

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE CA-207/89 OF

NAME OF THE PARTIES Laxman

Versus

Union of India & Ors.

Part A, B & C

Sl. No.	Description of documents	Page
1	Check list	A1 to A2
2	Order sheet	A3 to A8
3	Judgement dt. 26-9-95	A9 to A13
4	With Petition / Annexure	A14 to A24
5	Proces	A25
6	Annexure	A26 to A47
7	M.P. No 503/92 Delay / condonation / Proccs	A48 to A54
8	M.P. No 205/93, 204/93, 207/93 Apply counter	A55 to A57
9	Objections	A58 to A60
10	Counter reply	A61 to A71
11	Rejoinder affidavit	A72 to A78
12	Application for restoration	A79 to A80
13	Expedite appli. / order copy dt 4/9/95	A81 to A85

CERTIFICATE

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

Check on Dated 23-2-12

Counter Signed

Section Officer / In charge

Signature of the
Dealing Assistant

A
1

12-2-29

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 207 of 1989 (L)

APPLICANT(S) Laxman

RESPONDENT(S) Union of India & Others

Particulars to be examined	Endorsement as to result of examination
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 ?	Four sets have been filed. Yes
3. a) Is the appeal in time ?	NO
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. Has 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

A/2

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/

O A No. 207/89

20-9-95

Hon'ble Mr. Justice B.C. Saxena - V.C.
Hon'ble Mr. V.K. Seth - A.M.

The learned counsel for the
applicant has sent an illness slip.
that all the

20-9-95

Hon'ble Mr. Justice B.C. Saxena - V.C.
Hon'ble Mr. V.K. Seth - A.M.

The order dated 28-8-95
is recalled. The O.A. is restored
to its original no.

We have heard the learned
counsel for the parties on
the O.A.

Order reserved.

Bel
V.C.

K.N.

W.K.
A.M.

26.9.95

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

Order of the Bench consisting
Hon'ble Mr. Justice B.C. Saxena, V.C.
and Hon'ble Mr. V.K. Seth, pronounced
today with open Court.

J.M.

W.K.
A.M.

22.2.95

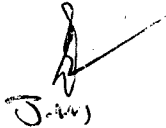
Honbl. Mr V. K. Selva. A.M.

Honbl. Mr D. C. Vannias. A.M.

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On the adjournment application
of Counsel for respondent. adjourn
to 17.4.95

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Selva

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D.C.V.

17.4.95

Hon. Mr Justice B.C. Sakseng, VC
Hon Mr V-K Selva. A.M.

The learned counsel for
the applicant seeks some time
to prepare the case, but
on 10.5.95.

On
pleadings are
complete
SFH
5/5/95

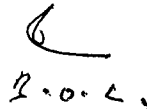
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10.5.95

Case not reached adj. to 14.7.95.


D.C.V.

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No ruling on D.C. off
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6.1.94
DR.

Vide order of Hon'ble on
the expedite application;
list this case before Hon
Court for hearing on 12.1.94

DR

12-1-94

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Hand. Miss Lohr Sen Dr

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OR
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has been
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submitted for
hearing

17.1.94

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Adm. off to 17.2-54

none

② 12/1/09 17.2-84

Stamm, Mr Josie R. 12 Verma v
Stamm, Mr V. 12. Selh. Dr

None responds either at
1m - parties lost. 1m Ocean 31.3.94

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Page 285, 1-6, 1-7

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S. S. P2

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W. H. H. H.

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18/1/93

ORDER SHEET
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/C.B. LUCKNOW

207 No. _____ OF 1991
Lasman Vs. b.o.s

Sl.No.	Date	Office Report	Orders
		<u>15.11.92</u>	No sitting adjn 15.11.92 2
		<u>15.1.92</u>	No sitting of D.M. adjn 27.2.92 2
		<u>27.2.92</u>	No sitting adjn 21.4.92 2
		<u>21.4.92</u>	No sitting adjn 29.5.92 2
		<u>29.5.92</u>	Case not reached adjn to 14.8.92 Boe
		<u>14.8.92</u>	No sitting of D.M. adjn to 28.8.92 2
		<u>28.8.92</u>	Case not reached. Adjourned to 16/9/92. On. Chandra.
		<u>17.2.93</u>	No sitting adjn to 3/3/93 2
		<u>3.3.93</u>	No sitting of D.M. adjn to 11.3.93 2
		<u>11.3.93</u>	Case not reached adjn to 18.3.93 2
		<u>21.3.93</u>	

Case is submitted
for hearing
S.F.H.
29/5

O.R.

Preliminary objection
along with M.P.
503/92 and 504/92
has been filed by
O.P. on 29.5.92.

S. A. V.

27/8/92

OK

M/No 205/93, 206/93
M/No 207/93 directed
by S.F.H.
21/3/93

OK

200

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 297 of 1989 (L)

APPELLANT
APPLICANT

Lax Man

VERSUS

DEFENDANT
RESPONDENT

Union of India & others

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
22.9.89	<p><u>Hon'ble Mr. D.K. Agrawal, J.M.</u></p> <p>Sri R.K. Gour, Counsel for the applicant 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 within two weeks thereafter.</p> <p>Issue show cause notice to respondents as to why the interim relief prayed for be not granted.</p> <p>List this case as <u>4.12.1989 for order.</u></p>	<p><i>OR</i> <i>Notice issued</i> <i>27/9/89</i></p>
4.12.89	<p style="text-align: right;">J.M.</p> <p>rrm/</p> <p>Hon. Justice K. Nair, V.C.</p> <p>Hon. G. J. Raman, A.M.</p> <p>Learned counsel for the applicant is present. No one is present for the respondents.</p> <p>List this case for ex parte final hearing on 20.12.89 as the respondents have not filed any counter affidavit so far.</p> <p>We see no reason to grant any interim order. The application for interim relief is rejected.</p>	<p><i>OR</i></p> <p>Notices were issued on 27.9.89.</p> <p>Neither reply nor any unserved reply. Case has been return back so far.</p> <p>Submitted for order on interim relief.</p>

See original order on main petition.

AM.

V.C.

No reply filed. Case is submitted for ex parte hearing.

regularisation. The applicant in the present case however, relies on M.M. dated 30.3.88 and reliance is placed in para 4.3 therein which deals with the adhoc promotions and provides that the claim of Scheduled Caste candidates can be considered in accordance with the guidelines contained in O.M. dated 30.9.83. There is no question of any claim for promotion in the present case. the applicant's services have been terminated on the initial post of C/-T maker.

7. Since no good ground has been shown to challenge the validity of the order of termination the claim for regularisation would not arise. See 1994 SCC(L&S) 1222 Union of India vs. Dr. Arun Kumar Sharma.

8. The relief for quashing of termination order has not been made but the learned counsel submitted that since the applicant is seeking a direction to be issued to the respondents for his reinstatement that by implication would mean that he is seeking the quashing of the order of termination. Even if it be so, we are not satisfied ^{that there was} ~~with~~ any arbitrariness which vitiates the termination order.

9. The O.A. therefore, deserves to be dismissed and accordingly it is dismissed. No order as to costs.

MEMBER(A)

Babak Seno
VICE CHAIRMAN

Lucknow; Dated: 26-9-95

Shakeel/

and others. In this decision the question was with regard to termination of services of an adhoc employee for unsuitability. The communication of the defects and deficiencies in his performance had not been communicated and therefore it was held that the termination was arbitrary. As explained by the Hon'ble Supreme Court in subsequent decisions, this decision was confined to the facts of the said case and lays down no binding principle of law.

3. The third decision is reported in 1988(4) SLJ page 66. This is a single Member decision of Calcutta Bench of the Tribunal. This decision has been cited to support the plea that adhoc appointments cannot continue for long ^{period} ~~days~~. *Bel* This decision does not apply in the present case. Here, the order of applicant's appointment clearly was for specified short durations and by subsequent order issued from time to time, he was re-appointed. There is nothing to show that the applicant's appointment was in any manner in the nature of adhoc appointment. The learned counsel for the applicant cited a decision of Division Bench of this Tribunal in O.A. No. 206/89, 'G.K. Verma vs. Union of India and others'. This case also proceeded on the particular facts therein and no benefit can be derived by the applicant from the said decision. The applicant therein having worked on the post of C/T maker was appointed as L.D.C.. The government instructions contained in O.M. dated 29.3.85 were considered in respect of the claim for

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Bel

5. The learned counsel for the applicant submitted that the order of termination of the applicant dated 1.11.88 is arbitrary and violative of provisions of Article 14, 16 and 311 of the Constitution of India. he further submitted that the order violates the principles of natural justice.

6. The learned counsel for the applicant drew our attention to the notification dated 23.12.80 by which certain rules have been framed with retrospective date from 1.10.79 pursuant to the notification dated 11.12.79 whereby all posts in the canteen and tiffin room run by the government of India were declared the posts in connection with the affairs of the union and incumbents of such posts were declared as holders of civil posts under the Central Government with effect from 1.10.79 vide notification dated 11.12.79. Though the learned counsel has drawn our attention to these rules, but he has not been able to indicate any of the provisions in the said rules ^{viz} ~~that~~ the Departmental canteen employees (Recruitment and Conditions of service) rules, 1980 ~~was~~ ^{ed} having been violated ~~in~~ ^{ed} in passing the orders for termination of the applicant's services. The learned counsel for the applicant cited before us the following decisions:

1. Guru Prasad vs. Union of India and others reported in 1988(4) C.A.T. A.I.S.L.J. , 749. The various circulars considered therein have no bearing the facts and pleas taken in the present O.A. Thus, the applicant cannot derive any support from the said decision.
1. The second decision relied upon by the learned counsel for the applicant is reported in 1989 SC 1431, Dr. Sumati P. Shere vs. Union of India

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some spells. The applicant alleges that he is a member of Scheduled caste. Various orders of appointment issued from time to time have been annexed as Annexures 1 to 9. The appointments were made for one month or till such time his services were regularised whichever is earlier. Thereafter the orders for re-appointment have been issued from time to time, after expiry of earlier period for appointment. The respondents in their counter affidavit have taken ^a ~~the~~ preliminary objection ^{about maintainability} but we ^{of the OA} find that the preliminary objection had been rejected by an order dated 16.9.92 as passed in this O.A.

4. The respondents' further stand in the Counter affidavit is that employees of non statutory tiffin rooms have been declared government servants with effect from 1.10.91 through office memo dated 29.1.91 issued by the department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions in compliance of the judgment passed by the Hon'ble Supreme Court on 11.10.91. In effect the submission is that since the applicant was not an employee of non statutory tiffin room on 1.10.91 ~~and~~ this Tribunal had no jurisdiction in the matter. This preliminary objection, as noted hereinabove had already been rejected. The stand of the respondents is that the applicant was temporarily appointed as Coffee ~~tea~~ maker in the non statutory tiffin room C.B.I. for a period of one month and he was re-appointed from time to time but was not engaged continuously. It has been indicated in the C.A. that the applicant was disengaged from the non statutory tiffin room keeping in view the need of the said tiffin room of C.B.I. Lucknow.

