

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 192 of 1989 U

Name of the parties Hukum Chand

~~P. Singh~~ ~~vs~~ Applicant.

Versus.

Union of India (N.R.L.) Respondents.

Part A.B.C.

Sl No.	Description of documents	Page
1.	check list	A1 - A2
2.	order sheet	A3 - A4
3.	Judgment	A5 - A6
4.	Petition	A7 - A14
5.	Power	A15
6.	Annexures	A16 - A35

Bench copy B1 - B26

1 Extra copy of Petition

Check
24/6/21/

Certified that no further action is required to be taken and that the copy fit for assignment to the second room (D)

Regd

16/14

8.2.89

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 192 of 1989(L)

APPLICANT(S) Hukam Chand

RESPONDENT(S) UNION OF India Police

<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 ?	only five sets have been filed
3. a) Is the appeal in time ?	Yes
b) If not, by how many days it is beyond time?	No
c) Has sufficient case for not making the application in time, been filed?	Yes
4. Was the document of authorisation/ Vakalatnama been filed ?	Yes
5. Is the application accompanied by B.D./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

(A2)

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 ? No
 - c) Wanting in Annexures No
- 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 ? yes
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/

(13)

Order-sheet

OA No. 192/89 (L)

8.9.89 Hon. Justice K. Nall, vic.
Hon. K. J. Raman, AM.

On the request made on
behalf of S. A. Kumar, learned counsel
for the applicant the case is
adjourned to 17.10.89.

AM

vic.

h

(A4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. U.A. No. 192/89 (y) of 198 .

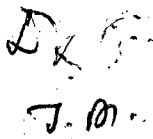
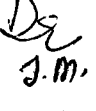
APPELLANT
APPLICANT

Hukam Chand

VERSUS

DEFENDANT
RESPONDENT

Union of India 205

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
<u>15-10-89</u>	Hon'ble Mr. D.K. Agrawal, J.M. Hon'ble Mr. K. Bhayya, A.M. List this case on <u>18-10-89</u> for admission:  A.M.  J.M. (SNS) Hon'ble Mr. D.K. Agrawal, J.M. Hon'ble Mr. K. Bhayya, A.M.	
<u>18-10-89</u>	Hon'ble Shri Anandhesh Kumar Counsel for the applicant. The application is disposed off finally. Copy of this order shall be given to the counsel for the applicant today itself.  A.M.  J.M. Keep copy May 22 Adm. 20/10/89 (SNS)	

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

....

October 18, 1989

Registration O.A. No. 192/89(L)

Hukum Chand

Applicant

Vs.

Union of India and ors....

Respondents

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

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

(By Hon' Mr. D.K. Agrawal, J.M.)

This application under section 19 of the Administrative Tribunals' Act, 1985 has been preferred by the applicant aggrieved with the order of dismissal dated 31-5-88 against which an appeal was preferred to the competent authority on 29.9.88. However, the appeal has not been disposed off. The applicant has approached the Tribunal before the expiry of the period of limitation i.e. 18 months from the date of the filing of the appeal. It was urged that the application be kept pending or be admitted and the respondents be directed to dispose of the appeal. We do not consider advisable to adopt such a course. Therefore, we hereby direct the respondents to decide the appeal dated 29.9.88 by speaking order as warranted by law within 60 days hereof. It will be the responsibility of the applicant or his representative to serve the order passed by us on this date on the appellate authority within 7 days hereof. In case the applicant is still aggrieved with the order of appellate authority passed in pursuance of the aforesaid direction given by us, the applicant

DK Agrawal

will be at liberty to lodge his claim petition before us within four months from this date hereof. It would imply that the applicant will be at liberty to file a claim petition within the aforesaid period, if the respondents for any reason fail to comply with the order passed above.

2. The present application is disposed off finally accordingly without any order as to costs.

MEMBER (A)

MEMBER (J) 18.X.89.

(sns)

October 18, 1989

Lucknow.

Deputy Registrar(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT LUCKNOW

Claim Petition No. 192 of 1989 (L)

Hukum Chand

...Applicant

Vs.

Union of India and others.

.... Opp.Parties.

COMPILATION # -A

Filed today
Noted for
8/9/89
Kany Adm

Sl.No.	Description of documents	relied upon	Pages
--------	--------------------------	-------------	-------

- | | | | |
|----|------------------------------|--|------|
| 1. | Claim Petition | | 1- 7 |
| 2. | Impugned order dt. 31.5.1988 | | 8 |
| 3. | Vakalatnama | | 9 |

Lucknow; Dated

3.6, 1989

Applicant

Use for Office

Date of Filing: 8.8.89

Registration No; 142/89(L)

Signature of Registrar

(A)

In the Central Administrative Tribunal,
Lucknow Circuit, Lucknow.

Claim Pet. No. 192 of 1989. (L)

Hukum Chand, son of Sri Ganesh Prasad,
resident of village and P.O. Machhrehta,
District Lakhimpur Kheri.

-----Applicant,

Versus

1. Union of India through Secretary,
Ministry of Communication, New Delhi.
2. The Director of Postal Services,
Lucknow Region, U.P., Lucknow.
3. Superintendent of Post Offices,
Kheri Division, Lakhimpur Kheri.

-----Respondents.

--

Claim Petition u/s 19 of the Administrative
Tribunals Act, 1985.

