

Annexure - A  
CAT- 82  
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW  
\*\*\*\*\*

INDEX - SHEET

CAUSE TITLE 202/89 (C) OF 198

Name of the Parties M. A. Siddiqui

Versus

Union of India

Part A, B and C

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Check

94/6/2011

P.T.C.

Certified that no further action is required to take and that the case is fit for assignment for assignment to the concerned room (D)

Legy

26/12/11

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 208 of 1989(L)

APPLICANT(S) mehboob Ali Siddiqui

RESPONDENT(S) union of India women

16/8/89

A-1  
1

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? 2 sets have been filed.
3. a) Is the appeal in time? yes  
b) If not, by how many days it is beyond time? NA  
c) Has sufficient case for not making the application in time, been filed? yes
4. Is the document of authorisation/ Vakalatnama been filed? yes
5. Is the application accompanied by B.D. 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 two copies of the documents/referred 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? NA

A-1  
2

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	yes
12. Are extra copies of the application with Annexures filed ?	NO
a) Identical with the Original ?	yes
b) Defective ?	NA
c) Wanting in Annexures	NA
Nos. _____ pages Nos _____ ?	
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	NA
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 ?	
18. Have the particulars for interim order prayed for indicated with reasons ?	NO
19. Whether all the remedies have been exhausted.	yes

dinesh/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 208 of 1989 (L)

APPELLANT  
APPLICANT

Mehboob Ali Siddiqui

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
<u>23.8.89</u>	<p><u>Hon'ble Mr. D.K. Agrawal, J.M.</u></p> <p>Shri S.B. Misra appears as 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, if any, within two weeks thereafter.</p> <p>List this case on <u>17-10-1989</u> for <u>orders/hearing</u> as the case may be.</p> <p>rm/</p> <p>S/- J.M.</p>	

Original  
order on  
the main  
Petition

Applicant  
Mehboob Ali Siddiqui  
For M.A. Siddiqui  
Rev. 10/5/89

Dr. V.K. Chaudhary  
basis notices on beh-  
alf of the O.P. No. 1 to 3.  
No reply filed  
Submitted to  
order.

h  
16/5

13.3.90

Shri Justice K. Nallu. VC  
Shri Mr. K. J. Ramon AM

On the request of both the parties the case is adjourned to 20.3.90 for hearing

Q

AM

VC

20.3.1990

Hon. Mr. D.K. Agrawal, J.M.,  
Hon. Mr. K. Obayya, A.M.

On the request of the learned counsel for the applicant, the case is adjourned to 3.9.1990.

AM

J.M.

J.M.

sd.

23/5/90

Hon. Mr. B.C. Mathur, V.C.,  
Hon. Mr. D.K. Agrawal J.M.

OR  
Cm 223/90 (4)  
for early hearing  
by the VC for the  
applicant -  
9/11

Shri S.B. Mishra, for the applicant and Shri V.K. Choudhary for the opposite parties are present.

Heard, the learned counsel for the parties.

Judgement on 25/5/90.

OR  
Cm 2  
As directed by the Hon'ble VC, case is submitted for hearing on 23-5-90.

Date was fixed as 3-9-90.

12/5/90

sd

J.M.

Baran V.C

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,

CIRCUIT BENCH

LUCKNOW

O.A.No. 208 of 1989(L)

Date of decision: May 25, 1990.

Mahboob Ali Siddiqui

...Applicant.

versus

Union of India & ors.

...Respondents.

Mr. S.B. Mishra  
Mr. V.K. Choudhury

Counsel for the Applicant.  
Counsel for the Respondents.

CORAM

Hon. Mr. B.C. Mathur, Vice Chairman.

Hon. Mr. D.K. Agrawal, Judl. Member.

(Judgment of the Bench delivered by Hon. Mr. D.K. Agrawal, Judl. Member).

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed against the order of transfer dated 11.5.89 whereby the applicant has been transferred from the post of Sub-Post Master, Kunda to the post of Assistant Post Master, Pratapgarh Head Office and the order of rejection of his representation against the order of transfer by opposite party No. 3 on 13.7.89, communicated to the applicant on 18.7.89.