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Bcl

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 26th day Sept. of 1995.

O.A. no. 207 of 1989

HON. MR. JUSTICE B.C. SAKSENA, V.C.

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

Laxman aged about 25 years son of Shri Raja Ram,
resident of Gram Ajgain, District Unnao.

Applicant.

By Advocate Shri R.K. Gaur.

versus

1. union of India through Home Secretary, Ministry of
Home Affairs, New Delhi.

2. The Superintendent of Police, C.B.I./SPE, 7,
Newal Kishore Raod, Lucknow.

Respondents.

By Advocate Shri A.K. Chaturvedi.

O R D E R (RESERVED)

HON. MR. JUSTICE B.C. SAKSENA, V.C.

We have heard the learned counsel for the
parties and have been taken through the respective
pleadings.

2. The applicant through this O.A. seeks a
direction to be issued to the respondents to
reinstae^t him in the cadre of C/T maker in Tiffin
room of Superinfendent of Police C.B.I./S.P.E.,
Lucknow, alongwith a further relief to regularise
him on the said post.

3. The applicant states that he was in service
upto 31.10.88 ^{as} ~~but~~ by an order dated 1.11.88 his
services were termin^{na}~~ed~~ated. He had put in service for
two years one month, with effect from 25.9.86 in

1
Bcl

In the Central Administrative Tribunal,

Allahabad Bench, Lucknow.

Deputy Registrar (11)

Application U/S 19 of Central Administrative
Tribunal Act, 1985.

GA No 207/09 (L)

Laxman

.....Applicant.

Versus

Union of India & others

.....Respondents.

I N D E X

Sl. No.	Description of Documents relied upon	Page Nos.
1.	Application	1 to 8
2.	Annexure A-1	h-32 16
3.	Annexure A-2	h-34 11
4.	Annexure A-3	h-30 12
5.	Annexure A-4	h-29 13
6.	Annexure A-5	h-28 14
7.	Annexure A-6	h-27 15
8.	Annexure A-7	h-26 16
9.	Annexure A-8	h-25 17
10.	Annexure A-9	h-24 18
11.	Annexure A-10	h-23 19
12.	Annexure A-11	h-22 20
13.	Annexure A-12	h-21 21
14.	Annexure A-13	h-20 22 to 23
15.	Annexure A-14	h-18 24 to 28
16.	Annexure A-15	h-17 29 to 31
17.	Annexure A-16	h-16 32
17A. Annexure A-17		h-15 33
18.	Bank Draft	h-14
19.	Vakalatnama	h-13 9

Filed today
 dated 18.8.89
 11/9/89
 BTX

Lucknow:

Dated: 18th Aug., 1989. Signature of the Applicant
 contd....2

For use in Tribunals Office

Date of Filing :

Registration No. 1

Signature for Registrar

(ii) Name of the Father : Shri Raja Ram.

(iii) Designation and Office : Ex C/T Maker,
in which the applicant Office of Central
is employed Bureau of Investiga-
tion, Special police
Establishment under
Ministry of Home
Affairs (Department
of personnel & Train-
ing),

(iv) Office Address: 7, Nawal Kishore Road,
Lucknow.

(v) Address for service : R/O Gram Ajgain,
of all notices P.O. Ajgain, Distt. Unnao.

2) Particulars of Respondents:

Respondent No. 1

(i) Name and/or Designation: Union of India, through
Home Secretary,
Ministry of Home Affairs
New Delhi.

(ii) Office Address : Same as above.

(iii) Address for service : Same as above.
of all notices

contd....2

Respondent No. 2

- (i) Name and/or Designation : Superintendent of
police, C.B.I./S.P.E.
- (ii) Office Address : 7, Nawal Kishore Road,
Lucknow.
- (iii) Address for service of : Same as above.
all notices

3) particulars of the order against which
application is made:

The application is against the following
order:-

- (i) Order No. 273/1988 with reference to Annexure
~~NRxixix~~ NO.A-10.

(ii) Date : 1.11.88

(iii) Passed By : Superintendent of police,
C.B.I./S.P.E., Lucknow.

(iv) Subject in brief:

The applicant was appointed as C/T maker in
C.B.I. Tiffin Room, Lucknow under Ministry of
Department of personnel and Training (Ministry of
Home Affairs) on 25.9.86 (FN) on temporary basis
vide S.P., C.B.I./S.P.E., Lucknow order No. 223/1986

.....Annexure NO.A-1.

The applicant was in service upto 31.10.88
(AN) but suddenly he was terminated/removed from
service vide termination order No. 273/1988 dated
1.11.88.

.....Annexure NO.A-10.

The applicant had served with very good
conduct and work.

.....Annexure NO.A-11.

The applicant was in service for two years
and one month, including continuous service for
contd.....3

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In the Central Administrative Tribunal,

Allahabad Bench, Lucknow.

Between
CA No. 207 of 1999 (L)
Laxman Applicant
Versus

- 1) Union of India, through Home Secretary, Ministry of Home Affairs, New Delhi.
- 2) The Superintendent of police, C.B.I./S.P.E., 7, Nawal Kishore Road, Lucknow.

..... Respondents.

Details of the Application

1) Particulars of the Applicant:-

- (i) Name and age of the applicant : Laxman, aged about 25 Years.
- (ii) Name of the Father : Shri Raja Ram.
- (iii) Designation and Office : Ex G/T Maker, Office of Central Bureau of Investigation, Special Police Establishment under Ministry of Home Affairs (Department of personnel & Training),
in which the applicant is employed
- (iv) Office Address: 7, Nawal Kishore Road, Lucknow.
- (v) Address for service : R/O Gram Ajgain, of all notices P.O. Ajgain, Distt. Unnao.

2) Particulars of Respondents:

Respondent No. 1

- (i) Name and/or Designation: Union of India, through Home Secretary, Ministry of Home Affairs, New Delhi.
- (ii) Office Address : Same as above.
- (iii) Address for service : Same as above. of all notices

contd....2

Respondent No. 2

- (i) Name and/or Designation : Superintendent of
police, C.B.I./S.P.E.
- (ii) Office address : 7, Nawal Kishore Road,
Lucknow.
- (iii) Address for service of : Same as above.
all notices
- 3) Particulars of the order against which
application is made:

The application is against the following
order:-

- (i) Order NO.273/1988 with reference to Annexure
~~NO.273/1988~~ NO.A-10.
- (ii) Date : 1.11.88
- (iii) Passed By : Superintendent of police,
C.B.I./S.P.E., Lucknow.
- (iv) Subject in brief:

The applicant was appointed as C/T maker in
C.B.I. Tiffin Room, Lucknow under Ministry of
Department of personnel and Training (Ministry of
Home Affairs) on 25.9.86 (FN) on temporary basis
vide S.P., C.B.I./S.P.E., Lucknow order No.223/1986

.....Annexure NO.A-1.

The applicant was in service upto 31.10.88
(AN) but suddenly he was terminated/removed from
service vide termination order NO.273/1988 dated
1.11.88.

....Annexure NO.A-10.

The applicant had served with very good
conduct and work.

.....Annexure NO.A-11.

The applicant was in service for two years
and one month, including continuous service for
contd.....3

one year and 3 months i.e. w.e.f. 5.2.87 to 31.10.88 ^(2M) 4-5-88

...Annexure A-4-11

That the applicant is of Scheduled Caste and there ^{are} ~~is~~ Government instructions regarding regularisation of services ^{on priority basis} in which the continuous service is more than one year on temporary basis.

.....Annexure A-12 to 16.

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 Tribunal Act, 1985.

6) Facts of the Case:

The facts of the case are given below:-

(i) That the applicant is of Scheduled caste and was appointed as C/T maker on temporary basis, on 25.9.86 vide S.P., CBI/SPE office order No.223/1986 dated 26.9.86. ...Annexure NO.A-1

(ii) That the applicant was continued in service on 7.11.86 vide SP, CBI/SPE office order No.262/1986 dated 7.12.86. ..Annexure NO.A-2.

(iii) That the applicant was again continued in service on 17.12.86 vide SP, CBI/SPE office order No.290/1986 dated 17.12.86. ...Annexure NO.A-3.

contd.....4

(iv) That the applicant was reappointed on 5.2.87 vide SP, CBI/SPE Office order No.63/1987 dated 20.2.87.Annexure No.A-4.

(v) That the applicant was continued in service ^{from} 10.3.87 vide SP, CBI/SPE Office Order No.115/1987 dated 24.3.87. ...Annexure A-5.

(vi) That the termination order from 4.5.88 (AN) was iss-ued by the Respondent No.2 vide their office order No.143/88 dated 5.5.88 but again appointed from 5.5.88 (FN) vide their Office order No.148/88 dated 5.5.88. Thus there ^{was} ~~were~~ ^{in one day -} ~~no spells~~ of break. ...Annexure No.A-6-7.

(vii) That the applicant was again terminated on 3.8.88 (AN) ~~xxxxx~~ vide office order No.213/88 dated 4.8.88 and reappointed ~~on~~ from 4.8.88 (FN) vide their office order No.218/88 dated 10.8.88. Thus there were ~~also~~ no spells of break.

...Annexure No.A-8,9

(viii) That at last, the applicant was terminated on 1.11.88 (FN) vide SP, CBI/SPE Office order No.273/1988 dated 1.11.88 for ever, without assigning any reason. Thus article 14 and 16 of the Indian Constitution, have been violated by the Respondents. Annexure NO.A-10.

(ix) That the applicant was given an experience certificate for having very good work and conduct in two years and one month of his service.

....Annexure NO.A-11.

contd.....

(x) That the applicant had appeal to S.P., C.B.I./S.P.E., Lucknow (The appointing Authority) for justice, but no action has been taken so far, whereas Articles 309 to 311 of Indian Constitution provides the principles of natural justice in which it is clear that justice is to secure justice or to put it negatively to prevent miscarriage of justice. ...Annexure A-12.

(xi) That the applicant has served two years and one month service including one year and 3 months continuous service and there are Govt. instructions to regularise service of Scheduled caste candidate on priority basis if they have served continuously more than one year on temporary basis/ad-hoc basis.

(xii) That, thus in this manner, the impugned action of the Respondent No.2 is entirely arbitrary and violative of Fundamental rights guaranteed to the applicant under articles 14, 16, 19, 309 to 311 and 335 of Constitution of India.

7) Details of the Remedies Exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc.

(a) Appeal dated 20.12.88, addressed to the Superintendent of police, C.B.I./S.P., Lucknow; but no reply received till now. Annexure No.A-12.

8) Matters not previously filed or pending with any other court:-

The applicant further declares that he had
contd...6

not previously filed any application, Writ petition or suit regarding the matters in respect of which this application has been made, before any court of law or any other authority or any other bench of the Tribunal and nor any such application, Writ petition or suit is pending before any of them.