DETAILS OF APPLICATION:

1. Particulars of the applicant :

- | | |
|---|--|
| (i) Name of applicant | : Hukum Chand. |
| (ii) Name of father | : Sri Ganesh Prasad. |
| (iii) Designation & Office:
in which employed. | Ardali/Peon
Group 'D'
Divisional Office,
Postal Services, Kheri. |
| (iv) Office address | : Ardali/Peon
Group 'D'
Divisional Office,
Postal Services,
Kheri. |

89

(v) Address for service : Hukum Chand
of all notices: S/o Ganesh Prasad
R/o Village & Post
Machhrehta, Distt.
Lakhimpur Kheri.

2. Particulars of the respondents:

- (i) Name and/or designation of the respondents : Union of India
Supdt. of Post Offices.
- (ii) Office address of the respondents. : 1. Union of India through
Secretary, Ministry of
of Communication,
New Delhi.
2. The Director of Postal
Services, Lucknow
Region, U.P., Lucknow.
3. Superintendent of Post
Offices, Kheri Division
Lakhimpur Kheri.
- (iii) Address for service of all notices. : 1. Union of India through
Secretary, Ministry of
of Communication,
New Delhi.
2. The Director of Postal
Services, Lucknow
Region, U.P., Lucknow.
3. Superintendent of Post
Offices, Kheri Division,
Lakhimpur Kheri.

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

The application is against the following order :-

- (i) Order No. Notice No. B-4/Hukum Chand. Am
- (ii) Date - 4.5.1988.
- (iii) Passed by - Superintendent of Post Offices, Kheri.
- (iv) Subject in brief- Dismissal from service.

410

4. Jurisdiction of the Tribunal :

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

5. Limitation :

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

6. Facts of the case :

The facts of the case are given below :-

(i) That the applicant started his career as a Branch Post Master/Extra Department Agent of Machhrehta on 27.2.1970 and continued to work in such capacity till 14.9.1987 when he was promoted and appointed as the Ardali/Peon in the Office of Supdt. of Post Offices, Kheri Division, Kheri and was placed on regular establishment. The applicant was abruptly placed under suspension by an order dated 23.12.87 purporting to have been passed in terms of sub-rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 on the ground of conviction

AM

of the applicant for 10 years u/s 376, 504 and 506 I.P.C. by Sessions Judge, Kheri, Thereafter a questionnaire was obtained against a number of questions on 3.5.1988 and then a show-cause notice of dismissal dated 4.5.88 was served which was suitably replied on 19.5.88. Thereafter by order Notice No.B-4/Hukum Chand, the services of the petitioner were dismissed against which an appeal was preferred to Director of Postal Services, Lucknow Region, U.P., Lucknow, on 29.9.1988, on the ground that he was wrongly convicted and Crl.Appeal No.768/87 is pending in High Court, Lucknow, but 6 months have elapsed, no order on the said appeal has been communicated, hence this petition.

7. Relief Sought :

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

- (i) That the order of dismissal dated 31.5.1988 passed by the learned Supdt. of Post Offices, Kheri Division, Kheri, may kindly be quashed;
- (ii) That the applicant may be ordered to be reinstated in service with all the service, benefits.

(A12)

(iii) Cost of the claim petition be awarded to the applicant against the opposite parties.

8. Interim Order, if prayed for :

Pending final decision on the application, the applicant seeks issue of the following interim order :-

That the applicant may be given suspension allowance during the pendency of the case.

9. Details of the remedies exhausted :

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc. i.e. he filed an appeal against the order dated 31.5.1988 in Notice No.B-4/Hukum Chand passed by Supdt. of Post Offices, Kheri Division, Lakhimpur Kheri, dismissing the applicant from his services under Rule 10(2) of Central Civil Services, Classification, Control and Appeal Rules, 1965 on 29.9.88 but no orders have been passed so far.

10. Matter not pending with any other court etc. :

The applicant further declares that the matter regarding which this application

AB

-6-

~~was~~ has been made, is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particular of Bank Draft/Postal Order in respect of the application fee.

1. Name of the Bank on which drawn.

2. Demand Draft No.

Or:

1. Number of Indian Postal Order.

2. Name of the Issuing Post Office.

3. Date of Issue of Postal Order.

4. Post Office at which payable.

12. Details of Index:

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

13. List of enclosures :

1. Photostat copy of Charge Report.

2. Show Cause Notice of Dismissal.

3. Reply to Show Cause Notice.

4. Photostat copy of order of dismissal.

5. Photostat copy of appeal.

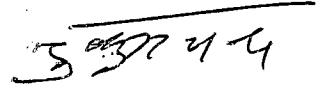
6. Photostat copy of Postal Receipt.

Verification.

I, Hukum Chand, son of Sri Ganesh Prasad, aged about 46 years, working as Dak Pal, resident of village and Post Machhrehta, do hereby verify that the contents of paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow, dated,

3 .6.89


A P P L I C A N T.