2. The impugned orders of transfer as well as the order rejecting the representation have been termed as arbitrary and malafide. The facts are that the applicant was transferred from Pratapgarh to Kunda on his own request in April, 1987. There was a complaint against him. Therefore, he was transferred by order dated 11.5.89 to Pratapgarh. His representation was duly considered by Director, Postal Services, Allahabad. In the first instance, the Director was of the opinion that the transfer can be cancelled but on re-consideration of the matter, he came to the conclusion that transfer order should not be cancelled and as such his representation was rejected.

*Dr. Agrawal*  
25.5.90.

3. The sole ground for assailing the order of transfer is that the applicant has not been allowed to complete four years tenure at Kunda. The rule of 4 years tenure at a particular station is not mandatory in nature. It is merely directory. As disclosed in para 2 of the Counter Affidavit, the applicant has already stayed at Kunda for about 6½ years during the total tenure of 14 years of service. The applicant belongs to a village near Kunda. Pratapgarh is also quite close to Kunda. The distance from Pratapgarh to Kunda is hardly about 60 Kms. The Department has passed the impugned order of transfer on the ground that there was a complaint against the applicant. It is obligatory on the part of the Departmental authority to keep a clean image of the Department. Therefore, in our opinion, the transfer, which is most innocuous order in the circumstances, cannot be treated as arbitrary or malafide. In fact, transfer is a necessary incident of service. There is no allegation of malice against the Director, Postal Services, Allahabad who had considered the case of the applicant and rejected his representation. The transfer orders, in the circumstances of the case, in our opinion, appear to have been passed in public interest. The jurisdiction of the Tribunal to interfere with the order of the transfer has been limited in view of the recent decisions of the Hon. Supreme Court. Therefore, this application is dismissed without any order as to costs.

*J.K. Aggarwal*  
25.5.90  
JUDL.MEMBER.

*D.C. Mathur*  
25.5.90  
VICE CHAIRMAN

Dated: May 25, 1990.

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1

Deputy Registrar(J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD  
CIRCUIT BENCH, LUCKNOW.

O.A. NO. 208 (L) OF 1989

BETWEEN

Mehboob Ali Siddiqui ... Applicant.

AND,

Union of India & 2 Others .... Respondents.

I N D E X

Sl. No.	Particulars	Pages	
		From	To.
1.	Application	1	- 7
2.	Annexure-I	8	
3.	Annexure-II	9	
4.	Annexure-III	10	
5.	Annexure-IV	11	
6.	Annexure-V	12	
7.	Annexure-VI	13	
8.	Postal Order	14	
9.	Power of Counsel	15	

Dated: 14.8.1989.

Lucknow.

*S. B. Mishra*  
( S.B. MISHRA ) 16/8/89  
ADVOCATE,  
COUNSEL FOR THE APPLICANT.

Filed today  
Shailendra Mishra  
16/8/89. Adv.  
Noted for 23/8/89  
S. B. Mishra - Adv.  
16/8/89.



①  
A-23  
2

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

C.A.NO. 208 (L) OF 1989

BETWEEN:

Mehboob Ali Siddiqui ... Applicant.

AND

Union of India, through the Secretary, Tele-communication  
(Postal), Parliament Street, New Delhi and  
two others. ... Respondents.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNALS ACT, 1985.

1. Particulars of the applicant :-
  - (i) Mehboob Ali Siddiqui;
  - (ii) Son of Abetul Razzak;
  - (iii) Assistant Post Master, Pratapgarh, Head Office.
  - (iv) Assistant Post Master, Pratapgarh, Head Office.
  - (v) Resident of village: Sheikhpur, P.O. Bhadri, Pargana & Tehsil- Kunda, District- Pratapgarh.
2. Particulars of the respondents:-
  - (i) Union of India, through the Secretary, Tele-Communication(Postal), Parliament Street, New Delhi.
  - (ii) Senior Superintendent of Post Offices, Pratapgarh Division, Pratapgarh.
  - (iii) Director of Postal Services, Allahabad Region, Allahabad.
3. The application is against the following orders:-
  - (i) The order contained in Memo No. B.CORR-9/88 dated Pratapgarh, the 11.5.1989, passed by the Senior Superintendent of Post Offices, Pratapgarh Division by which the applicant has been posted as A.P.M., Pratapgarh

②  
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/3

-2-

Headquarters, from his earlier post of S.P.M., Kanda, District Pratapgarh.