9) Reliefs Sought:-

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

(a) To direct the respondents to reinstate the applicant in the cadre of C/T maker in Tiffin Room of S.P., CBI/SPE, Lucknow.

(b) To regularise the post of C/T maker under the ~~dire~~ instructions of Government of India, on the following grounds:-

(i) Because the applicant has served two years and one month service, with some spells of break, i.e. w.e.f. 25.9.86 to 31.10.88, including continuous service for one year and ⁴/₃ months w.e.f. 5.2.87 to ~~31.10.88~~ ^{4-5-88 (FM)} ...Annexure A-4 to 11.

(ii) Because the applicant is terminated w.e.f. 1.11.88 (for noon) without assigning any reason whereas he has served with very good work and conduct. ...Annexure A-10 and 11.

(iii) Because the respondent No.2 has violated the principles of natural justice under articles

309 to 311 of the Indian Constitution, whereas there is Supreme Court ruling that justice should not only be done but should manifestly be seen to be done. Justice can never be done if a man acts as a Judge in his own cause or is himself interested in its outcome. This principle applies not only to judicial proceedings but also to quasi-judicial and administrative proceedings. ..Annexure A-11, 12

- (iv) ~~kw~~ Because the applicant is of Scheduled caste and he has claim under Article 335 of Indian Constitution.

Annexure A-17

- (v) Because there are Govt. instructions from time to time to consider the cases of service of more than one year on ad-hoc or temporary or casual basis. ..Annexure No. A-13 to 16.

10. Interim Order:-

As above.

11. The application is presented through counsel.

12. Particulars of Bank Draft in respect of the application fee.

(1) Name of the Bank on which drawn.

SBI, Cantt. Lucknow

(ii) ~~Name of~~ Demand Draft No. OT/A/132 516936

13. List of Enclosures:-

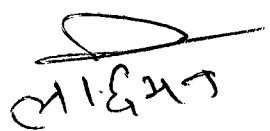
As per Annexures mentioned in Para No. 6 in various paragraphs and in the Index.

V e r i f i c a t i o n

I, Laxman S/O Sri Raja Ram, aged about 25 years, terminated as C/T maker in the office of the SP, CBI/SPE, 7, Nawal Kishore Road, Lucknow at present, Resident of Gram Ajgain, P.O. Ajgain Distt. Unnao, do hereby verify that the contents of para 1 to 13 are true to my personal knowledge and that I have not ^{suppressed} ~~expressed~~ any material fact.

Date: 18th Aug., 1989.

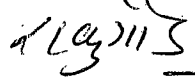
Place: Lucknow.


Signature of the Applicant

To,

The Registrar,
Central Administrative Tribunal,
Allahabad Bench, Lucknow.

through:


(Raj Kumar Gaur)
Advocate
Counsel for the Applicant.

Annexure no 10 19

CENTRAL BUREAU OF INVESTIGATION

Office Order No. 223 /1988.

The Services of Sri Laxman Prasad, Coffee Tea Maker appointed vide office order No. 218/88 are hereby terminated w.e.f. 1.11.88 (F.N.). The order is being issued with the approval of S.P. available on the file.

Supdt. of Police,
CBI: SPE: Lucknow.

Encl. 5592 /40/* /E/CBI/LKO/88 Dt. 1-11-88

Copy for information and necessary action to:-

1. Estt. Clerk-II/CBI/Lucknow.
2. Sri Laxman Prasad. Coffee Tea Maker, CBI, LKO.

Supdt. of Police,
CBI: SPE: Lucknow.

SC

In the Central Administrative Tribunal
Allahabad Bench, known

ब अदालत श्रीमान्
[वादी अपीलान्त]

महोदय

प्रतिवादी [रेस्पाडेन्ट]

Gurish Kumar Sharma - Applicant

का वकालतनामा

Gurish Kumar Sharma



वादी (अपीलान्त)

Union of India & others बनाम

प्रतिवादी (रेस्पाडेन्ट)

न० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री 21/09/2018 अधिवक्ता

वकील

महोदय

एडवोकेट

नाम अदालत नं० मुकद्दमा नं० फरकें

को अपना वकील नियुक्त करके प्रतिज्ञा (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 कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकस्तानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिवांक

महीना

सन् १६

ई०

स्वीकृत

21/9/18 अधिवक्ता

Annexure no/

10

OFFICE ORDER NO. 228 /1986.

Shri Laxman S/o Shri Balu S/o is hereby appointed as
Coffee/Tea maker in CBI Tirunelveli Substation with effect from
25-9-1986 (F.N.) in the pay scale of Rs. 196-3-220-50-3-232/-
for a period of ^{one} month or till such time his services
are required which ever is earlier.

*Certified & Vd-
21/9/86
Sd/-
Adm.*

HEAD. OF POLICE CBI SR
MADRAS.

Order No. 7467 No/1/8/86/CBI/MD. Dated the September, 86.

- 1.
- 2.
- 3.
- 4.

Pay & A.O. CBI ADP, Tirunelveli, May Delhi.
Establishment Clerk-II (in charge).
CBI Tirunelveli Coffee/Tea maker, CBI Laxman.
S/O of Shri Laxman, Coffee/Tea Maker /Tirunelveli, CBI,
MADRAS.

[Signature]
08/9/86
HEAD. OF POLICE CBI SR
MADRAS.

267-1085

Subj. of 102 Loc. 452/2000
102/2000

10-11-1940

1. my 6 wire / substation, New York
2. substation, New York (in enclosed / New York)
3. substation, New York (in enclosed / New York)

9/11/12

Received
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of the

Annexure no 4

229
13

OFFICE ORDER NO. 63 / 1987

19

Shri Lakshmi S/o Shri Raj Ram is hereby appointed as Clerk/Ten Maker in CBI Tiffin Room Lucknow Branch with effect from 5-2-1987 (N.H.) in the pay scale of Rs. 750-940/- for a period of 30 days till the leave period of Shri Arjun Kumar Verma, who is on leave is over.

SUPER. OF POLICE CBI
LUCKNOW.

825 / 10/1/86 / HQ / CBI D. to D. February, 87.
Copy to:-

1. Pay & Accounts Officer, CBI/ACH Building, New Delhi.
2. Establishment Clerk/Accounts Clerk-I/II in duplicate
3. Shri Lakshmi, Clerk/Ten Maker, CBI/Lucknow.

SUPER. OF POLICE CBI
LUCKNOW.

Corrected
22/2/87

Amusements

OFFICE CASH NO. 115 / 1987.

Shri Laxmi Prasad is excluded temporarily
- to the post of A/S Major in C.I. Staff Room, Lucknow
Branch in the scale of B-750-23-14-940/-, plus
other allowances as admissible under the rules W.O.F.
10.3.67 (P.I.) for a period of one month or till the
regular incumbent is available, whichever is earlier.

Supdt. of Police
C.I./S.P./Lucknow.

Endt. No. 1518 / 20/11/86 / C.I./L.N. Dated: 24-3-87

Copy to:-

1. Pay & A.O., C.I./S.H. Building, May for information.
2. Establishment Clerk/Accounts Clerk-II (in duplicate).
3. Shri Laxmi, C/S Maker/C.I./Lucknow.

Supdt. of Police
C.I./S.P./Lucknow.

Ammeuse 106

OFFICE ORDER NO. 143 / 1956.

The Services of Sri Laxman Prasad, C.I. Maker appointed vide office order No. 62/56/ is hereby terminated w.e.f. 4.3.56.

Supdt. of Police, CBI/Secy,
LAC BANGALUR

2420
Inst. No. 103/1/56/101/Law. dt. - 5-3-56

Copy for information and necessary action to :-

1. Accounts Section, S/O I.I. (in duplicate)/CBI/Secy.
2. Sri Laxman Prasad, C.I. No. 103/56/101/Law.
3. File No. 60/1/56/101/Law.

R. Hanumanth
Supdt. of Police, CBI/Secy,
LAC BANGALUR.

841

CONFIDENTIAL

[illegible]

25

1940

- The following is a list of the names of the persons who have been appointed to the various offices of the County of Los Angeles, California, for the year 1900:

5-13-60

Annexure no 8

(27)

(27)

CENTRAL BUREAU OF INVESTIGATION LUCKNOW

OFFICIAL ORDER NO. 213 / 1988

The services of Sri Laxman Pd., C/T Maker appointed
vide O.O. No. 14/88 is hereby terminated w.e.f. 3/8/88 (A.N.)

Supdt. of Police,
CBI/SPS/Lucknow.

610015
Order No. 610015 / 40/1/88/CBI/LKO Dated:- 4/8/88

Copy for information and necessary action to:-

- 1: Accounts Section, A/c-II and E/c-II/CBI/LKO
(in duplicate)
- ✓ 2: Sri Laxman Pd., C/T Maker, C.I. Tiffin Room, Lucknow.
- 3: P/F of Sri Laxman Pd., C/T Maker.

Rathnam
Supdt. of Police,
CBI/SPS/Lucknow.

Annexure no 9

PG

34

CENTRAL BUREAU OF INVESTIGATION

OFFICE ORDER NO. 218/80

Sri Laxman Prasad is appointed purely temporarily on ad-hoc basis to the post of Confec/Tor maker in the pay scale of L.750-940/-with effect from 4/8/88 for a period of 90-days. His services can be terminated at any time without any notice or assigning any reason.

*certified
21/3/11/88
H.A.*

Supdt. of Police,
CBI/SP/Lucknow.

Endt. No. 11225 / 4/1/88/CBI/Lko. Dt. 10/8/88

Copy forwarded for information and necessary action to:-

- 1: Pay & A.O., CBI, New Building, New Delhi.
- 2: Establishment Clerk-r/c-III (in duplicate)/CBI/Lko.
- 3: Sri Laxman Prasad, C/T maker, CBI Tiffin Room, Lko.

*R.H. an
10/8/88*
Supdt. of Police,
CBI/SP/Lucknow.

Annexure No 1/11

20)

EXPERIENCE CERTIFICATE

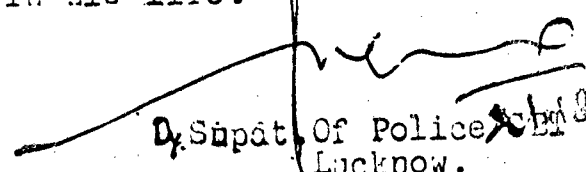
27

It is certified that Sri Lachman was appointed as Coffee/Tea Maker on 24/9/86 (FN) as on an ad-hoc basis with a break after every three months in the pay scale of Rs. 750-940. His services were terminated on 31.10.86

He was sincere and hard worker. His work and conduct was very good. He has worked 2 Years one month and days only.

I wish him success in his life.

Certified
21/11/86
A. S. S. S.



Dy. Supdt. of Police, Lucknow.