pm

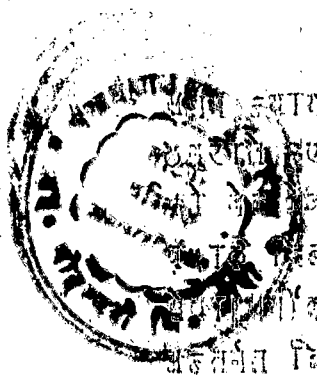
भारतीय डाक विभाग

कार्यालय अधीक्षक डाकघर, बी.सी. मण्डल, बी.सी.-26270।

भापन संख्या-बी-4/मुमुचवह

दिनांक, बी.सी., 31.5.83

प्रति,



श्री हुकुम चन्द "घ" श्रेणी कर्मचारी, मण्डलीय कार्यालय बी.सी. को कार्यालय के द्वारा 376, 504, 506 मा10द0सं0के अन्तर्गत सिद्ध दोषों के लिए 12 वर्ष का सजा कारावास की सजा सुनाकर दिनांक 13.12.87 को न्याय दिया गया। अतः श्री हुकुम चन्द को इस कार्यालय के समक्ष दिये दिनांकित 23.12.87 के द्वारा दिनांक 18.12.87 से केन्द्रीय सिविल प्रीतिकरण नियंत्रण एवं अपील नियमावली 1965 के नियम 10(2) के अन्तर्गत मिलान्वित कर दिया गया था। दिनांक 3.5.83 को अपोहरताहारी द्वारा मामले की व्यक्तिगत पुनराई कर्मचारी से की गई। इस कार्यालय के समक्ष दिये दिनांकित 4.5.83 के द्वारा जाल निष्कर्षों के बारे में अपना कारण बताओ सूचना देकर सम्पादक 10 दिनों में प्रस्तुत करने का अवसर दिया गया। कर्मचारी डॉ. प्रतिवेदन दिनांक 20.5.83 को इस कार्यालय में प्राप्त हुआ।

अतः सम्पादक देखा एवं पाया कि कर्मचारी ने दो बातों पर बल दिया है। प्रथम मिलान्वित पूर्व प्रभावी नहीं हो सकता है, द्वितीय क्रिमिनल अपील के दौरान जाल लम्बित रहता है। इस मामले में मिलान्वित केन्द्रीय सिविल सेवा प्रीतिकरण नियंत्रण एवं अपील नियमावली 1965 के नियम 10(2) के अन्तर्गत या तो दृष्टि या जेल कस्टडी के प्रारम्भ से प्रभावी माना जाता है। अतः दिनांक 23.12.87 को आदेश पूर्णतः विधिबद्ध एवं वैध है। क्रिमिनल अपील के दौरान अनियमित परीक्षा के फलस्वरूप दिया दण्ड लम्बित रहता है पर केन्द्रीय सिविल सेवा प्रीतिकरण नियंत्रण और अपील नियमावली 1965 के नियम 19 के अन्तर्गत कार्यवाही लम्बित नहीं रहती। अतः सम्पादक में कोई तटस्थ दण्ड न देने के लिए ऐसे नहीं हैं जो मान्य हों।

एवं अतः श्री हुकुम चन्द "घ" श्रेणी मण्डलीय कार्यालय बी.सी. को वापराधिक आरोप पर जारी धारा 376, 504, 506 मा10द0सं0के अन्तर्गत सिद्ध दोष ठहराया गया है।

अतः यह समझा जाता है कि उक्त श्री हुकुम चन्द "घ" श्रेणी मण्डलीय कार्यालय बी.सी. का आवरण जिससे उक्त दोष सिद्ध हुई हैं, संलग्न है जिसके कारण लोक सेवा में उत्तम और अधिक बनाये रखना आवश्यक है।

अतएव अपोहरताहारी, एतद्वारा श्री हुकुम चन्द उपरोक्त को सेवा से बर्खास्त करता हूँ।

[केन्द्रीय सहायक]

अधीक्षक डाकघर, बी.सी.

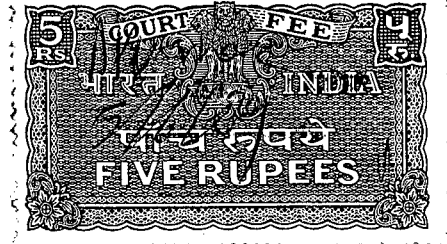
मण्डल, बी.सी.-26270।

प्रतिनिधि:-

अधीक्षक डाकघर, बी.सी.

1. कर्मचारी
2. पोस्टमास्टर, बी.सी.
3. व्यक्तिगत पत्रावली
4. वरिष्ठ पंजिका
5. दण्ड पंजिका
6. कार्यालय प्रति
7. आतिथिक प्रति।

11/8/83
मण्डलीय कार्यालय
बी.सी. मण्डल
बी.सी.-26270



वकालतनामा

Claim Petition No. 489

In the Court of Central Administration
Lucknow & Circuit Lucknow

न्यायालय श्रीमान:-

वादी/अपीलान्त

Hukum Chand

Applicant

VS

Union of India

बनाम

Respondent

प्रतिवादी रसपाडेंट

याददास्त:-

व मुकदमा मुन्दर्जे उनवान में श्री- AVADHESH KUMAR ADVOCATE

श्री वकील अपना मुकरर करके इकरार करता हूं और लिखे देता हूं कि वकील साहब ममदूह मुकदमा मसकूरा वाला में जों कुछ पैरबी जबाब देही करें या कोई कागजाद सनद असनद बगैरा पेश करे या मिनजानिब हमारे इजराय डिगरी करके रुपया या फितानी वसूल करें या राजीनामा अकबाल दावा मिनजानिब हमारे दाखिल करे और तसदीक करे वा रुपया दाखिल दिया हुआ फरीकसानी का वजरिये रसीद दस्तखत हयारे या अपने के लेवे या किसी मुकदमा में पंच मुकरर करें या मिनजानिब हमारे अपील दायर करें वह बहस करें सबसाहता या दाहता मिसल करजादात उमका हमको कबूल या मजूर होगा लिहाजा वकालतनामा लिख दिया कि सनद रहे और वक्त जरूरत काम आये।

उक्तमय

अलब्द ... अलब्द ...

गवाह ...

Accepted

Counselor Applicant

तारीख ... 3-6-89 ...