(ii) Order dated 13.7.89 contained in the letter No.S.T.A./5-121/89/1 dated 13.7.89 passed by the respondent No.3, Director, Postal Services, Allahabad, and communicated to the applicant by the respondent No.2, namely, the senior Superintendent of Post Offices, Pratapgarh Division vide his Memo. No. B/CORR-9/89 dated Pratapgarh 18.7.89, by which the respondent No.3 rejected the representation of the applicant against his above said transfer order and did not accede to the request of the applicant.

(iii) Subject in brief:-

The applicant is making this application for the cancellation of his transfer order dated 11.5.89 by which he was transferred from the post of S.P.M. Kunda to the post of Assistant Post Master, Pratapgarh Head Office, and the order of rejection of his representation against this transfer by the respondent No.3 on 13.7.89 vide the Memo No. B/CORR-9/89 dated Pratapgarh, 18.7.89 communicated to the applicant by the respondent No.2, both the orders being arbitrary, malafide, unjust, improper and ~~invalid~~ invalid.

4. The applicant declares that the subject matter of the orders against which he wants redressal having accrued at Pratapgarh, Avadh, is within the jurisdiction of this Hon'ble Tribunal.

5. The applicant further declares that the application is within the limitation prescribed under the administrative Tribunals Act, 1985.

③

A-3  
4

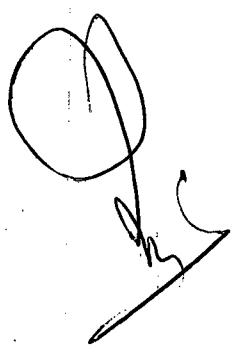
-3-

6. The facts of the case are given below:-
- (i) The applicant entered the P&T department as a Postal Clerk on 31.5.1960 and was promoted to Lower Selection grade in the scale of Rs. 425-Rs. 680 now revised to Rs. 1600- Rs. 2300 and initially posted as S.P.M., Garhi-Manikpur, District Pratapgarh( Annexure-I). As a result of rotational transfer, the applicant was posted to Pratapgarh Head Office, by the respondent No.2, under his Memo dated 31.1.1987 in compliance of which he joined at Pratapgarh Head Office on 4.3.1987.
  - (ii) The applicant, due to his unavoidable family circumstances applied and requested the respondent No.2 to post him to Kunda, L.S.G. Sub Post Office(Pratapgarh) at his own request and cost.
  - (iii) The respondent No.2 acceded to the above request and transferred the applicant to Kunda Sub Post Office vide his Memo dated 14.4.87 ( Annexure-II) where he joined on 20.4.87 after foregoing his transit and travelling expenses alongwith a monthly House Rent Allowance of Rs. 220/- admissible and paid at Pratapgarh Head Office. This H.R.A. is not admissible at Kunda because of the provision of residential accommodation there.
  - (iv) The respondent No.2 disturbed the above said arrangement by re-transferring the applicant from Kunda Sub Post Office, to Pratapgarh H.O. under Memo dated 11.5.89 (Annexure-III ).
  - (v) The applicant made a representation against the order (Annexure-III) to the Appellate Authority, namely, the respondent No.3, by means of a representation(Annexure-IV) so as to exhaust an alternative remedy.

④  
A/S

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- (vi) The said Appellate Authority, Respondent No.3, interviewed the applicant and informed him that his transfer order dated 11.5.89 had been cancelled by his Memo No. S.T.A./5/121/89/I dated 23.5.89(Annexure-V) and he had been posted at Kunda, where he should continue.
- (vii) The applicant then met the respondent No.2 for his revised order to continue at Kunda because he had been relieved of the charge of the office and the new incumbent had taken charge of the seat. However, the respondent No.2 told the applicant that he would not be allowed to join at Kunda Sub Post Office again because he had already spent large period of his service at Bhadri, at Garhi-Manikpur, and at Kunda Sub Post Offices and that there were complaints against him about which a report was being made to the respondent No.3.
- (viii) The applicant was also informed that he would be punished and a report would be made to the respondent No.3 to recall his order dated 23.5.89 on malicious ground of his remaining at Bhadri or Kunda Sub Post Offices or at other neighbouring offices near his home town. This supposed plea was malafide and motivated since there is no bar that the applicant or any other Government servant holding identical post could not be kept at offices near his home town.
- ~~(ix)~~  
(ix) The respondent No.2 has charge-sheeted the applicant with malafide intention to punish him and to ruin his future career, otherwise the applicant has a bright career of thirty years of dedicated and satisfactory service.



