inspection made by various authorities including respondents No. 4 & 6 as stated in para 6 above.

8. That in reply to the contents of para 8 it is stated that the respondents have not furnished any basis for their

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contention which is vague and indefinite and as such is emphatically denied as wrong, malicious and motivated. The contents of para 4(v) are reiterated.

9. That para 9 of the counter needs no reply.
10. That in reply to the contents of para 10 it is stated that the respondent no. 4 had asked the Employment Exchange Unnao, by his letter dated 24.12.87 to send the names of at least 3 suitable candidates, as per specification detailed therein, within 30 days of the issue of the said notification when the said notification was dated 24.12.87 it was for all intent and purposes issued on the same date viz. 24.12.87 and the employment exchange could validly send the names of candidates by 23.1.88 and not later. Besides one of the conditions contained in the letter dated 24.12.87 was that the Employment Exchange could send the names of candidates in one instalment only and that too within time. Once the employment exchange had sent the names of three candidates by its letter dated 15.1.88, there was absolutely no justification to send another list subsequently on 27.1.88 against the instructions sent by the respondent No. 4 and the respondent no. 4 could not validly act upon it. The rest of the contents of para under reply are denied and those of paras 4(vii) and 4(viii) are reiterated.
11. That the contents of para 11 are denied and those of para 4(ix) are reiterated. It is stated that the representation dated 31.1.89 was sent to the respondent No. 4 and its copy was sent to the respondent No. 6.
12. That the contents of para 12 are denied and those of para 4(x) are reasserted. It is for consideration of this Hon'ble Court as to why the applicant would withdraw his previous application filed before this Tribunal and registered as OA No. 13 of 1989 had he not been pressurised to withdraw it and prefer an appeal to the respondent No. 3.
13. That in reply to the contents of para 13 of the counter it is stated that the appeal dated 25.3.89 was submitted to the Director Postal Services, Kanpur vide annexure 5

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to the application and no decision on it has so far been received by the applicant. The contents of para 13 repugnant to the contents of para 4(xi) are denied and the latter are reiterated. It may be stated that the receipt of the appeal has not been denied by respondent No. 3.

14. That the contents of para 14 are denied as stated. The applicant was not a substitute but he was appointed against a clear vacancy within the knowledge of the respondents No. 4 & 6 who inspected the office as stated earlier and did not raise any objection. The services of the applicant have not so far been terminated and no instructions have yet been given to him despite his written representation dated 31.1.89 (annexure A-4) and appeal dated 25.3.89 (annexure A-5). It is wrong to say that the applicant could not appoint his substitute during his own illness. It is false to allege that the applicant avoided to hand over charge and absconded. There was no question of handing over charge by the applicant when his representation and appeal were pending and neither his services had been terminated nor any instruction had been given to him to hand over charge of the office.

15. That the contents of para 15 are denied and those of para 4(xiii) are restated. In this connection a reference is also invited to paras 11 and 13 above.

16. That the contents of para 16 of the counter are denied as stated. Under section 2(a) of the Extra Departmental Agents (conduct and service) Rules 1964 employee means a person employed as an Extra Departmental Agent. As the applicant was employed as an Extra Departmental Agent he was/is an employee of the Department. It has been held by the Nagpur High Court on 27.8.82 and upheld by the Supreme Court of India in 1984 that the Post and Telegraph Department is an Industry and the applicant being an employee is a workman to be also governed by the Industrial Dispute Act 1947 and in terms of its sections 25B and 25F, his services cannot be dispensed with or he can not be divested of his post without following the provisions envisaged therein. The contents of para 4(xiv)

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are reasserted. In this connection it may also be stated that the Joint Chief Labour Commissioner (Central) New Delhi and Conciliation Officer issued a letter no. 23(26)84 Con I dated 3.9.84 to the Chairman Post and Telegraph Board, Sancha Bhawan and the General Secretary, All India Postal Employees Union Postman, Class IV and E.D.A. in reference to strike notice No. 135-310/84 dated 22.8.84 by the said General Secretary. True copies of the letter dated 3.9.84 and notice dated 22.8.84 are annexures R-3 and R-4 respectively. These communications would clearly show that the applicant who is an EDA is a workman to be governed by the Industrial Dispute Act 1947 and other Labour laws.