A10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW CIRCUIT LUCKNOW

Hukum Chand

Applicant

Versus

Union of India and others

Opp. Parties

INDEX

Sl No.	Contents Particulars	Pages
1.	Charge Report	1
2.	Showcause notice	2 - 5
3.	Reply to show cause notice	6 - 12
4.	Order of Dismissal	13
5.	Memo of Appeal	14 - 15
6.	Postal receipt	17

Lucknow; Dated

June 3, 1989

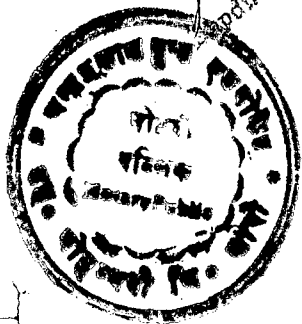
(Avadhesh Kumar)

Advocate

Counsel for Applicant

NOTIFIED

वार्ज रिपोर्ट



डाक अफिस, सी.पी. मण्डल खीरी
Office Khiri, C.P. Mandal
PIN-262 701

प्रमाणित किया जाता है कि श्री हुकुम चन्द द्वारा आज दिनांक 15.9.87 को अपराह्न, मण्डलीय कार्यालय में, डाक अफिस, सी.पी. के अदली ट्यूब का कार्यभार ग्रहण कर लिया गया है मण्डल पं.से. सी-4/गुप-डी/87 दि. 28-8-87 के अनुसार

हस्ताक्षर
भारमाही कर्मचारी

प्रतिलिपि:-

- 1- पोस्टमास्टर खीरी
- 2- डाक निरीक्षक, गोला खीरी
- 3- कर्मचारी
- 4- कार्यालय प्रति

हस्ताक्षर
15-9-87

साबित का गतिविधि
रजिस्ट्रार गुला
पब्लिक नोटरी
पब्लिक नोटरी
पब्लिक नोटरी

कार्यालय डाक अधीक्षक, खीरी मण्डल, खीरी -262 701.

ज्ञापन सं० बी-4/ हुकुम चन्द

दिनांकित : खीरी : 04-05-1988.

यतः श्री हुकुम चन्द "घ"श्रेणी कर्मचारी मण्डलीय कार्यालय, खीरी
 निम्नलिखित को सक्षम न्यायालय ने धारा-376 भा० द० सं० के अन्तर्गत
 सिद्ध दोष ठहराया है, और यतः उक्त श्री हुकुम चन्द के विस्तृत विभागीय
 जांच में उनके व्यक्तिगत चुनवाई में लिये गये बयान तथा जांच की आख्या
 अत्र संलग्न है ।

यतः अधोहस्ताक्षरकर्ता अनन्तिम स्म से इस निष्कर्ष पर पहुँचें हैं
 कि श्री हुकुम चन्द सेवा में बनाये रखने के लिए उपयुक्त व्यक्ति नहीं हैं
 सेवा से बर्खास्त करने का उन्हें दण्ड देना प्रस्तावित किया गया है ।

श्री हुकुम चन्द को स्तद्वारा प्रस्तावित दण्ड पर अपना प्रतिषेदन
 प्रस्तुत करने का अवसर दिया जाता है परन्तु वह प्रतिषेदन जांच के
 दौरान प्रस्तुत किये गये साक्ष्य पर ही आधारित होना चाहिए, प्रमाण
 प्रस्तावित दण्ड पर जो प्रतिषेदन वह करना चाहेगा उस पर अधोहस्ताक्षरी
 द्वारा विचार किया जायेगा । ऐसा कोई भी प्रतिषेदन लिखित स्म में
 दिया जाय कि तथा इस दंग से भेजा जाय कि श्री हुकुम चन्द को यह
 ज्ञापन प्राप्त होने की तारीख से 10 दिन के अन्दर अधोहस्ताक्षरी को
 प्राप्त हो जाय ।

॥ जे० रम० सिन्हा ॥
 डाक अधीक्षक,
 खीरी मण्डल,
 खीरी-262 701.

प्रतीतिपः-

फैनी कृत
 (पावती कृष्णा)

1- श्री हुकुम चन्द "घ" श्रेणी कर्मचारी निम्नलिखित मण्डलीय कार्यालय
 खीरी.

2- कार्यालय

3- अतिरिक्त.

6/5
 30/5/88
 1-8-88

30/5/88
 1-8-88

श्री हुकुम चन्द "ध" प्रेमी कर्मचारी मण्डलीय कार्यालय खीरी के विरुद्ध
केन्द्रीय शिपिल सेवा § 40(1)(a) § नियमावली-1965 के नियम-19
के प्रावधानों के अन्तर्गत की गयी व्यक्तिगत सुनवाई तथा जांच की आख्या ।