34-पुलिस बक्शीरक

Dy-Supdt. of Police,

इ. अ. सुबो, दलन

C. B. I., Lucknow

सेवा में ,

पुलिस अधीक्षक ,

सी० बी० आई० । एस० पी० ई० ,

लखनऊ ।

श्रीमान् ,

साविनय निवेदन है कि प्राथी एक बहुत ही गरीब परिवार का व्यक्ति है । उसके पिता की इतनी आयदनी नहीं है कि घर का मरणा पोषण हो सके । दो वर व एक माह आपके यहाँ काफी । टी मेकर की नौकरी करके प्राथी घर का मरणा पोषण कर रहा था । परन्तु आपने अचानक प्राथी को १-११-८८ को नौकरी से निकाल दिया । अतः अब प्राथी और उसका परिवार भूखे मरने की स्थिति में आ गया है । अतः आपसे प्रार्थना है कि प्राथी को फिर से नौकरी दे दी जाए । जबकि इस विषय में सरकारी आदेश भी है कि एक वर से अधिक होने पर नौकरी रेगुलर की जा सकती है । और अनुसूचित जाति का होने पर प्राथमिकता दी जाती है ।

अतः पुनः प्रार्थना है कि प्राथी को शीघ्र ही नौकरी पर मुला लिया जाए । प्राथी इसके लिए सदा आपका आभारी रहेगा ।

आपका विश्वासपात्र ,

प्राथी ,

01/11/12

दिनांक २०-१२-८८

लखनऊ ।

Certified
21/12/12
[Signature]

No. 39021/5/83-Estt. (B)
 Government of India,
 Ministry of Personnel & Training,
 Administrative Reforms and
 Public Grievances and Pension,
 (Department of Personnel & Training).

.....
 New Delhi, the 9th July, 1985.

OFFICE MEMORANDUM

Sub: - Ad-hoc appointments in Groups A, B, C and D posts -
 need for effective control.

In terms of Regulation 4 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, it shall not be necessary to consult the Commission in regard to Selection for a temporary or officiating appointment to a post if -

- (i) the person appointed is not likely to hold the post for a period of more than one year, and
- (ii) it is necessary in the public interest to make the appointment immediately and a reference to the Commission will cause undue delay.

Provided that -

- (a) such appointment shall be reported to the Commission as soon as it is made,
- (b) if the appointment continues beyond a period of 6 months, a fresh estimate as to the period for which the person appointed is likely to hold the post shall be made and reported to the Commission, and
- (c) if such an estimate indicates that the person appointed is likely to hold the post for a period of more than one year from the date of appointment the Commission shall immediately be consulted in regard to the filling up the post.

2. The provisions in the above Regulation clearly stipulate that consultation of UPSC need not be made only if, at the time when the temporary or officiating appointment is made, the person appointed is not likely to hold the post for a period of more than one year. Obviously, therefore, if the vacancy that has arisen is of such a nature that it is likely to last for more than a year, appointment should not be made except in consultation with UPSC.

...2/-

*Certified as valid
 from Ministry
 21/7/85*

5. The situations in which the ad-hoc appointments are made may be of two types :-

- (a) Where the Recruitment Rules exist for the posts, and
- (b) Where the recruitment Rules for the posts do not exist.

In the cases falling in the first category, in respect of anticipated vacancies on account of factors like superannuation or promotion to the higher rank, the Ministries/Departments concerned should be able to make reference to the Commission at least 4 months prior to the dates on which vacancies are expected to arise. Where recruitment rules are available and an unanticipated vacancy occurs on account of factors like death, resignation or compulsory/voluntary retirement, and the vacancy cannot be allowed to remain unfilled even for a period of 3 to 4 months, then adhoc promotions/appointments can be made by Ministries/Departments, strictly in accordance with the recruitment rules and after observing the procedure for promotion/appointment laid down in the rules, but without consulting UPSC. Simultaneously with such ad-hoc appointment an indent will have to be forwarded to UPSC for regular appointment. It is only then that it can be ensured that ad-hoc appointments are, in fact, ad-hoc in nature, for a purely temporary period, till a regular appointment is advised by UPSC.

*Certified by
UPSC
11/11/79*

6. In so far as the appointments in the second category are concerned, hithertofore a view had been taken in terms of para 10 of the Ministry of Home Affairs O.M. dated 26.12.68* that in the absence of recruitment rules laying down definite mode of recruitment for a post, the normal procedure should be that the post is filled up by competitive selection through the Commission. It has been provided in this O.M. that when for some unavoidable reasons delay is anticipated in finalising the recruitment rules for a post, recruitment for that post should be entrusted to the Commission as soon as the post is sanctioned and it is decided to fill it, to enable the Commission to take necessary action for filling it up by competitive selection. In accordance with this procedure, the absence of recruitment rules the only type of regular appointment made was by open advertisement and selection through the Commission. In the absence of recruitment rules, appointment by promotion or transfer on deputation was not being considered and the posts were continued to be filled on ad-hoc basis and with the delay in finalising the recruitment rules such ad-hoc appointments continued beyond the period of one year. Para 5 of the Ministry of Home Affairs O.M. No.39021/35/78-Estt(B) dated 15/25.11.79 provides that when new posts are created and no recruitment rules have been framed, consultation

/in

* Reproduced on pages 229-231 of Handbook on Recruitment Rules.

24

29

Annexure no 14

LATEST

Govt. Orders on Staff Matters

Copy of O.M. No. 28036/8/87-Estt. (D) dated 30-3-88
from Ministry of Personnel, Public Grievances and Pension
(Deptt. of Personnel & Training)

Sub : Ad-hoc appointment—Revision of Instructions on.

*Copy filed at
from Personnel & Training
21/03/88*

The undersigned is directed to say that instructions have been issued from time to time by the Department of Personnel and Training requesting all Ministries/Departments to fill all posts only in accordance with the prescribed procedure and Recruitment Rules on a regular basis. Consequently, Ministries/Departments are required to ensure that all appointments made on an ad-hoc basis are limited to posts which cannot be kept vacant until regular candidates become available. However, it has been noted that appointments continue to be made on an ad-hoc basis and proposals are being received in this Department for regularisation of these appointments on the grounds that the persons concerned have been working against these posts for a long time. This has led to instances where Courts and Tribunals have directed the Govt. to fix seniority after taking into consideration the period of service rendered on an ad-hoc basis. This unintended benefit of adhoc services has, therefore, been bestowed to a number of persons whose adhoc promotions have been made on the basis of seniority-cum-fitness, even though the Recruitment Rules for the post may have prescribed promotion by selection.

2. In view of the position explained above, it has been decided that the Ministries/Departments may not make any appointment on an ad-hoc basis including appointments by direct recruitment, promotion, transfer on deputation etc. The procedure to be followed in circumstances when ad-hoc appointments are presently frequently being resorted to, is explained below :—

(i) Absence of Recruitment Rules

Ad-hoc appointments are frequently resorted to on the grounds that Recruitment Rules for the post are in the process of being framed. In this Departments

J.C.M. Bulletin

25

O. M. No. 39021/5/83-Estt. (B), dated 9th July, 1985, all Ministries/Departments have been advised that if there are overriding compulsions for filling any Group A or Group B post in the absence of Recruitment Rules, then they may make a reference to the Union Public Service Commission (UPSC) for deciding the mode of recruitment to that post. Further action to fill the post may be taken according to the advice tendered by the UPSC. All such appointments will be treated as regular appointments. In the case of Group C and D posts which are outside the purview of UPSC, powers to frame Recruitment Rules without consulting the Department of Personnel and Training have already been delegated to the Administrative Ministries vide this Deptt.'s O. M. No. CD-14017/10/85-Estt. (RR), dated 21st March, 1985. Therefore, no appointment may be made to any post on an ad-hoc basis on the ground that no Recruitment Rules exist for the same.

(ii) **Revision of Recruitment Rules :**

Ad-hoc appointments are also frequently resorted to on the ground that proposals are under consideration to amend the existing Recruitment Rules. The legal position in this regard is that posts are to be filled as per eligibility conditions prescribed in the rules in force at the time of occurrence of the vacancies unless amended Recruitment Rules are brought into force with retrospective effect. In fact, the practice has been to give effect to amendments in the Recruitment Rules only prospectively, except in rare cases. Hence, regular appointment/promotions may be made in all such cases in accordance with the Recruitment Rules in force at the time when the vacancy arises. No ad-hoc appointments/promotions may be made on the grounds that the Recruitment Rules are being revised or amended.

(iii) **Revision of Seniority List :**

Another reason for making ad-hoc arrangements and delaying regular promotions is that the seniority position of the officer holding the post in the feeder grade is disputed. In all such cases regular DPCs may be held based on the existing seniority list. In case such disputes are pending before a Court/Tribunal, unless there is an injunction/stay order against making regular promotions, the appointing authority may convene the DPC and make promotions on the basis of the existing seniority list. However, while issuing the orders in such cases it should be stipulated that these promotions are provisional and subject to the final decision of the Court/Tribunal. Subsequently, when the directions of the Court/Tribunal become available a review DPC may be held and the necessary adjustments made in the promotions of officers based upon the revised seniority list. In case any of the officers provisionally promoted do not figure in the list approved by the Review DPC they may be reverted to the posts held by them earlier.

(iv) **Shortage in Direct Recruitment Quota**

Ad hoc appointments are also made on the consideration that adequate number of qualified candidates are not available for filling the vacancies through the direct recruitment quota prescribed in the Recruitment Rules. In some cases, even though the required number of candidates are recommended by the Union Public Service Commission/Staff Selection Commission, some of them do not join or they joint to resign thereafter.

August, 1988

26)

According to the instructions contained in this Department's O. M. No. 24012/34/80-Estt. (B), dated 20th Feb 1981, while notifying vacancies to recruiting agencies especially the SSC, the appointing authority is expected to compute the total number of vacancies taking into consideration the likely vacancies during the period beginning from the date of announcement of the examination in question upto the date of announcement of the subsequent examination so that the total number of posts to be kept vacant may be very few.

In spite of this, if some vacancies still remain unfilled the following measures may be adopted :—

- Copy sent to all
from 11/11/83
21/11/83
Adm.*
- a) Wherever feasible, the posts may be allowed to remain vacant until qualified candidates become available at the next examination.
 - b) Wherever the Recruitment Rules for the posts provide alternative methods of recruitment i. e. not only by the direct method but also by transfer on deputation, efforts may be made to fill those vacancies which cannot be held over (until candidates of next examination become available), by the alternative methods, i. e. by transfer on deputation etc.
 - c) However, in cases where direct recruitment is the only method provided in the Recruitment Rules, Ministries/Departments have been advised vide O. M. No. 14017/8/84-Estt. (RR), dated 19th June, 1986, that the Rules may be amended to provide for transfer on deputation as an alternative method to fill short-term vacancies in the direct recruitment quota. In case the rules have not been amended the Ministries/Departments may take steps to do so immediately so that the shortage of qualified candidates against the DR quota, may be met by filling the vacancies through transfer on deputation for short periods.
 - d) Whenever short-term vacancies are caused by the regular incumbents proceedings on leave for 45 days or more, study leave deputation etc, of less than one year duration, they may be filled by officers available on an approved panel. Such a panel may be maintained taking into account not only the actual but also the vacancies anticipated over a period of 12 months in accordance with the existing instructions/holding DPCs. Wherever an officer is not available on an approved panel the post may be kept vacant, as far as possible.
3. If the prescribed instructions and procedures are strictly adhered to, it may be seen that there will be very few cases where appointments need to be made on an ad-hoc basis. Such circumstances may be :—
- i) Where there is an injunction by a Court/Tribunal directing that the post may not be filled on a regular basis and if the final judgement of the Court/Tribunal is not expected early and the post also cannot be kept vacant.
 - ii) Where the DR quota has not been filled and the RRS also do not provide for filling it up on transfer or deputation temporarily and the post cannot also be kept vacant.