7. That in reply to the contents of para 17 it is stated that the order of appointment in respect of respondent No. 5 is arbitrary, and illegal as already stated in para 10, and he has no right to be appointed as such. No intimation was given to the applicant and his various representations were not replied to and no order was ever passed in respect of the applicant. As such, divesting him from his post with the help of the police force during his absence was most arbitrary, ^{arbitrary} biased and unjust. The contents of para 4(xv) are reiterated. It may further be pointed out that the telephone instrument installed at the post office, which was taken away by the S.D.I and others on 28.6.89 has subsequently been fixed and installed after some days by the Telephone Department, at the old Post Office situate at the residence of the applicant, as they had no instruction to the contrary and it is still continuing there at the residence of the applicant, which is a symbol of the Post Office functioning.

18. That in reply to the contents of para 18 it is stated that the appointment of Extra Departmental Branch Postmaster is required to be made in consideration of qualification, income from independent sources, experience and accommodation for housing the Post Office and its functioning (as provided under instructions No. 11(2)(a) and 17(2) of section II-Method of recruitment, contained in Extra Departmental Agent (Conduct

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and Service) Rules 1964. The respondent No. 5 has no experience, he is less qualified, he has no house of his own for the functioning of the Post Office. The house No. 696 where the Post Office has been shifted belongs to Sri Hari Krishna, the brother of respondent No. 5. The respondent No. 4 has, thus blatantly violated the principles set forth for the appointment of EDAs. Besides the name of the respondent no. 5 was not received in the first instalment and there was no provision to send a second list and so the name of respondent No. 5 could not even be considered. All manipulations were made at the instance of Sri Gopi Nath Dixit, an influential leader of the congress and then Minister of the State and the claim of the applicant was sabotaged and prejudiced. The deponent was is superior and better in all respects ^{than} ~~from~~ respondent No. 5.

It is further stated that the respondents have not furnished any reply to para 4(xvii) of the application and they have arbitrarily, maliciously and prejudicially withheld the wages of the applicant for May and June 1989 without any rhyme or reason. The deponent sent a further representation dated 8.8.89, photo copy annexed as annexure R-2, but no reply has been received from the respondent No. 4.

19. That in reply to the contents of para 19, it is denied denied that the appointment is to be made on the basis of the marks obtained in the High School Examination only. The deponent is a graduate and much more qualified than the respondent No. 5 who is only a High School. The deponent is better and superior to the respondent No. 5 in all other respects including experience, income and accommodation to run the Post Office. It is wrong and denied that respondent No. 5 was found more suitable for the post than the deponent. His name was not sponsored by the Employment Exchange in terms of the notification as stated in para 10 above and it could not even be considered. The contents of para 5(i) are reasserted.

20. That the contents of para 20 of the counter are denied in view of para 10 above and the contents of para 5(ii) are re-stated.

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21. That the contents of para 21 are denied. The deponent had a prior claim to be appointed in view of pre-mature retirement of his father due to illness and in view of his experience of working in the Post Office for more than 3 years and in view of averments made in para 18 above. The contents of para 5(ii) are reiterated.

22. That the contents of para 22 are denied and the contents of para 5(iii) of the application and those of para 16 above are restated. The I.D. Act 1947 is applicable to the case of the deponent and he could/can not be dislodged from the post without following the provisions of sections 25F and 25N thereof and other labour laws.

23. That the contents of para 23 are denied as stated. The deponent had been an employee of the department under Rule 2(a) of the EDA (Conduct & Service) Rules 1964 as stated earlier in para 16 and he was appointed with consent and approval of the respondents no. 4 and 6 and his work was supervised and inspected by them as stated earlier and no objection whatsoever was ever raised. The deponent also drew pay and allowances for the post from time to time. It is, therefore, wrong and malicious to say at this stage that the appointment of the deponent on the post was ab-initio void. The contents of para 5(vi) are reiterated.