दिनांक 3-5-88 को उक्त श्री हुकुम चन्द के विरुद्ध व्यक्तिगत
सुनवाई का अवसर देकर जांच की गयी, जांच से यह तथ्य स्पष्ट है कि
ये ग्राम मछेठा डाक्टर-मछेठा धाना- परसावा के निवासी हैं, उनके विरुद्ध
सत्र न्यायालय लखीमपुर- खीरी में सत्र परीक्षण सं० 44/1986 के अन्तर्गत
धारा- 376, 504 एवं 506 भा०द०सि० के अन्तर्गत मुकदमा चला था,
उन्होंने यह तथ्य भी स्वीकार किया कि उक्त मुकदमा में न्यायालय ने
उन्हें तथा सह अपराधी श्री बच्चा को माननीय न्यायाधीश ने सिद्ध से
परे सिद्ध दोष पाकर 10 वर्ष सश्रम कारावास का दण्ड दिया है । उक्त
मुकदमा दिनांक 8-12-82 को सांचकाल 7-00, 8-00 के बीच उक्त
श्री हुकुम चन्द तथा मछेठा निवासी पंचगं व बच्चा के साथ उसी ग्राम
की निवासी श्रीमती गुड्डी के साथ बलात्कार के आरोप में चला ।
मुकदमे के दौरान पंचगं की मृत्यु हो गयी तथा उनके विरुद्ध मुकदमा रद्द
हो गया शेष दो अभियुक्तों के विरुद्ध न्यायालय ने विचारण किया । अपने
बचाव में इस परीक्षण के दौरान दि० 3-5-88 को श्री हुकुम चन्द ने उक्त
वाद रीजिश के कारण चलाना बताया, उनके अनुसार उनके शाखा पोस्ट-
मास्टर होने के कारण तथा पंचगं के ग्राम प्रधान होने के कारण
श्रीमती गुड्डी की रीजिश थी और इसी रीजिश के कारण श्रीमती गुड्डी
ने यह झूठा मुकदमा इस्तगारा दायर करके चलाया । उनका यह कथन
उचित नहीं प्रतीत होता, काफी लम्बे समय तक उनके शाखा पोस्टमास्टर
रहने के बाद इस पद के प्रति श्रीमती गुड्डी का कोई वाद उत्पन्न होता
है क्यों कि घटना के समय कोई ऐसा अवसर नहीं था जिससे इस पद के
प्रति किसी ग्रामवासी को प्रतिस्पर्धा होती । अतः उनके द्वारा कीयत
स्पष्टीकरण मान्य नहीं है विद्वान चतुर्थ अपर न्यायाधीश लखीमपुर-खीरी
ने सत्र परीक्षण सं० 44/1986 में दिये गये दिनांक 18-12-87 के अपने
निर्णय में श्री हुकुम चन्द को अन्य सह अपराधी के साथ धारा - 376
भा०द०सि० के अन्तर्गत शाखा से परे दोषी सिद्ध पाया है तथा 10 वर्ष
का सश्रम कारावास की सजा दी उक्त परीक्षण विचारण के दौरान
न्यायालय समस्त सम्बद्ध साक्षियों के पूर्ण अवलोकन, परीक्षण तथा
विचारण किया और तत्पश्चात् उक्त दण्डा देश पारित किया, अतः
श्री हुकुम चन्द के विरुद्ध आरोप सिद्ध है ।

120

प्रधान श्री हुकुम चन्द, 'ध' श्रेणी, साइना कारिगार
सीतापुर बी. 5

प्रश्न-1. आप किस प्रा. शक्यता तथा भाग क्षेत्र के
रहेवाले हैं?

उत्तर मैं प्रा. महेन्द्रा जल पर महेन्द्रा घात पागाया
का रहने वाला हूँ। हुकुमचन्द

प्रश्न-2. दि. 8. 12. 1982 को आप किस पद पर तैनात थे
और दिनांक 1. 12. 82 को मैं महेन्द्रा शाखा जल पर
के शाखा जलपाल के पद पर कार्य रहा हूँ।

प्रश्न-3. महेन्द्रा निवासी पंचम तथा बच्चा से आपका
क्या सम्बन्ध है? हुकुमचन्द

उत्तर महेन्द्रा निवासी पंचम से मेरा कोई सम्बन्ध नहीं
है गाँव के रिश्ते से आई लगेत के पट्टा से भी
मेरा कोई सम्बन्ध नहीं है गाँव के रिश्ते से
या चा लगेत है। हुकुमचन्द

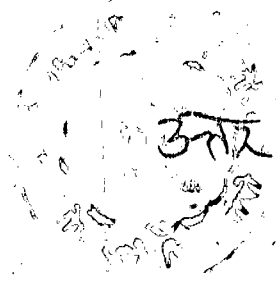
प्रश्न-4. दि. 8. 12. 1982 को साथ 7 व 8 के बीच आपने
महेन्द्रा निवासी पंचम व बच्चा के साथ उसी
गाँव की निवासिनी श्रीमती गुड्डी के साथ बलात्कार
किया यह आरोप आप पर है। इसके बारे में क्या
कहना है?

उत्तर मैं जानती शाखा जलपाल होने के कारण रजिस्ट्रार
और प्रशासनिक होने के कारण रजिस्ट्रार में शिकायत
कर दिया मैं शाखा जलपाल था और हुकुमचन्द
(समस्त)

हुकुमचन्द
गुड्डा
1-8-88

और पंचम गो. प्रधान थे। उत्तर
3.5.88

प्रश्न - 5 सेशन कोर्ट में श्री मती जुड़ो के साथ
बलात्कार के जुर्म में आप पर मुकदमा लगा
44/1986 चला था। इसके बारे में क्या कहना है?



उत्तर

मुकदमा गैर रिप्लाइड चला था। उत्तर
3.5.88

प्रश्न 6: इस मुकदमे में विद्वान व्याघ्राधीश के आपसों
और बच्चा जो संदेह है पर सिद्ध हो पाया
10 वर्ष सज़ा का वादा की सज़ा दि. 18.12.85
की दी है यह सही है या गलत?

उत्तर यह सही है। उसे सज़ा दी गयी है।
इस सज़ा के विरुद्ध मैंने हाई कोर्ट में अपील
लखवायी है। उत्तर
3.5.88

Recorded in my presence by the
J.S. of his own volition.