- 22)
- iii) In short terms vacancies due to regular incumbents being on leave/deputation etc. and where the posts cannot be filled as per para 2(v), and cannot also be kept vacant.

4. In such exceptional circumstances ad-hoc appointments may be resorted to subject to the following conditions:-

- i) The total period for which the appointment/promotion may be made on an ad-hoc basis, will be limited to one year only. The practice of giving a break periodically and appointing the same person on an ad-hoc basis may not be permitted. In case there are compulsions for extending any ad-hoc appointment/promotion beyond one year, the approval of the Department of Personnel and Training may be sought at least two months in advance before the expiry of the one year period. If the approval of the Deptt. of Personnel & Training to the continuance of the ad-hoc arrangements beyond one year is not received before the expiry of the one year period of the ad-hoc appointment/promotion shall automatically cease on the expiry of the one year term.

- ii) If the appointment proposed to be made on an ad-hoc basis involves the approval of the Appointments Committee of the Cabinet, this may be obtained prior to the appointment/promotion being actually made.

- iii) Where ad-hoc appointment is by promotion of the officer in the feeder grade, it may be done on the basis of seniority-cum-fitness basis even where promotion is by selection method as under :-

- (a) Ad-hoc promotions may be made only after proper screening by the appointing authority of the records of the officer.

- (b) Only those officers who fulfil the eligibility conditions prescribed in the recruitment rules should be considered for ad-hoc appointments. If, however, there are no eligible officers, necessary relaxation should be obtained from the competent authority in exceptional circumstances.

- (c) The claims of Scheduled Caste and Scheduled Tribes in ad-hoc promotions shall be considered in accordance with the guidelines contained in the Department of Personnel & A. R. Office Memorandum No. 36011/14/83-Estt. (SCT), dated 20.4.1983 and 30.9.1983.

- iv) Where ad-hoc appointment by direct recruitment (which as explained above should be very rare) is being done as a last resort, it should be ensured that the persons appointed are those nominated by the employment exchange concerned and they also fulfil the stipulations as to the educational qualifications/experience and the upper age limit prescribed in the Recruitment Rules.

Where the normal procedure for recruitment to a post is through the employment exchange only, there is not justification for resorting to ad-hoc appointment.

August, 1988

- 28)
- W
- v) Where the appointing authority is not the Ministry, the Authority competent to approve adhoc appointments may be decided by the Administrative Ministries themselves. The competent authority so authorised by the Ministry should be one level higher than the appointing authority prescribed for that post.

5. Ad-hoc promotions with respect to officers whose cases are kept in a sealed cover in accordance with O.M. No. 22011/2/86-Estt. (A), dated 12.1.1988, will, however, continue to be governed by these special instructions. Similarly, adhoc promotions of officers belonging to the Central Secretariat Service (CCS) to posts of Under Secretary/Deputy Secretary under the Central Staffing Scheme, will continue to be regulated by special instructions contained in O.M. No. 31/16/82-EO (MM), dated 28.8.1983.

6. All adhoc appointments including adhoc promotions shall be reviewed on the basis of the above guidelines. In exceptional circumstances, wherever such appointments are required to be continued beyond the present term, the decision thereon may be taken by the authority prescribed in para (4) (v). However, it may be noted that the continuance of such adhoc appointments including adhoc promotions will be subject to the over all restrictions of one year from the date of issue of these instructions.

7. All Ministries/Departments are requested to take action in accordance with the above mentioned instructions in respect of both Secretariat as well as non-Secretariat offices under them.

8. The receipt of this O. M. may kindly be acknowledged.

*Certified to be
from full and correct
22/8/83
[Signature]*



iii) *Wages*

- ## Wages

(M)

- (vi) The casual workers may be given one paid weekly off after six days of continuous work.
- (vii) The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly off as mentioned at (vi) above. They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.
- (viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.
- (ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.
- (x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.
- (xi) If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training.

All the administrative Ministries/Departments should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved :

- (a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.
- (b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.
- (c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/Departments :

- (a) Ministry of Railways

2 years

*Certified & Vd
from Personnel
21/9/11
Adm.*

- 318)
- (b) Department of Posts, Department of Telecommunications and 1 year
Department of Defence Production
- (c) All other Ministries/Offices 6 months

Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (proper) and all Attached/Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10th October, 1988.

3. By strict and meticulous observance of the guidelines by all Ministries/Departments, it should be ensured that there is no more engagement of casual workers for attending to work of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which he is being employed to determine whether the work is of casual nature or not.

Annexure No 16

32



GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF HOME AFFAIRS/ GRIH
MANTRALAYA

Department of Personnel and Administrative Reforms
New Delhi, the 11th Dec. 1979

NOTIFICATION

No. 6(2)/23/77—Welfare. It is hereby notified for the information of all concerned that the Government of India have taken a decision to treat, with effect from the 1st day of October, 1979, all posts in the canteens and tiffin rooms run departmentally by the Government of India as posts in connection with the affairs of the Union. Accordingly present and future incumbents of such posts would qualify as holders of civil posts under the Central Government. Necessary rules governing their conditions of service will be framed under proviso to article 309 of the Constitution to have retrospective effect from 1st day of October, 1979.

Sd/-
T. V. RANGARAJAN,
Joint Secretary.

ANNEXURE—IV
[Para 5.3]

No. 6(2)/23/79—Welfare dated the 11th
Dec. 1979.

Copy forwarded for information and necessary
action to

1. All Ministries/Departments of the Govt. of India (as per standard list), Cabinet Secretariat, Lok Sabha Secretariat, Rajya Sabha Secretariat, Union Public Service Commission, Comptroller and Auditor General of India, Controller General of Defence Accounts, New Delhi.
2. Managing Committees of all Canteens/Tiffin Rooms run departmentally in Central Govt. Offices (as per attached list.).

Sd/-
Under Secretary to the Govt. of India.

Annexure No 1

एलग समुदाय /-

संख्या - 2884 / जो सोप / प्रमाण पत्र (1980-81)

कार्यालय जिलाधिकारी, उन्नाव ।
दिनांक 4-1-1981

तत्समोक्त 12-12-80 को आपका दिनांक 12-12-80 के आधार पर प्रमाणित किया जाता है कि श्री-
पुत्र श्री-
जिला उन्नाव आप के अनुसूचित जाति/अनुसूचित जन जाति के
अनुसूचित जाति एवं अनुसूचित जनजाति अधिनियम 1950 के अन्तर्गत मान्यता प्राप्त है ।

जिलाधिकारी, उन्नाव
4-1-82

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH : LUCKNOW

M. P. No. 503/92

O.A. No. 207 of 1989(L)

(18)

Laxman

...

Applicant

Vs.

Union of India & others ...

Respondents

Application for delay condonation
in filing preliminary objection
===

The respondents most respectfully submit as under :-

1. That the respondents could not file the reply/
preliminary objections due to unavoidable
circumstances.
2. That the delay in filing reply/preliminary
objection is bonafide and as such it may kindly
be condoned in the interest of justice.

Therefore it is most respectfully prayed
that this Hon'ble Tribunal may kindly be pleased
to condone the delay in filing reply/preliminary
objection in the above noted case, and the prelimi-
nary objection herewith filed may kindly be taken
on records in the interest of justice.

Dated, Lucknow:
15/11/1991

Asit Kumar Chaturvedi
(Asit Kumar Chaturvedi)
Advocate
Counsel for Respondents

P.T.
29/5/92

BEFORE THE CENTAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

M. P. 504/a2

O.A. No. 207 of 1989 (L)

Laxman

... Applicant

Versus

Union of India & Others

... Respondents

APPLICATION FOR DISMISSAL OF ORIGINAL APPLICATION

The Respondents most respectfully
submit as under :-

That the Original Application is not maintainable against the Opposite Parties arrayed in the Original Application for the reasons indicated in the accompanying Preliminary Objections. The necessary parties to the Original Application have not been arraigned as Opposite Parties; as such also the Original Application is liable to be dismissed.

50

Therefore, it is most respectfully prayed that for the reasons disclosed in the accompanying Preliminary Objections, this Hon'ble Tribunal may be please to dismiss the Original Application as not maintainable in the interest of justice.

Asit Kumar Chaturvedi

Lucknow,

Counsel for the Respondents

Dated 15.11.1991

BEFORE THE CENTAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

9

O.A. No. 207 of 1989 (L)

Laxman

... Applicant

Versus

Union of India & Others

... Respondents

PRELIMINARY OBJECTIONS ON BEHALF OF THE RESPONDENTS

I, Atul, S/o Mr. Vishvendra Nath, presently posted as Superintendent of Police, Central Bureau of Investigation, Special Police Establishment, Lucknow, Respondent No. 2, and as such, fully conversant with the facts and circumstances of the case. The Deponent has read and understood the contents of the Original Application and states hereinafter :-

Atul

...2.

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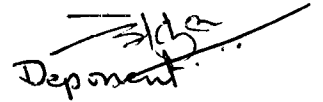
PRELIMINARY OBJECTIONS

1. That the applicant was engaged as Coffee-Tea Maker in the Central Bureau of Investigation Tiffin Room in the Office of the Superintendent of Police, Central Bureau of Investigation, Special Police Establishment, Lucknow. The Engaging Authority of the Applicant as Coffee-Tea Maker is the Managing Committee of the Central Bureau of Investigation Tiffin Room, Lucknow keeping in view the administrative instructions of the Director of Canteens, Department of Personnel and Administrative Reforms, New Delhi.
2. That the service conditions of the staff of the Tiffin Room are governed under the directions of the Director of Canteens, Deptt. of Personnel & Administrative Reforms, New Delhi and Ministry of Personnel and Training, Administrative Reforms and Public Grievances and Pension, Govt. of India. The Staff of the Tiffin Room are not the staff of the Central Bureau of Investigation and as such, the Original Application is not maintainable against the answering Respondents.
3. That the answering Opposite Parties have

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not been arrayed as Respondents in the Original Application, as such, the Original Application is liable to be dismissed as not maintainable.


Deponent

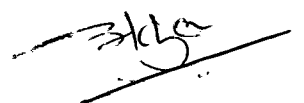
V E R I F I C A T I O N

I, the above named deponent, do hereby verify that the contents of Paras 1 to 3 of the accompanying Preliminary Objections are true and correct to the best of my knowledge. Nothing has been concealed. So held me God.