5  
A-3  
6

-5-

- (x) On receipt of some adverse report made by the respondent No.2, the appellate Authority, namely, the respondent No.3, altered his order dated 23.5.89 (Annexure-V) and rejected the representation (Annexure-IV) which action was again unjust, malafide and harrasive. The changed order dated 13.7.89 is Annexure-VI.
- (xi) The applicant, after putting in thirty years of good service to the department is being victimised and unnecessarily harassed by the respondent Nos. 2 and 3 without considering his family circumstances and inconveniences.
- (xii) The respondents have not exercised their administrative powers and discretion properly while making unjudicious, arbitrary and malafide orders against the principles of natural justice; hence the orders are liable to be quashed.

7. Reliefs Sought :-

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

- (a) The order of transfer dated 11.5.89 (Annexure-III) posting the applicant to Pratapgarh Head Office before completion of his tenure of four years, be quashed..
- (b) The order dated 13.7.89 passed by the respondent No.3 on the representation of the applicant against his above transfer be also quashed and the applicant be posted back at Kunda Sub Post Office as Sub Post Master (L.S.G.)
- (c) The costs of this application be awarded to the applicant against the respondents.

8. No interim order is prayed for at the present.

6

A-3  
7

-6-

9. The applicant declares that he has availed of all the remedies available to him under the relevant service rules by making a representation before the respondent No.3 against the order of his transfer above said and upon the decision of his representation against the transfer, this application is being filed.
10. The applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other authority or any other Bench of this Hon'ble Tribunal.
11. The application fee of Rs. 50/- is being paid through a Postal Order No. DD/5/667448 issued by the Pratapgarh Head Office on 9.8.89 and payable at the G.P.O., Lucknow.
12. An index in duplicate containing the details of the documents to be relied upon is enclosed.
13. List of enclosures:-
  - (i) Memo dated Pratapgarh 7.12.82 issued by the respondent No.2 promoting the applicant as S.P.M. and posting him at Garhimanikpur Sub Post Office.
  - (ii) Memo dated 14.4.87 issued by the respondent No.2 posting the applicant from the post of A.P.M. Pratapgarh H.O. to be S.P.M. Kunda Sub Post Office, Pratapgarh at his own request and cost.
  - (iii) Memo dated 11.5.89 issued by the respondent No.2 transferring him from the post of S.P.M., Kunda to the post of A.P.M. Pratapgarh H.O. on his request and cost.
  - (iv) Representation of the applicant dated 15.5.89 against his above said transfer order.
  - (v) Order dated 23.5.89 passed by the respondent No.3 upon the above representation of the applicant cancelling his above said transfer order.

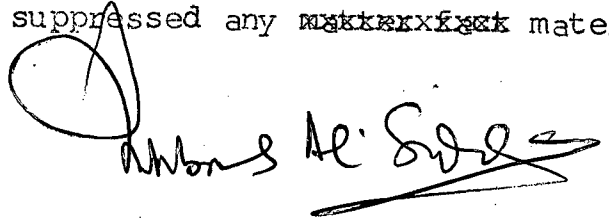
7  
8/3/89

-7-

(vi) Order dated 13.7.89 passed by the respondent No.3 rejecting the representation of the applicant against his above said transfer order.

IN VERIFICATION

I, Mehboob Ali Siddiqui, S/o Abetul Razzak, aged about 51 years, working as A.P.M. Pratapgarh H.O. and resident of village- Sheikhpur, P.O. Bhadri, Pargana & Tehsil- Kunda, District- Pratapgarh do hereby verify that the contents of paragraphs 1 to 13 above are true to my personal knowledge and belief and that I have not suppressed any ~~material fact~~ material fact.