3.5.88

को. नॉ. 10/88
स. 10/88 (30)
रजि. 1
3.5.88

Sd/-
Magistrate of First Class
P.N./F. 262 701

16/8/88
10/88
10/88
10/88

The Superintendent of Post offices,

Kheri-Division, Kheri.- 262701

Reply against show cause notice dated 4.5.88,
wherein dismissal from service is proposed
to be inflicted.

Sir, *

With profound respect I beg to submit as follows:-

1. That I was abruptly placed under suspension by an order dated 23.12.1987, purporting to have been passed by your honour in terms of sub-rule (2) of Rule 13 of the Central Civil Services (Classification and Appeal) Rules, 1965. Thereafter a questionnaire had been issued against me and my answers were obtained against a number of questions contained in the said questionnaire on 3.5.1988.
2. That after obtaining the answers the show cause notice dated 4.5.1988, under reply, was communicated to me on 6.5.88 by registered post, requiring me to submit my reply within 10 days from the date of its receipt.
3. That very unfortunately for certain reasons beyond my control I could not be in a position to make any submission within the time allowed and was constrained to move an application dated 14.5.88 to your honour by registered post under postal receipt no. 539 dated 14.5.88. Therein it was submitted that the relevant papers had been misplaced and for want of the same it was little feasible for me to make any reply and it was all prayed therein that I be granted a further period



Handwritten notes:
220 dated 11/8/88
3000 dated 11/8/88
9/11/88

Handwritten signature and date:
11/8/88

of one week to trace out the papers and to submit my reply. Orders passed thereon, if any, have not so far been communicated to me. However, I beg to submit my reply against the show cause notice, in continuation of the said application dated 14.5.1988, as under:-

4. That the whole proceedings initiated against me with the order dated 23.12.1987 imposing suspension strictly speaking are not in conformity with the provisions of Central Civil Services (Classification Control and Appeal) Rules, 1965. In this regard it may merit particular attention that no rule of the Rules called The Central Civil Services (Classification, Control and Appeal) Rules empowers the authority concerned to place under suspension an employee with retrospective effect.

That it is all the more unfortunate that your honour's order dated 23.12.1987 placed me under suspension with retrospective effect on 18.12.1987 which is badly opposed to Rule-10 of the said Rules, which are statutory in nature having the force of law.

That the suspension made operative with a retrospective effect also utterly disregards the dictum of law as laid down by the Supreme Court and the High Courts from time to time. Needless to emphasise that imposition of the suspension with retrospective effect is beyond jurisdiction and is likely to suffer from contagion of caprice, malefide and flagrant violation of the relevant rules. It may not be impertinent to add that in view of the settled dictum of law conferment of every power or discretion itself implies

that it should have be exercised bonafidely and strictly in accordance with the relevant law and the rules keeping in mind that equality of law is the first essential on the which the whole Constitutional system is based in India and there is no room whatsoever for capricious exercise of powers.

That issuance of the questionnaire and obtaining my answer against the questions on 3.5.1988 does in no way amount to according personal hearing as alleged. There is reason to feel that the relevant statutory rules in this regard have been misconstrued and misapplied to my great prejudice.

That there is yet another gloomy aspect involved in the impugned suspension as also the show cause notice, under reply. In this regard it may crave particular attention of all concerned that I had been very unfortunately implicated in the criminal case falsely due to enmity of certain affective and influential persons of the locality. I am confident that ultimately the truth will definitely prevail and I will be exonerated and exculpated.

That I was convicted by the court of Sessions on 18.12.1987. Feeling myself aggrieved against the judgment and order of the learned Criminal Appeal No. 768 of 87 trial court I preferred an appeal in the Hon'ble High Court, Lucknow Bench, Lucknow and was also ordered by the Hon'ble court to be released on bail on 24.12.1988.

That it is disappointing that the order dated 23.12.1987 imposing the suspension was passed by your honour after I had been ordered on 22.12.88 by the Hon'ble court to be released on bail. In this context it is very material and weighty and may again merit special consideration that in normal course in a criminal appeal ^{when} bail is granted to the appellant or the convicted person the order appealed against and execution of the sentence is suspended in vie of specific provisions of Section 389 of the Code of Criminal Procedure, 1973. As such the order imposing suspension was passed when the conviction and sentence had been actually suspended or were not operative at all. Now when the conviction and sentence are suspended no proceedings can be taken as in point, erroneously holding the person concerned to be convicted and sentenced.

That apart from it, it also appears to have escaped notice that according to dictum of law an appeal is, actually speaking, a continuation of the original proceedings. As such the conviction and the sentence passed by the trial court cannot be held conclusive pending decision of the appeal preferred against the conviction and sentence passed by the trial court. It is nothing but an irony of my fate and conspiracy of my evil stars that such very material considerations appear to have been completely ignored by your honour's Goodself before proceeding to impose suspension and again before issuing the show cause notice with a proposal therein to inflict the highest punishment of dismissal from service.

That I beg leave to submit very respectfully that the observation of the Hon'ble Supreme Court as made in Tulsī Ram Patel's case, a very significant case, recently also appears to be brushed aside either or misconstrued. The Supreme Court has observed that the disciplinary authority, must, however, bear in mind that the conviction on a criminal charge does not automatically entail dismissal, removal or reduction in rank of the concerned government servant. The requisite order has to be passed by the disciplinary authority concerned having decided which of these three penalties is required to be imposed.

That in view of entirety of the facts and circumstances mentioned above it is little justified, rather appears to be erroneous that your honour has presumed ^{me} to be not fit to be retained in public service in exercising your powers under Rules -10 and 19 of the (C.C.S. & A) Rules.