Sworn and verified on this
.....14th..... day of November 1991.

Lucknow,

Dated 14.11.1991


Deponent

Before the Hon'ble Central Administrative Tribunal
बअदालत श्रीमान Current Bench Lucknow महोदय

वादी (मुद्दै)

मुद्दै (मुदालेह)

का

वकालतनामा

O.A.N. 207 of 89.

Lascman

बनाम

प्रतिवादी रेस्पान्डेन्ट

Union of India & all
नं० मुकद्दमा सन् पेशी की ता०

१९ ई०

Asit Kumar Chaturvedi, Advocate

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Additional Standing Counsel, Central Govt, CAT, Lucknow

Ho. Bashir Building, Pandauria, Lucknow. एडवोकेट महोदय

को अपना वकील नियुक्त करके (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरबी 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 नगरानी 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 कायवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी स्वयं या किसी अपने परोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरबी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

Supdt. of Police
P.B.I. S.P.E.A.C.B.
LUCKNOW.

साक्षी (गवाह)

साक्षी (गवाह)

(Respondent No 2)

दिनांक 12/9/91

महीना

सन् १९ ई०

For B-3.83
D.B. S. 14019-17-2-83

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

M.P. No. 205 of 1992

Union of India & Others

... APPLICANTS/
RESPONDENTS

In Re:

Original Application No. 207 of 1989(L)

Laxman

... APPLICANT

VERSUS

Union of India & Others

... RESPONDENTS

APPLICATION FOR
CONDONATION OF DELAY IN FILING COUNTER REPLY

The Applicants / Respondents most respectfully
beg to submit as under:-

That the Counter Reply could not be filed in
response to the Notice, within the time specified
by this Hon'ble Tribunal due to reasons beyond the
control of the Answering Respondent. The delay is
not deliberate and as such the delay may be
condoned.

Therefore, it is most respectfully prayed that
for the reasons stated above, this Hon'ble Tribunal
may be pleased to condone the delay in filing the
Counter Reply and take the Counter Reply on record
of the Hon'ble Tribunal in the interest of justice.

Asit Kumar Chaturvedi
(ASIT KUMAR CHATURVEDI)
Advocate

COUNSEL FOR THE APPLICANTS/RESPONDENTS

Place : Lucknow
Dated : OCT 1992

F.T.
17/12/93

Placed
before Hon'
Haibh Bench
on the date
fixed
21/12

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

M.P. No. 206 1992

Union of India & Other ... APPLICANTS/
RESPONDENTS

In Re:
Original Application No. 207 of 1989(L)

Laxman ... APPLICANT

VERSUS

Union of India & Others ...RESPONDENTS


APPLICATION FOR
DISMISSAL OF THE ORIGINAL APPLICATION

The Applicants / Respondents most
respectfully beg to submit as under:-

That in view of the facts, reasons and
circumstances stated in the Statement, it is
expedient in the interest of justice that the
Original Application filed by the Applicant
before this Hon'ble Tribunal may be dismissed.

Therefore, it is most respectfully prayed
that this Hon'ble Tribunal may be pleased to
dismiss the Original Application filed by the
Applicant in the interest of justice.

Place : Lucknow
Dated : OCT 1992


(ASIT KUMAR CHATURVEDI)
Advocate
COUNSEL FOR THE APPLICANTS/RESPONDENTS

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

M.P. No. 207 of 1992

(21)

Union of India & Others

... APPLICANTS /
RESPONDENTS

In Re:

ORIGINAL APPLICATION No.207 OF 1989(L)

Laxman

... APPLICANT

VERSUS

Union of India & Others

... RESPONDENTS

APPLICATION FOR
PERMISSION TO FILE OBJECTIONS TO
THE BRIEF FACTS
LEADING TO THE APPLICATION DATED 14TH AUGUST 1992
RECEIVED ON 16TH SEPTEMBER 1992

The Applicants / Respondents most
respectfully beg to submit as under:-

That keeping in view the Brief Facts
Leading to the Application, it is necessary
that the Respondents should file Objections to
the same.

Therefore, it is requested that this
Hon'ble Tribunal may be graciously pleased to
permit the Respondents to file Objections to
the Brief Facts leading to the Application,
and take the same on record in the interest of
justice.

Asit Kumar Chaturvedi

Place : Lucknow

(ASIT KUMAR CHATURVEDI)

Dated : OCT 1992

Advocate

COUNSEL FOR THE APPLICANTS/RESPONDENTS

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

ORIGINAL APPLICATION No.207 OF 1989(L)

(24)

Laxman

... APPLICANT

VERSUS

Union of India & Others

... RESPONDENTS

OBJECTION TO THE BRIEF FACTS
LEADING TO THE APPLICATION DATED 14TH AUGUST 1992
RECEIVED ON 16TH SEPTEMBER 1992

I, Atul, aged about 39 years, S/o Shri Vishvendranath R/o 7, Naval Kishore Road, Lucknow, states as under:-

1. That the Deponent is presently working as Superintendent of Police, Central Bureau of Investigation, Lucknow, Respondent No. 2, and is fully competent to file Counter Reply on behalf of Respondent No. 1, as such, is fully conversant with the facts and circumstances of the Case. The Deponent has read and understood the contents of the Brief Facts leading to the Application dated 14th August 1992 received on 16th September 1992 and states hereinafter.

...2.

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(59)

2. That the contents of Paragraph 1 of the Brief facts leading to the Application are denied. The Original Application is not maintainable as the employees of non-statutory Tiffin Rooms have been declared to be Government employees w.e.f. 01st October 1991. As such, prior to that, they were not Government Servants.
3. That the contents of Paragraphs 2, 3, 4 & 5 of the Brief facts leading to the Application are denied. In fact, the Superintendent of Posice, Central Bureau of Investigation, has signed the letters in the capacity of the Chairman, Managing Committee, Tiffin Room in the Office of the Central Bureau of Investigation, Lucknow Branch.
4. That in reply to the contents of Paragraph 6 of the Brief facts leading to the Application, it is stated that the employees of non-statutory Tiffin Rooms have been declared to be Government Servants w.e.f. 01st October 1991 through Office Memorandum No. 29th January 1992 issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India, in compliance of the Hon'ble Supreme Court Order dated 11th October 1991. The
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Applicant cannot raise any dispute before this Hon'ble Tribunal in regard to the issues related prior to 01st October 1991. However, the Applicant was not an employee of the non-statutory Tiffin Room on 01st October 1991. As such, also this Hon'ble Tribunal has no jurisdiction in the matter.

Place : Lucknow

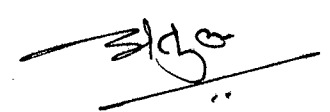
Dated : 29 OCT 1992


DEPONENT

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

I, the Deponent above named, verify that the contents of Paragraphs 1 to 4 above are true and correct to my knowledge derived from information and records and those of the legal paras are based on legal advice received, which is believed by me to be true and correct.

Verified this, the 29th day of October 1992, at Lucknow.


DEPONENT

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

(6)

ORIGINAL APPLICATION No.207 OF 1989(L)

Laxman

... APPLICANT

VERSUS

Union of India & Others

... RESPONDENTS

COUNTER REPLY
ON BEHALF OF THE RESPONDENTS

I, Atul, aged about 39 years, S/o Shri Vishvendranath R/o 7, Naval Kishore Road, Lucknow, states as under:-

1. That the Deponent is presently working as Superintendent of Police, Central Bureau of Investigation, Lucknow, Respondent No. 2, and is fully competent to file Counter Reply on behalf of Respondent No. 1, as such, is fully conversant with the facts and circumstances of the Case. The Deponent has read and understood the contents of the Original Application under reply and states hereinafter.
2. That the contents of Paragraph 1 of the Original Application are denied.

...2.

3/10/90

3.

That in reply to the contents of Paragraph 2 of the Original Application it is stated that the Applicant has not impleaded the Chairman, Managing Committee, Tiffin Room of Central Bureau of Investigation, Lucknow as Respondent in the above Original Application whereas the fact is that the Competent Authority for the post of Coffee/Tea Maker in the Tiffin Room, is the Chairman, Managing Committee, Tiffin Room, Central Bureau of Investigation, Lucknow. The Central Bureau of Investigation is governed by the Ministry of Personnel, Public Grievances and Pensions and NOT the Ministry of Home Affairs. As such, the concerned Ministry of the Government of India has not been impleaded as Respondents in the above Original Application. As such, the Original Application is not maintainable on the ground of non-joinder of necessary parties. The Applicant has impleaded unnecessary parties, as such also, the Original Application is not maintainable on account of mis-joinder of parties.

4.

That in reply to the contents of Paragraph 3 of the Original Application it is stated that the Tiffin Room of Central Bureau of Investigation, Lucknow is a Type "A" Tiffin Room.

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As such, only three employees can be appointed i.e. one each on the post of Counter Clerk/Sales Man, Tea-Coffee Maker and Wash Boy/Dish Cleaner. One Shri Panni Ram is working as Counter Clerk, Shri Hari Ram is working as Tea-Coffee Maker and Shri Raj Mohan is working as Wash Boy. As such, no post is vacant in the Tiffin Room of the Central Bureau of Investigation, Lucknow. The Ministry of Personnel, Public Grievances and Pensions has treated the employees of the non-statutory tiffin rooms as Government Servants w.e.f. 01st October 1991, in compliance of the Hon'ble Supreme Court of India Judgement delivered on 11th October 1991 in Writ Petition No. 6189-7044 and 8246-55 - C.K. Jha & Others Vs. Union of India & Others; and P.N. Sharma & Others Vs. Union of India & Others through Office Memorandum No. 12/5/91-Dir)C) dated 29th January 1992. A copy of the Office Memorandum dated 29th January 1992 is being annexed as ANNEXURE No.C-1 to this Counter Reply. As such, prior to 01st October 1991, the employees of the non-statutory Tiffin Rooms were not Government Employees. No Notification was issued under Section 14(2) of the Administrative Tribunal Act in regard to non-statutory Tiffin Room.

3/10

5. That the contents of Paragraph 4 of the Original Application are denied. This Hon'ble Tribunal has no jurisdiction in regard to employees of non-statutory Tiffin Rooms, in regard to the issues prior to 01st October 1991.
6. That the contents of Paragraph 5 of the Original Application need no comments.
7. That in reply to the contents of Paragraph 6(i) of the Original Application it is stated that the Applicant was temporarily appointed as Coffee-Tea Maker on 25th September 1986 in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow for a period of one month.
8. That the contents of Paragraph 6(ii) of the Original Application are denied. The Applicant was reappointed on temporary basis as Tea-Coffee Maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow for a period of one month. The Applicant was not engaged continuously.