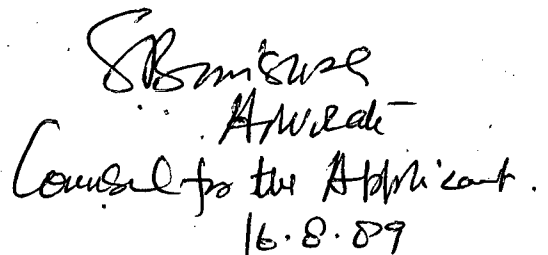


Dated: 14.8.89.

( MEHBOOB ALI SIDDIQUI )

Lucknow.

APPLICANT.

  
Counsel for the Applicant.  
16.8.89

Annexure I

Annexure-1

8

BHARTIYA

DAK-TAR

VIBHAG.

OFFICE OF THE SUPDT. OF POST OFFICES  
PRATAPGARH DN.230001.

Memo.No.B.Corr-4/LSG/Ch.VI. Dtd. at PTB., the 7-12-1982.

Subject:- Transfers & postings in the LSG. Cadre.

In pursuance of the P.M.G. U.P. Lucknow Memo. No.STA/12-XA/LSG/Y3rd/79/80/7 dated 7-11-82, the following transfers and postings are hereby ordered with immediate effect:-

✓ 1- Shri M.A. Siddiqui P.A. Bhadri is promoted to LSG. and posted as SPM. Garhimanikpur against vacant post.

2- Shri Nisha Kant Srivastava, P.A. PTB.HO. on deputation to the office of DPS Allahabad as UDC. is promoted to LSG. and posted as SPM. Garwara against newly sanctioned post.

3- Shri Ram Sanehi LSG.Postal Asstt. PTB.HO. to be SPM Kishunganj at his own request and cost vice Shri Jagdish Prasad Srivastava retired on 30-11-82.

The officials at Sl. 1 & 2 are appointed to officiate in LSG cadre purely on temporary basis. This promotion will not bestow upon them the right of confirmation and continuity on the promoted post and is subject to revision on the result of the decision of writ petition KMP No.169/80 pending before the Supreme Court.

Charge report should be submitted.

*S. S. S.*  
Supdt. of Post Offices,  
Pratapgarh Dn.230001.

Copy to:-

- ✓ 1-3. The officials concerned.  
4-6. P/Fs. of the officials.  
7. The Postmaster, Pratapgarh H.O. for information. He will please relieve the official at sl. no. 3 at once on office arrangement for his new assignment.  
8. The Director Postal Services, Allahabad Region, Allahabad.  
9-11. The S.P.Ms. Garhi Manikpur, Garwara & Kishunganj, Pratapgarh for information.  
12-13. Spare.



Annexure 2

Annexure-2  
A-4  
2

GOVERNMENT OF INDIA  
DEPARTMENT OF POSTS

% The Sr.Suptt.of Post Offices  
Pratapgarh Division-230001.

Memo No:- B.Corr-4/LSG/IV Dated at Pratapgarh, the, 14.4.1987

In pursuance of DPS Lucknow Region, Lucknow  
Memo No.RDL/STN/X-S/Ch.I/1 dt.9.4.87, the following orders  
are issued with immediate effect:-

1.Shri Ram Dular SPM, Kunda, Pratapgarh to be  
SPM Rajendra Nagar, Lucknow.

2.Shri M.A. Siddiqui APM, Pratapgarh H.O. to be  
SPM Kunda Pratapgarh at his request and cost vice No.1.

The arrangement of APM Pratapgarh H.O. vice  
Shri M.A.Siddiqui will be issued in due course.

Charge report should be submitted.

*Munari*  
Sr.Suptt.of Post Offices  
Pratapgarh Dn. 230001.

Copy to:-

1-2:-The Officials concerned.

3-4:-P/Fs of the officials.

5:- The Sr.Postmaster, Pratapgarh. He will please  
relieve the official on office arrangement.

6:- The Sr.Suptt.of Post Offices, Lucknow.

7:- DPS, Lucknow, Region, Lucknow.

8:- The Sr.Postmaster, Lucknow Chowk.