That it may not be out of place or far from relevancy to submit very respectfully that I initially started my career as a Branch Postmaster/ Extra Department Agent of Machchekhaha on 27.2.1970 and continued to work in such capacity till 14.9.87 when I was promoted and appointed as the peon in the office of the Superintendent of Post Offices Kheri Division Kheri and placed on regular establishment by dint of sincere devotion to duty, honesty and efficiency on my part, which may be verified from the service record. The record will reveal that my work and conduct have remained entirely satisfactory throughout and no complaint

whatsoever has been made against me from any level or any quarter. Needless to emphasise that very unfortunately such material facts appear to have escaped notice of your honour's goodself to my great prejudice.

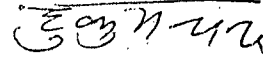
That I am confident that your honour will be pleased to accord due appreciation to the respectful submissions made above and after duly probing into the facts and circumstances will be pleased to reach a definite conclusion that the impugned suspension followed by the proposal of infliction of the highest punishment of dismissal from service are not in conformity with the relevant statutory rules, the mandates of Article 311 of the Constitution as also the elementary canons of natural justice and fair play.

That after dispassionate consideration of the facts and circumstances your goodself will be pleased to hold that the impugned proceedings during pendency of the appeal when the conviction and sentence passed by the learned trial court is not conclusive ^{not operative} is premature and accordingly the show cause notice is warranted to be withdrawn and I may be reinstated in service after revocation of the suspension order dated 23.12.1987, pending disposal of the appeal.

That the respectful reply is submitted against the notice praying judicious consideration as the matter involves the questions of livelihood. The source of livelihood comes within the meaning of fundamental rights as enshrined in the Constitution of India and such a valuable right may not be destroyed acting on erroneous presumptions or assumptions.

For due consideration and justice I shall feel
extremely beholden to your honour.

Yours faithfully,



(Hukum Chand)

R/o V. & P.O. Machchhaha,

District Lakhimpur-Kheri.

Dated:- 19/5/1988.



स्वास्थ्य एवं परिवार कल्याण विभाग

सं. १८८९/८८

लखीमपुर खीरी

कलेक्टर

लखीमपुर खीरी

भारतीय डाक विभाग

कार्यालय अधीक्षक डाकघर, बी.टी. मण्डल, बी.टी. 26270।

सामान संख्या-बी-4/मुमुसबन्द

दिनांक, बी.टी., 31.5.88

श्री. मुमुसबन्द

श्री. मुमुसबन्द "घ" प्रेणी कर्मचारी, मण्डलीय कार्यालय बी.टी. को सामान संख्या-बी-4/मुमुसबन्द के अन्तर्गत सिद्ध दोष ठहराते हुए 12 वर्ष का सजा कारावास की सजा सुनाकर दिनांक 13.12.87 को जेल भेज दिया गया। अतः श्री. मुमुसबन्द को इस कार्यालय के समसंयक पत्रांके दिनांकित 23.12.87 के द्वारा दिनांक 18.12.87 से केन्द्रीय सिविल सेवा प्रवर्गीकरण नियंत्रण एवं अपील नियमावली 1965 के नियम 10(2) के अन्तर्गत निलम्बित कर दिया गया था। दिनांक 3.5.88 को अधोहस्ताक्षरी द्वारा मामले की व्यक्तिगत सुनवाई कर्मचारी से की गई। इस कार्यालय के समसंयक सापत्र दिनांकित 4.5.88 के द्वारा बांँच निष्कर्षों के बारे में अपना कारण बताओ सुनात देकर अभ्यावेदन 10 दिनों में प्रस्तुत करने का अवसर दिया गया। कर्मचारी डा. प्रतिवेदन दिनांक 20.5.88 को इस कार्यालय में प्राप्त हुआ।

यतः अभ्यावेदन देखा एवं पाया कि कर्मचारी ने दो बातों पर जवाब दिया है। प्रथम निष्कर्ष पूर्ण प्रमाणी नहीं हो सकता है, द्वितीय क्रिमिनल अपील के दौरान दण्ड लम्बित रहता है। इस मामले में निलम्बन केन्द्रीय सिविल सेवा प्रवर्गीकरण नियंत्रण एवं अपील नियमावली 1965 के नियम 10(2) के अन्तर्गत या जो दलित या जेल कस्टडी के प्रारम्भ से प्रमाणी माना जाता है। अतः दिनांक 23.12.87 को आदेश पूर्णतः विधिपूर्वक एवं वैध है। क्रिमिनल अपील के दौरान अभियोच परीक्षा के फलस्वरूप दिया दण्ड लम्बित रहता है पर केन्द्रीय सिविल सेवा प्रवर्गीकरण नियंत्रण और अपील नियमावली 1965 के नियम 19 के अन्तर्गत कार्यवाही लम्बित नहीं रहती। अतः अभ्यावेदन में कोई तथ्य दण्ड न देने के लिए ऐसे नहीं हैं जो मान्य हों।

एवं यतः श्री. मुमुसबन्द "घ" प्रेणी मण्डलीय कार्यालय बी.टी. को आवेदनिक आरोप पर अपील पारा 376, 504, 506 माओदों के अन्तर्गत सिद्ध दोष ठहराया गया है।

यतः यह समझा जाता है कि उक्त श्री. मुमुसबन्द "घ" प्रेणी मण्डलीय कार्यालय बी.टी. का आवेदन जिसके उसके दोष सिद्ध हुई हैं, संलग्न है जिसके कारण लोक सेवा में उल्टा और अधिक बनाये रखा जा रहा है।

अतएव अधोहस्ताक्षरी, एतद्वारा श्री. मुमुसबन्द उपरोक्त को सेवा से बर्खास्त करता हूँ।

[नेमसबन्ध]

अधीक्षक डाकघर, बी.टी.