13

9. That the contents of Paragraph 6(iii) of the Original Application are denied. The Applicant was again reappointed for a period of one month as Coffee-Tea maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow. The Applicant has not worked continuously.
10. That in reply to the contents of Paragraph 6(IV) of the Original Application it is stated the Applicant was appointed w.e.f. 05th February 1987 for a period of 30 days as Coffee-Tea Maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow.
11. That in reply to the contents of Paragraph 6(v) of the Original Application it is stated that the Applicant was appointed temporarily as Coffee-Tea Maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow Branch, w.e.f. 10th March 1987 for a period of one month.
12. That in reply to the contents of Paragraph 6(vi) of the Original Application it is stated that the Applicant's services were terminated w.e.f. 04th May 1988. The Applicant was

...6.

13

reappointed for a period of ninety days as Coffee-Tea Maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow.

13. That in reply to the contents of Paragraph 6(vii) of the Original Application it is stated that the Applicant's services were again terminated w.e.f. 03rd August 1988. The Applicant was reappointed w.e.f. 05th August 1988, for period of ninety days as Coffee-Tea Maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow.

14. That the contents of Paragraph 6(viii) of the Original Application are denied. It is stated that the Applicant's services were terminated w.e.f. 01.11.1988 (forenoon) from the post of Coffee-Tea Maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow. The Applicant was appointed on a purely temporary basis. The Applicant's services were terminated as there was no need for the Applicant to continue on the post of Coffee-Tea Maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow.

3/10

15. That in reply to the contents of Paragraph 6(ix) of the Original Application it is stated that the Applicant was engaged on temporary basis for a period of one month or 30 days or 90 days, as per the requirements of the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow.

16. That in reply to the contents of Paragraph 6(x) of the Original Application it is stated that the Applicant's services were not required since 01.11.1988 as there was no need for the Applicant's engagement in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow keeping in view the strength laid down for Type "A" Tiffin Rooms. The Applicant was engaged as and when his services were required in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow.

17. That the contents of Paragraph 6(xi) of the Original Application are denied. The Applicant was engaged as Tea-Coffee Maker in the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow from 25th September 1986 to 31st October 1988 with frequent gaps keeping in view the need of the

...8.

3/3a

non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow. Whenever the Applicant was engaged, an Order was issued. The Applicant was fully aware that the Applicants services were purely temporary and it will only continue till the non-statutory Tiffin Room was in need of the Applicant's engagement.

18. That the contents of Paragraph 6(xii) of the Original Application are denied. The disengagement of the Applicant as Coffee-Tea Maker from the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow was done keeping in view the need of the non-statutory Tiffin Room of the Central Bureau of Investigation, Lucknow.

19. That the contents of Paragraphs 7 & 8 of the Original application need no reply.

20. That the contents of Paragraph 9 of the Original Application are denied. The Applicant is not entitled for any relief on the grounds stated therein as well as the facts stated hereinabove.

18

19

21. That the contents of Paragraphs 10, 11, 12 & 13 of the Original Application need no comments.

Place : Lucknow.


Dated : 29 OCT 1992


DEPONENT

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

I, the Deponent above named, verify that the contents of Paragraphs 1 to 21 above are true and correct to my knowledge derived from information and records and those of the legal paras are based on legal advice received, which is believed by me to be true and correct.

Verified this, the 29 day of October, 1992, at Lucknow.


DEPONENT

Before The Hon'ble Central Administrative Tribunal New

CA No. 207/91

Laxman

Applicant

Union of India and others

Respondents

Annexure C-1

No.12/5/91-Dir(C)

Government of India

Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Trg)

New Delhi,

Dated: 29/1/92

OFFICE MEMORANDUM

SUBJECT: Implementation of Supreme Court judgement in case of Non-Statutory Departmental/Cooperative canteen employees located in the Central Government Offices - Matter regarding.

The undersigned is directed to say that the Ministries are aware that a section of the canteen/tiffin room employees had filed Writ Petitions before the Hon'ble Supreme Court of India seeking parity with the Central Government employees (PT(C) Nos. 6189-7044) and in compliance with the interim order of the Hon'ble Supreme Court dated 26.9.1983 the employees of the non-statutory Departmental canteens/cooperative canteens located in Central Government offices are being paid at the same rate and on par with the Central Government employees of equal status. The instructions contained in this Ministry's letter No.3/2/8/83-Dir(C) dated 3rd November, 1983 refers. The revised pay rules after the implementation of the Fourth Pay Commission report were also made applicable to the employees of these canteens w.e.f. 1.1.1986 vide this Ministry's letter No.3/2/10/86-Dir(C) dated 24th November, 1986.

2. The Hon'ble Supreme Court of India in their judgement delivered on 11.10.1991 in the Writ Petition No.6189-7044 and 8246-55 - C.K. Jha and others and P.N. Sharma and others have since passed the final orders. The relevant para with regard to confirmation of the interim order of Hon'ble Supreme Court as well as granting of further benefits to the canteen/tiffin room employees is re-produced below:

"BY AN INTERIM ORDER DATED 26.9.1983 CERTAIN RELIEFS HAD BEEN GRANTED. IN RESPECT OF THE RELIEFS ALREADY GRANTED THIS ORDER SHALL BE DEEMED TO BE OPERATIVE FROM THAT DATE. IN CASE ANY FURTHER BENEFITS ARE ADMISSIBLE THOSE WILL BE ADMISSIBLE FROM 1.10.1991."

3. Consequent upon the said judgement of the Hon'ble Supreme Court, it has been decided that the employees of the Non-statutory Departmental/Cooperative canteens/Tiffin rooms located in Central Government Offices should be treated as Government servants w.e.f. 1.10.1991. The employees of these canteens may, therefore, be extended all benefits as are available to other Central Government employees of comparable

... P.T.

TC
Dr. Chatterjee
AS

from prepare:

status from 1.10.1991 except GPF, Pension and Group Insurance Scheme in respect of which a separate communication will follow. (41)

/tiffin
rooms

//and
register-
ed with
us,

4. These instructions may be implemented with due care and scrutiny in consultation with the Internal Finance of your Ministry. Due care may be taken so that the benefits of these instructions are granted only to the employees of non-statutory Departmental/Cooperative canteens located in Central Government Offices to whom the subsidy/loan is being granted by your Ministry. As the pay and allowances of the employees of these Canteens who will be treated as Central Government servants w.e.f. 1.10.1991 will be borne by the Administration the practice of granting a subsidy to meet 70% of the wage bill of the staff of these canteens and the grant of interest free loan to meet 30% balance thereof stands dis-continued from 1.10.1991.

5. The expenditure on payment of 'Pay and Allowances' to the employees of Canteens is to be booked under a new sub-head 'Departmental Canteens' below minor head "Other Expenditure" under the major head of account to which the revenue expenditure of the related Ministry/Department is ordinarily debited, and exhibited as such in the Detailed Demands for Grants. This expenditure has to be absorbed from within the ceilings of non-plan expenditure approved by the Ministry of Finance. In this regard, a copy of Ministry of Finance (Budget Div) O.M.No.F.2 (26)-B(CDN)/92 dated 24.1.92 is enclosed.

6. This issues with the concurrence of Ministry of Finance (Budget Division) vide their No.2(26)-B(CDN)/92 dated 28.1.92, MHA Finance under their No.S-8/92-Fin.I dated 29.1.92 and Department of Legal Affairs, Ministry of Law and Justice vide their No.5673/91 of 18.12.1991.

7. All the Ministries etc. are requested to implement these orders with immediate effect so as to avoid any contempt proceedings.

8. Please acknowledge receipt.


(R.C. RICHHARIYA)
DIRECTOR(CANTEENS)

TO

1. All Ministries/Departments of the Govt. of India (as per standard list).
2. All Registered Canteens/Tiffin Rooms (as per list attached).
3. Ministry of Finance(Deptt. of Expenditure).
4. Home Finance Division.
5. Director of Audit, Central Revenue, New Delhi.
6. Controller General of Accounts, New Delhi.
7. C.G.D.A. R.K. Puram, New Delhi.
8. A.O(Canteens) - with 500 spare copies.

T.C
Ad Chatterjee
A2

IN the Hon'ble Central Administrative Tribunal,

Lucknow Bench Lucknow.

Original application No.207 of 1989(L).

Misc. Applications - 5/1993

Laxman

..... Applicant.

Versus

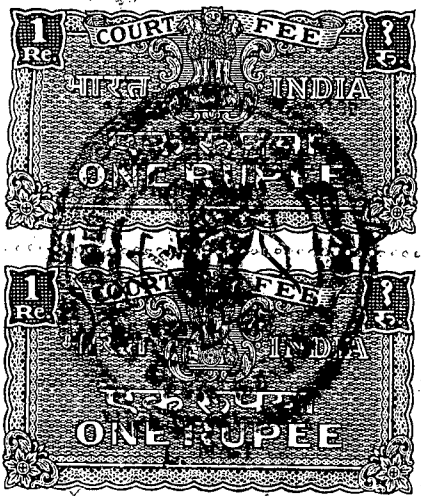
Union of India and others

..... Respondents.

Brief facts leading to the application

The applicant most respectfully begs to submit as under

1. That the application for condonation of delay in filing counter reply by the respondent, may not kindly be condoned in the interest of justice as the delay is deliberate and no specified reason is given whereas this Hon'ble Tribunal had passed order four years back, for submitting counter affidavit. Therefore, the deliberate delay may not be condoned, if this Hon'ble tribunal is pleased in the interest of justice.
2. That the application for dismissal of the original application, ^{by the respondent} is on false-grounds and circumstances stated in their statement. There is a maxim that if delay is in justice, justice is denied and the respondent wants decision in his favour after submitting counter affidavit on lapse of four years. Therefore the application for dismissal of the original application may kindly be dismissed and original application of the applicant may kindly be allowed in the interest of justice.



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

REJOINDER AFFIDAVIT
IN

ORIGINAL APPLICATION NO. 207 of 1989(L)

Laxman

..... Applicant.

Versus

Union of India and others

.... Respondent.

Affidavit of Laxman aged about 28 years, son of Shri
Raja Ram, R/o Gram Ajgain Post Ajgain District Unnao, ~~xx~~

.....


Deponent.

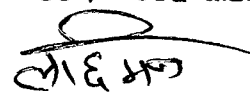
I, the deponent named above do hereby solemnly
affirm and state on oath as under:-

1. That the deponent is the applicant in the above noted
case and as such is fully acquainted with the facts
of the case deposed to below.

2. That the counter, ^{affidavit} filed by ~~xxx~~ Sri Atul S.P. (C.B.I.)
Lucknow has been read over, translated and explained to
the deponent and he has understood the contents thereof
and now is in a position to reply the same by means of
rejoinder affidavit.