9-10:-Office copy/Spare.

# Annexure 3

10  
A-4  
3

The Sp. Supdt. of Post Office  
Part 104

Not-B.Corr-9/88 Dtd. at Pr. Nagarh, the, 11.5.89

The following transfer of posts has been ordered with immediate effect:-

1. Name & Designation of official 2. Post as posted as.

3. 4.

1. Ram Raj Singh APM PTB HO	SPM Raniganj	Vice No.2
2. Shao Pd. SPM Raniganj	APM PTB HO	Vice No.1
3. Davi Pd. Tripathi APM PTB HO	SPM Kunda	Vice No.4 Req. etc
4. M.A. Siddiqui SPM Kunda	APM PTB HO	Vice No.3
5. Vijai Pratap Singh PA Bhadri	PA Kunda	On request & Cost
6. Sita Ram LSG PA Kunda	SPM Bhadri	Vice No.8 On request & cost
7. Ram Sumar Yadav PA G.M. Pur	PA Kunda	Vice No.7 -do-
8. Babulal II PA Kunda	PA G.M. Pur	Vice No.10 -do-
9. Lalla Prasad PA Sangramgarh	PA Babaganj	Vice No.9 -do-
10. T.B.L. Srivastava SPM Babaganj	PA Sangramgarh	Vice No.10 -do-
11. Rajendra Pd. Pandey SPM Derwa	SPM Babaganj	On request & cost
12. Jiya Lal Yadav PA Babaganj	PA Derwa	-do-
13. Kripa Shaker Ojha PA PTB HO	PA Sangipur	Vice No.15 -do-
14. Shrinath Yadav SPM Sangipur	SPM Athoha	Vice No.16 -do-
15. Jagdish Pd. Srivastava PA Athoha	PA Lalganj	Vice No.17
16. Raj Kumar Dwivedi PA Lalganj	SPM Laxmanpur	Vice No.13
17. Guru Pd. Singh SPM Laxmanpur	PA Pratappgarh H.O.	Vice No.19
18. Ram Sawak Tiwari PA Kaithola	PA Pratappgarh H.O.	Vice No.18 -do-
19. Ganga Pd. Lal PA PTB HO	PA Kaithola	Vice No.21
20. K.M. Sharma DA DO PTB	PA Mandhata	Vice No.20
21. Ram Kishore PA Mandhata	PA PTB HO	Vice No.23
22. Ram Garib LSG PA PTB HO	SPM Babaganj	Vice No.22
23. Darkat Ali SPM Babaganj	PA PTB HO	Own request & cost
24. L.V.K. Singh SPM M.C. Ganj	PA PTB HO	-do- vice No.27
25. Ram Sumar P.A. PTB HO	PA Madhoganj	-do- vice No.28
26. Faiyaz Ali SPM Sitlaganj	SPM Dilippur	Vice No.29
27. Uday Pal Singh SPM Dilippur	SPM Jamtali	Vice No.30
28. B.N. Pd. Mishra SPM Jamtali	PA PTB HO	Vice No.31
29. Molai Kurmi PA PTB HO	PA Patti	Vice No.26
30. Mohd. Amin PA Patti	PA Madhoganj	-do- Vice No.33
31. B.B. Lal Srivastava PA Madhoganj	SPM Sitlaganj	-do- Vice No.34
32. Shiv Kumar Upadya PA PTB HO	PA Amargarh	Vice No.35
33. Sukkhu PA Amargarh	PA Patti	Vice No.37
34. Ram Lakhan Mishra PA Patti	PA Madhoganj	Vice No.36
35. Baburam Gupta PA Madhoganj	PA PTB HO	Vice No.38
36. Dhaya Lal Sharma PA PTB HO	PA Gaura RS	Vice No.39
37. T.N. Mishra PA Gaura RS	PA PTB HO	Vice No.40
38. Anand Kumar Sukla PA PTB HO	Signaller Madhoganj	Vice No.41
39. C.J. Dubey Signaller Madhoganj	PA PTB HO	-do- Vice No.42
40. Daya Shaker Mishra Signaller	Signaller Raniganj	Vice No.43
41. Asharam Mishra Signaller Raniganj	Signaller Gaura RS	Vice No.44
42. Rajnath LSG PA PTB HO	SPM Station Road	Vice No.45
43. Ram Prasad SPM Station Road	PA PTB HO	Vice No.46

P.T.O.---2

Annexure 4

Annexure-4

(11)

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4

To

The Director,  
Postal Services,  
Allahabad. 211001.