24. That the contents of para 24 are denied and those of para 5(vii) are restated.

25. That the contents of para 25 are denied and those of para 6 are re-asserted.

26. That para 26 needs no reply.

27. That the contents of para 27 are denied in view of the facts and circumstances of the case detailed above. It is stated that the charge of the Post Office was taken forcibly with the help of the police and in absence of the deponent and the action of the respondents is illegal, arbitrary, malafide and illegal. The deponent continues to be in service. As regards the payment of pay and allowances for the months of May and June 1989, there is absolutely no reason to withhold the same. It should have been disbursed in due course, but the

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respondents have maliciously and prejudicially withheld it to harass the deponent and now demand that the deponent should have approached the competent authority for the same. They have not come before this Hon'ble Tribunal with a clean hand and have not disclosed the reasons for withholding the wages due to the deponent for May and Junel 1989. They have committed an offence under the Payment of Wages Act.

28. That in reply to contents of para 28, the deponent refers to the averments made in para earlier part of para 27 above.

29. That para 29 needs no reply/comments.

30. That in view of the facts and circumstances of the case, the deponent's application is liable to be allowed with costs.

Lucknow, Dated:
December 15, 1989.

Deponent.

I the above named deponent do hereby verify that the contents of paras 1 to 18, 25, 26, 28 and 29 are true to my personal knowledge and those of paras 19 to 24 and 27 are believed to be true on legal advice. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this day of December 1989
at Lucknow.

Lucknow, Dated:
December 15, 1989.

Deponent.

I identify the deponent
who has signed before me.

M. Duleep N. M.
Advocate.

Annexure R-1

Alta

IR/Ugu EDBO/88 dated 2.6.88

Inspected Ugu EDBO in account with Unnao HO on 2.6.88. This office was last inspected by Shri V.S. Bajpai SDI Safipur on 14.10.87. Shri Jitendra Singh is working as BPM from 14.1.88 prior to which Shri Babu Singh was working as BPM upto December '87. BPM's annual income from agricultural is stated to be 6000/-. There are one VPM and one EDDA attached to this office. Mails are exchanged through EDMP of this office ~~from Rx to Sux Ugnax~~. This office is transit office for Guljarpur and Saita.

2. Mails are received at 0730, delivery is given out at 0800 and despatch at 1700 hours. Working hours of the office are from 0730 to 1030 and 1600 to 1700 hrs.

3. The authorised balance of this office is as under.

Minimum 300/- Maximum Rs.500/-
Postage Rs.200/- Revenue Rs.100/-

The limit of stamps is proposed to be revised from 200/- to 400/-. DO will issue fresh memo immediately.

4. Complaint and suggestion book is not available.
DO will arrange supply one book immediately.

5. There is no space in the order book to paste the IR, so IR for the 1937 is lying loose. DD will arrange supply of one order book immediately.

6. Two MOs. for Rs.500/- each are found in deposit, as the payees are stated to be out of station.

7. Examination of BO slips with BO a/c and postman register revealed the following.

(a) Vide BO slip dt.11.3.88, Account office has acknowledged the balance dt.9.3.88 but failed to note the date of daily a/c, the balance for which acknowledge.

(b) On 30 slip dt. 13.1.68 and other dates, the A/O did not noted the office of posting of regd letters and MOs. etc. My office will address to A/O for doing needful in future.

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ASO

21/01/88
31/01/88
1st coll 1/2/88
ST/8/88
3-1-88
1st coll 1/2/88

(c) On 12.2.88 MO form no. 1632 for Rs. 100/- and no. 3935 for Rs. 100/- were received in this office but notice for MO Rs. 100/- was not issued nor MO for Rs. 100/- was issued for payment. BPM is instructed suitably.

(d) On 19.2.88 and some other dates the BPM has not given any remark about the non payment of MOs. As per BO a/c there was no sufficient cash for payment yet remark on the BO journal should be given for non payment of MOs.

(e) Vide BO slip dated 21.4.88 account office has remitted cash to the tune of Rs. 2500/- as against limit of Rs. 2000/-. The same was the case on 18.4.88. PM will please submit the explanation of sub account clerk and treasurer in this regard.

8. In Jan '88 the EDMP did not obtain the signature of the BPM in token of having transferred cash and MOs, etc. It is stated that O/S was working as BPM.

(b) EDMP visit book shows that the BPM does not sign it. Names of villages have also not been entered in it by the BPM on 22.12.87 and other dates. It should be done in future.

9. After last inspection the following BO receipts were issued.

No. 39 dated 20.10.87 to 63 dated 1.6.88
blank 64 to 100.