3. That the contents of para 1 as alleged are wrong,
incorrect and hence are denied. In reply it is submitted
that the deponent was working as coffee / tea maker in the





canteen of S.P. (CBI), it is wrong statement and misleading to the court that only three employee can be appointed at the Tiffin^{room, which}, has already been upgreaded to 'D' type canteen w .ef. 1.6.87 vide Director of Canteen New Delhi letter No.22/2/87-C)/DD dated 16.7.87 . It is true that Shri Panni Ram is working as counter clerk and Shri Raj Mohan is working as ~~washer~~ wash boy , but it is again misleading to the court that Sri Hari Ram is working as Coffee/tea maker . Still the post of coffee/tea maker is vacant, after termination of the applicant. Mr. Hari Ram is working as bearer w.e.f. 8.5.92 vide S.P. (CBI) Lucknow office order No.115/92. Secondly the canteen employees are Government Servant w.e.f. 1.10.79 vide Government Notification No. of Department of personnel and administrative Reform New Delhi dated 23.12.1980. The ~~reference~~ judgement only indicate the further benefit, which are admissible to those only ^{Deport Servant have also} who, ~~is the~~ entitled the benefits w.e.f. 1.10.1991. Thus ^{by the defendant} again it is being tried, to mislead the Hon'ble tribunal.

4. That the contents of para 2 to 4 as alleged are incorrect wrong, ~~incorrect~~ and hence are denied. In reply , it is submitted that the deponent was serving as coffee /tea maker and was terminated without assigning any reason on arbitrary basis.

5. That the contents of para 5 as alleged are wrong

to 12 (except 6)

7/18/21



3.

incorrect and hence are denied. In reply, it is submitted that it is wrong and misleading that he was government servant from 1.10.1991^{ad} instead of 1.10.1979^{ad}. There is clear notification of Ministry of Personnel Administrative Reforms New Delhi dated 23.12.1980 vide G.S.R.54 that he was government servant w.e.f. 1.10.1979.

6. That the contents of paras 6 of the counter affidavit need no reply.

7. That the contents of para 13 and 14 as alleged are wrong ~~xxxx~~ in correct and hence are denied. In reply, it is submitted that the deponent was reappointed w.e.f. 4.8.88, not from 5.8.88, and there is also no ^{specified} reason for termination of deponent.

8. That the contents of para 15, 16, 17 and 18 as alleged are wrong, incorrect and hence are denied. In reply, it is submitted that the deponent was terminated without assigning any reason whereas ~~xxxx~~ a certificate ~~for~~ good conduct and work was issued to him. He ~~was~~ also a schedule caste candidate but this fact was not considered at the time of terminating him, without any specified reason.

9. That the contents of para 19 of the counter affidavit need no reply.

10. That the contents of para 20 as alleged ~~are wrong~~
1/8/45



incorrect and hence are denied. In reply, it is submitted that the deponent is entitled for ^{reinstatement in service, 2} ~~release~~ in the interest of justice.

Thus the deponent further reaffirms that the contents of para 1 to 13⁹ of this original application are based on real facts and ^{on} the principles laid down in the several judgements of Supreme and High courts.

11. That the contents of para 21 of the counter affidavit needs no reply, and it is submitted that the impugned termination order of the administration is absolutely arbitrary and malafide.

The deponent solemnly submits that the application is liable to be allowed and the respondents may be directed to ~~the state~~ ^{re} reinstate the applicant to the post of Coffee/Tea maker, with retrospective effect i.e. 25.9.86 with full pay and allowances.

I, the deponent named above do hereby swear and declare that the contents of paras 1 to 11 of this rejoinder affidavit, are true to my personal knowledge and no part of it is false and nothing material has been concealed therein..

So help me God.



[Signature]
21.9.87

Deponent.

I, R.K.Gaur, Advocate, do hereby declare that the person making the affidavit and alleging himself to be Mr. Laxman is known to me from the papers produced by him, before me in the present case and I am satisfied that he is the same person.

[Signature]
Advocate.

Solemnly affirmed before me on this 22 day of September 1993 *at 12 35 pm* by the deponent that who is identified by the aforesaid Advocate.

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



[Signature]
Oath Commissioner.

H. K. SHARMA
Advocate
OATH COMMISSIONER
High Court Allahabad,
Lucknow Bench Lucknow.
No. C.N.A.
Date.... 22-9-93

2.

3. That the application for permission to file objections to the brief facts leading to the application dated 14th August 1992 ~~xxxx~~ received on 16 September 1992 and objection to the brief facts leading to the application dated 14th August 1992 received on 16th September 1992 by the respondent, is misleading to the court whereas the objection by the respondent have already been filed in the Hon'ble court and ~~are~~ ^{was} rejected by this Hon'ble court. Now they are again filing this objection only for delaying justice, ~~Therefore, xxxxxxxxxxxx~~

Relief or Prayer —

IT is therefore prayed that this Hon'ble court may kindly be pleased to allow the original application of the ~~applicant~~ ^{applicant} and the application ~~for~~ ^{for} permission to file objection, may kindly be dismissed in the interest of justice and the respondent may pleased be warned for delaying justice, *in the interest of justice.*

Place: Lucknow

Dated : September , 1993

(Raj Kumar Gaur)
Advocate

Counsel for the applicant.

Central Administrative Tribunal

Lucknow Bench

Date of Filing

29.8.95

Date of Receipt by Post

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW.

Dy. Registrar (J)

Application No. 1648 of 1995

in:

O.A. No. 207/89.

Place before the

Hon'ble Bench

for orders on

Dy. Registrar

Laxman

..... Applicant.

Versus

Union of India and others

..... Opp. parties.

APPLICATION FOR RESTORATION

Hon'ble Vice Chairman and companion Members.

undersigned

The undersigned begs to submit as under:-

1. That the above referred O.A.No.207/89 was fixed for final hearing on 28.8.95 and there was practice in the court that final hearing cases were being heard after lunch hours.
2. That on 28.8.95 the case was heard before lunch and the undersigned could not attend the above case due to misimpression that the case is to be heard after lunch, the undersigned was also suffering from heart trouble therefore, he could not verify the actual position of the case on 28.8.95.

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Date of Receipt by Post
(10)

2.

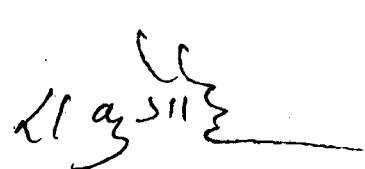
3. That when the undersigned came to the court after lunch hours to attend the above case, he was told by the reader that the case has already been heard before lunch and the above case is dismissed in default.

4. That if the above case is not restored in the interest of justice the applicant will suffer an irreparable loss.

Wherefore, it is most respectfully prayed
pleased-
that the above case may ~~kindly~~ be restored to its
original number in the interest of justice.

Lucknow

Dated: 29.8.95


Counsel for the applicant.

(1055)

In the Central Administrative Tribunal, Circuit Bench,

Lucknow.

O.A. No. 207 of 1989

Expediate Application.

M.P. 2395/94

Place before the
Hon'ble
for order

U.C.
Taxman

..... Applicant.

Versus

By Registrar

Union of India and others Respondent.

Without date.

Sir,

As the above case is pending since long time
i.e. about five years and is still without date and
the applicant facing financial hardship due to
termination from the service . The date of the case
may kindly be ^{phase} ~~kindly~~ ^{fixed} ~~pleased~~ at the earliest , in the interest
of justice.

Lucknow

Dated: 25-11-94

(Raj Kumar Gaur) Adv.
Counsel for the
applicant.

M.P. 2395/94
Applicant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW.

(82)

O.A.No.207 of 1989.

Laxman

..... Applicant.

Versus

Union of India and others

..... Respondents.

Take notice that the court will be moved by
the undersigned on 25-11-1994 at 10 a.m. in afternoon
and the parties as their counsels can be heard.

The object of this motion is carefully indicated
by the counsel for the applicant.

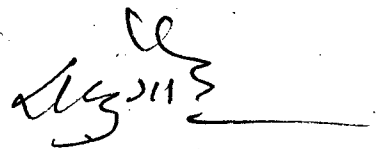
A copy of the Misc.application is enclosed herewith.

Take further notice that while this court has
been pleased to pass the order, dated this the

25-11-1994.

Lucknow

Dated: 25-11-94



(Raj Kumar Gaur)

Advocate

Counsel for the applicant.

In the Central Administrative Tribunal, Circuit Bench,
Lucknow.

O.A.No.207 of 1989.

Misc. Application No. of 1994.

Laxman Applicant.

Versus

Union of India and others Respondents.

The applicant most respectfully begs to submit
as under:-

1. That the Ban on creation of posts has been withdrawn vide Ministry of Finance Department of Expenditure No. 7/(12)-E-Coord/94 dated 29.3.1994.

Annexure No. MA-1.

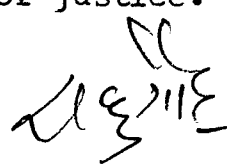
2. That the application may ~~xxx~~ please be considered by this Hon'ble court with considering the above annexure and the application be admitted, in the interest of justice.

RELIEF OR PRAYER.

It is therefore prayed that this Hon'ble court may kindly be pleased to allow the original application along with this Misc. application and the applicant be re-instituted, in the interest of justice.

Lucknow

Dated: 25-11-94


Counsel for the applicant.


Applicant

(84)

No. 7(12)-E. Coord/94
Government of India
Ministry of Finance
Deptt. of Expenditure

New Delhi, the 29th March,
1994.

OFFICE MEMORANDUM

Sub:- Economy in the administrative expenditure of Govt.
- Ban on creation of posts.

The undersigned is directed to refer to this Ministry O.M. No. 7(1)-E. Coord./84 dated 20.6.1984 as amended from time to time including O.M. No. 10(4)-E. Coord/85 and O.M. No. 7(7)-E. Coord./93 dated 3.5.1993 on the subject indicated above and to state that the powers given to Ministries/Departments to create 'Plan' posts in Groups 'B', 'C' and 'D' (including non-Scientific 'plan' posts under the Department of Science & Technology) are hereby withdrawn. The above mentioned O.Ms. dated 8th June, 1988 and 3.5.93 will stand modified to the extent indicated above with immediate effect.

2. All Ministries/Departments are requested to ensure implementation of the above decision.

3. Hindi version is enclosed.

Sd/-
(D. SWARUP)
JOINT SECY. TO THE GOVT. OF INDIA.

To

All Ministries/Departments of the Govt. of India.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

(8)

O.A.NO. 297/89

Laxman

Applicant

-Vs-

Union Of India

Respondents

28.8.95

Hon'ble Mr. V.K. Seth -A.M.

Hon'ble Mr. D.C. Varma -J.M.



For applicant :- None

For Respondents :- Sri A.K. Chaturvedi

July 95
This is a old case of 1989 the last occasion on 16.4.95 learned counsel for the applicant has sought time to prepare the case. Today no body has put in appearance on behalf of the applicant nor there is any application for adjournment in the circumstances we dismiss this O.A. for default of the applicant.

Sd/
J.M.

Sd/
A.M.

प्रमाणित प्रति

प्रभारी न्यायिक अनुभाग
केन्द्रीय प्रशासनिक अधिकरण
लखनऊ न्यायपीठ, लखनऊ

2