Through Proper Channel.

Sub.: Modification of transfer order.

Sir,

Most respectfully I beg to say that I was working L.S.G. Sub Post Master Kunda, Pratapgarh w.e.f. 20.4.87, Sir, I was posted at Kunda S.O. in 1987 at my own request and cost on sympathetic grounds continued illness of my wife. During my stay at Kunda since last 2 years, 3 inspections of the office viz. 2 by S.S. Post, Pratapgarh and one by Director Vigilance, Lucknow were conducted and my work was always found to be satisfactory. Inspite this S.S. Post Pratapgarh has transferred me at Pratapgarh and posted one Sri Devi Prasad Tripathi to Kunda who is most Junior and was posted to Pratapgarh last year in 1988. Copy of the S.S. Post Pratapgarh Memo No.B car 9/9p.DV dt.11.5.89 is enclosed herewith to prove the facts the unjustification and exparte decision. My transfer is not on administrative grounds or on interest of service It is only to harass me and ruining my future career. Neither I have completed my tennure at Kunda so.

It is, therefore, requested that transfer order of S.S. Post Pratapgarh may very kindly be got cancelled and I be ordered to be retained at Kunda as usual.

I shall ever remain grateful to you.

Yours faithfully,

( M.A. Siddiqui )  
Sub Post Master L.S.G.,  
Kunda Pratapgarh.  
(on leave)

Dated: 15.5.1989.

Annexure 5 Annexure-5

12  
A-4  
/5

From: Office of Director of  
Postal Services,  
U.P. Eastern Region,  
Allahabad-211001.

Govt. of India  
Department of Posts.

TO,

The S.S. Posts,  
Pratapgarh Division. 230001

NO. STA/5/121/89/I

Dated 23.5.89

It has been brought to the notice of Chief P.M.G.  
Lucknow that Sri M.A. Siddiqui, SPM, Kunda, Pratapgarh,  
has been transferred without his completion of tenure  
at his station. The official is stated to have been  
transferred from Pratapgarh H.O. to Kunda on 14.4.87  
at his own request and cost.

Such transfers are required to be ordered only in  
accordance with the rules and on the subject.

The matter may be looked into and the transfer of the  
official be cancelled to avoid extra expenditure and  
inconvenience to the official.

Sd/- (P.R. Kumar)  
Director Postal Services,  
Allahabad.

Dated: 23.5.89



Annexure 6

Annexure-6

13

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6

Copy of DPS Allahabad letter No. 371/5-12/89/1 dt. 13.7.89 addressed to this office.

Subject: - Representation of Shri M.A. Siddiqui against his transfer.

Ref:- Your letter No. B/Corr-9/89 dt. 1.6.89

I am directed to inform you that orders issued by this office letters No. even dt. 23.5.89 are cancelled. The representation of the official Shri M.A. Siddiqui considered and his request for cancellation of orders is not acceded to.