मण्डल, बी.टी.-26270।

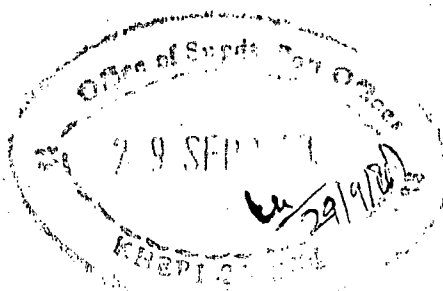
प्रतिलिपि:-

1. अधीक्षक डाकघर, बी.टी.

1. कर्मचारी
2. पोस्टमास्टर, बी.टी.
3. व्यक्तिगत पत्रावली
4. वरिष्ठ पंजिका
5. दण्ड पंजिका
6. कार्यालय प्रति
7. आतिरेक प्रति।

-14- Annexure No 5

Before the Director of Postal Services, Lucknow Region,
U.P. Lucknow.



Hukum Chand, resident of village and Post Office Mchhecha
District Lakhimpur-Kheri.

.....Appellant

Versus

Superintendent of Post Offices, Kheri Division,
Lakhimpur-Kheri.

.....Respondent

Appeal against the order dated 31.5.1988
in Notice no.B-4/(Hukum Chand) passed by
S.P.O.s. Kheri Division, Lakhimpur-Kheri,
removing the appellant from his services under
rule 10 (2) of Central Civil Services,
(Classification, Control and Appeal) Rules, 1965

Sir,

The above named appellant most respectfully
showeth as under:-

1. That though the appellant is on bail in a criminal
case and he has sent his detailed reply of notice
dated 4.5.88 on 19.5.88, the learned S.P.O.s. Kheri Dn.
Lakhimpur-Kheri has removed appellant from his service
vide the impugned order dated 31.5.1988. Ann-1 & 2
2. That being aggrieved by the order of the S.P.O.'s Kheri
Division dated 31.5.88 the appellant prefers this
appeal before your honour inter-alia on the following:-

G R O U N D S

a) Because the learned S.P.O.s. Kheri Dn. has wrongly inter-
preted the rules and has removed the appellant from
his service, against law, facts and merits of the
case.

b) Because the learned S.P.O.s. Kheri Dn. has wrongly
reached on conclusion that during pendency of criminal

Handwritten notes:
30/5/88
1-8-88

1433

2.

mentioned above shall not be pending.

3. Because the learned S.P.O's Kheri Dn. has decided the proceedings against the appellant against the mandate of Article 311 of the Constitution of India and principles of natural justice and fair play.

4. Because the learned S.P.Os Kheri Dn. ought to have suspended the appellant during the pendency of criminal appeal, as the appellant is on bail, but he has removed the appellant from services illegally which is quite contrary to the standing orders and rules of the Central Government.

5. Because the order of the learned S.P.Os Kheri Dn. is too severe and against fundamental principles of postal services.

6. Because in the case of like nature the persons against whom Criminal Appeal against their convictions is pending have been only suspended from their services till disposal of the Crl. Appeal. Equity of law is the first essential of the rule of law upon which the whole constitutional system is based in India.

7. Because the learned S.P.Os Kheri Dn. ought to have held that an appellant has filed criminal appeal no. 768/87 in the Hon'ble High Court, Lucknow and is on bail since 21.12.1988, as such his conviction is suspended and appellant's services shall be continued till disposal of appeal.

8. Because the S.P.Os Kheri Dn. has passed his order on 23.12.87 (suspension order) though the appellant was on bail at that time, as he was released on bail on 22.12.88 by the Hon'ble High Court and in view of section 389 of the Code of Criminal Procedure, 1973 when bail is granted to the appellant or the convicted person the order appealed against and execution of the sentence is suspended.

126W

9. Because the order of the learned S.P.O.s Kheri Dn. is based on mere conjectures and surmises and is liable to be set aside.

Therefore, it is respectfully prayed that order dated 31.5.1988 passed by the learned S.P.O.s. Kheri Division, Lakhimpur-Kheri may kindly be quashed and the appellant be ordered to be reinstated in service till disposal of his criminal appeal or in alternate his suspension be ordered to be continued in place of removal.

Appellant

3371-44

(Shukun Choud)

Annexure 7

1. A copy of order Through his counsel
24.5.88.

2-B. photocopy of
order dated 19-5-88
29/9/1988.

By: Urush Pratap Singh Chauhan,

Advocate, Lakhimpur-Kheri

RECEIVED

11/8/88

A25

AD 870
क्रमांक/No 149

भारतीय डाक टिकटों का मूल्य रु.....
Amount of Stamps attached Rs..... P.....

रजिस्ट्री वीसा * The Director General of Posts & Telegraphs
Received a Registered Insurance Date-stamp

नेवाले का नाम Postal Services
Addressed to

वै की रकम (अंकों में) (शब्दों में)
Amount for Rs. (in figures) (in words)

गुलक रु..... पे.....
Postage fee Rs. P.....

भेजे का नाम व पता Weight (in words)
Name and address of sender

देशिका में दी गई शर्तों के अधीन जारी की गई। पाठ्यवाले अधिकारी के हस्त
Subject to terms and conditions in P.O. guide Signature of Receiving Officer

संज्ञा संज्ञा संज्ञा

11/8/85