(b) BPM irrogously charged paise 90 for Rs. 21/- on MO receipt no. 59. Account office however rectified the mistake.

10. After last inspection the following SBPRs have been issued.

No. 26 dt. 21.11.87 to 34 dt. 27.5.88
Blank 44 to 50.

(b) On the back side of PR No. 39, the name and the account number of the passbook has not been got written by the depositor. BPM is instructed suitably.

11. In SB journal the date of receipt of pass books have not been shown in the remark col. as provided in the rule. It should be done in future.

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12. Collected the following pass books from the public and verified their balance with relevant records with satisfactory result. DO will send extract of this para to QPMx PM Unnao for further verification.

Sl.no.	No. of pass books	D.L.T.	Balance.
1.	SB 363860	8.3.88	310-00
2.	" 365327	29.4.88	380-00
3.	" 363318	21.5.88	2014-65
4.	" 363272	-do-	2243-60
5.	" 363268	-do-	538-40
6.	" 363356	30.4.88	32-30
7.	R.D. 325217	21.5.88	3300-00
8.	" 825008	27.5.88	575-00
9.	" 785156	20.5.88	15000-00
10.	" 2805	28.7.87	15000-00

13. SB-28 receipt book is not available in the office. Pass books are being taken from the depositors without giving the private receipt. Account office will supply the receipt book SB-28 immediately to this office. and submit explanation to my office as to why this receipt books was not supplied. At present the BPM states that he is giving receipts on plain papers and destroys after delivery of pass book. It is irregular.

14. After last inspection the following NC4(a) receipts have been issued.

No.17 dated 24.10.87 to 48 dt.26.5.88

Blank 49 to 50.

(a) It was noticed that the receipt of NSCs are not being sent to account office for being pasted with the NSC applications. In future, the receipt of NSCs should be sent to account office for pasting them with NSC applications. APM NSC Unnao HO will please submit explanation as to why he is permitting ~~the excessive~~ retention of these receipts.

(b) Following NSCs are found in deposit. They should be delivered immediately.

C-29-301794 Rs.100/-

19-D-780449 Rs.500/-

These are in name of Shri Ram Gopal who did not turn up to take delivery.

29/10/88

....4

- 4 -

(c) NC 4(a) receipt no. 47 dt. 26.5.88 was issued in the name of Smt. Bindeshwari Devi but the NSCs were not received from HO. I would like to know the reasons for non issue of NSCs so far. Similarly NSCs in lieu of receipt no. 48 dt. 26.5.88 are wanting. HO will immediate send the NSCs for delivery to the investors.

15. SS book is stated to have been taken away by the overseer without any receipt. His explanation should be submitted to my office by the SDI Safipur for not giving receipt of the records.

16. Checked the transactions of four dates with satisfactory result.

17. Checked the stock register with satisfactory result.

(a) Closing invoice for the year 1986-87 and 87-88 are not available on record. SDI concerned will please obtain them and supply them to the BO.

(c) The chair of this office needs recanning. This may be got recanned at Safipur at reasonable rates.

18. Compliance report of all above noted para should be submitted to D.O. within one month positively.

hisense
(K.B. Sharma)

Supdt. of post offices
Kanpur Mufassil Division

No. IR/Ugu BO/88 Dated the, 2.6.88

Copy to:-

Regd. 1. EDBPM Ugu BO Unnao.

Regd. 2. SDI Safipur Unnao

3.4. IR Brs. DO KP(M) Dm.

*Altered
True copy
M. Dikher
Dm*

S. Dikher

ज्ञामन् अधीक्षक डॉ ब. चूर

8-8-89

मुंप्रत्योगी भानुपूर्ण

कानून-२०८०।

निष्पत्ति:- मई द्वंद्व अनुन ८९ का अनु बी.पी.एम का वेतन
भा. भिलोने वे ज्ञानवान्।

महादय निवदन "किप्रार्थ अनु बी.पी.एम
१७ माह से निरन्तर कर्त्ता बी.पी.एम का कार्य करते
हो जाय उसका कर्मी उनी वेतन भवारी का गया।
जैकिन जेरा मई द्वंद्व अनुन ८९ वेतन विनाकोइ
कारण लातोग करो रो का गया जिसकी गुम्फाका
सूचना भवी दी गयी। इसके पुर्व उनी ज्ञा. को भी
वेतन न। भिलोने की सूचना गोजी थी। जैकिन अभी
तक मुझे कोई उत्तरादी मिला। जूपया खाली का
वेतन शिखु में जो जी लूपा की आये।

R/1801
8-8-89

प्रार्थ
भिलोन-दु सिंह
२१० पौ० अनु-उद्याव

8-8-89

M. S. Dube
The copy
M. S. Dube
Adv.

ANNEXURE R-3

ASU

Government of India, Ministry of Labour & Rehabilitation,
Office of the Chief Labour Commissioner (Central) New Delhi.

No. 23(26)84-Con-I

Dated 3.9.1984.

To

- (i) The Chairman, P & T Board, Sanchar Bhawan,
20 Asoka Road, N. Delhi. Pin 110001.
- (ii) The General Secretary, All India Postal Employees
Union Postman, class IV and EDA., 13, Vithal
Bhai Marg, New Delhi - 110001.

Subject: Strike notice dated 22.8.84 from the General Secretary, All India Postal Employees Union, Postmen, class IV & EDA proposing to call a one day strike on 19.9.84.

Sir,

Please refer to the strike notice No. 135-310/84 dated 22.8.84 from the General Secretary, All India Postal Employees Union Postmen, class IV & EDA addressed to the Chairman, P & T Board, New Delhi.

2. I propose to hold conciliation proceedings in respect of the strike notice referred to above in my office room No. 505, 5th floor, Shram Shakti Bhawan, Rafi Marg, New Delhi 110001 on 13.9.84 at 11 A.M. Kindly make it convenient to attend the same either personally or through authorised representative together with all relevant records.

3. Attention of the Chairman, P&T Board is invited to Section 33 of the Industrial Dispute Act, 1947 and he is requested to ensure its compliance.

4. Attention of the General Secretary of All India Postal Employees Union Postmen, class IV & EDA is invited to Sub-section 22 of Industrial Disputes Act 1947 and he is requested to ensure compliance of the same.

Yours faithfully,

Sd/- K.Sharan
Jt. Chief Labour Commissioner (Central)
New Delhi & Conciliation Officer.

TRUE COPY

M. Suresh
True copy
M. Suresh
Ady

ANNEXURE No. R-4

ASS

All India Postal Employees Union Postmen, Class IV & EDAs
Central Headquarter - 13 Vittal Bhai Patel House, Rafi Marg,
New Delhi-1.

No. 135-310/84

Dated 22.8.1984

STRIKE NOTICE

To

Shri K. Thomas Kora,
Chairman, P&T Board, New Delhi - 110001

Sir,

In accordance with the provisions contained in Sub-Section (1) of Section 22 of the Industrial Disputes Act 1947 we hereby give you notice that we propose to call a one day strike on 19th September, 1984, for the reasons explained in the Annexure.

Yours faithfully

(K. Adinarayana)
General Secretary.

Annexure

The above said Union submit the following demands pertaining to Extra Departmental Agents and if these are not conceded before 15th September 1984 the above Union would resort to direct action mentioned in the notice:

1. Interim Relief to EDAs.
2. Grant of Dearness Allowance as are paid to regular employees as was paid prior to 1.1.1973.
3. Pro-rata wages as are paid to the regular employees performing identical duties i.e. equal pay for equal work with a floor minimum of three hours wages to EDAs.
4. Settlement of fringe benefits.
5. Restoration of Joint ED Committee under the Chairmanship of Member (Posts) to discuss and settle the demands of EDAs particularly the fringe benefits, or bring the EDAs under the purview of Joint Consultative Machinery of the P&T Departmental Council for settlement for demands relating to EDAs.

Copy to :

1. Assistant Labour Commissioner, Central, New Delhi.
2. Regional Labour Commissioner, Central, Delhi.
3. Chief Labour Commissioner (Central), New Delhi.
4. Secy. General NPPTE, New Delhi - 110001.
5. All General Secretaries, NPPTE, New Delhi.
6. All Central Working Committee Members, P-IV.
7. All Branch/Divisional Secretaries, P-IV

(K. Adinarayana)
General Secretary.

Adinarayana
Attested —

TRUE COPY

M. J. Jaffer
Ady