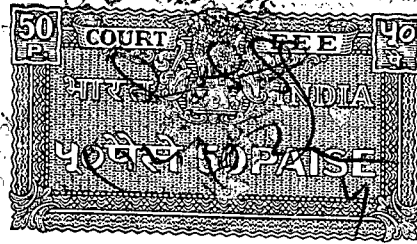
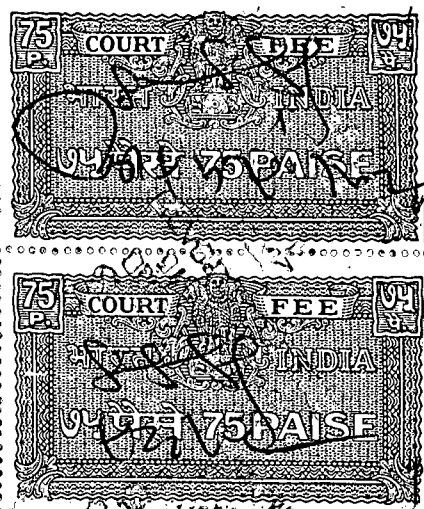
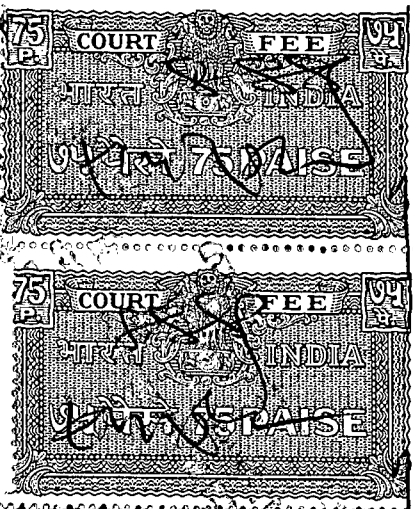
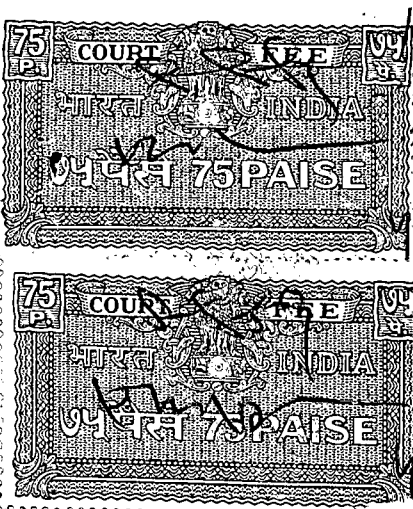
Sd/  
For DPS Allahabad

Not:- E/Corr-9/89 Dated at Pratapgarh, 18.7.89

Copy to:-

1. Shri M.A. Siddiqui IAS Pratapgarh SO for information.

On Recd  
Sr. Supervisor Post Office  
Pratapgarh Dist. 230001.



Before the Central Administrative Tribunal  
Circuit Bench, Ahmedabad  
Gandhinagar

O. A. No. — (L) of 1989

अदालत

Malibhai Ali Siddiqui Appiah मुद्दे

The Union of India & others - Respondents

मनकि

दावा तहरीर

मुद्दाअलेह

चूंकि मिनमुकिर ने वास्ते सवाल जबाब मजकूर वकील हाईकोर्ट को इकरार अदाय से हनताना व तसफियां खुदहा वकील को अपना मुकरर किया है। लिहाजा इकरार करते हैं। कि वकील साहब मौसूफ जो कुछ पैरवी कोशिश सवाल का जबाब तहरीर य दस्तावेजात दाखिल करे सालिश व मुकरर करे व फैसला सालसी इजरात दाखिल करें य वापिस लेवें या इकरारनामा सालिश दाखिल करे व मुकदमा मजकूर वाला में सुलहनामा रें रुकह सुलह करें बसते सुदूर डिगरी व खर्चा उजरात कुकी नीलामी व दीगर रकम आफतान हमारा वसूली करें। या कोर्टफीस दाखिल करें व ख्वाह सवाल रसीद वसूलयाबी दाखिल करें। व तदक व दरखास्त नकल हासिल करें व दरखास्त मुवाइना मिसिल देवें या मिसिल का मुआइना वरें या कोई दरखास्त मुतालिका मुकदमा गुजरने था बवक्त जरूरी व कोई दूसरा वकील मुकरर करें या चिक लेवे या इसका रुपया वसूल करें। अर्जीदावा व बयान तहरीर व अपील दाखिल करें व सब दास्ता वकील मौसूफ का मिसल खास अपने को मन्जूर है। लिहाजा यह चन्द कलम तौर वकालतनामा लिख दिया कि सनद रहे और बक्त पर काम आवे।

Address: Rai Bahadur  
Road  
Ahmednagar-7  
Tel. Phone: 73859

अलमरकूम

माह

Accepted  
S. B. Singh  
16/8/89  
S. B. Singh  
16/8/89

वकालतनामा मन्जूर है।  
अलन्द

A-6  
1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW

D.A. No. 208(L) of 1989

CM. An. No. 223/90

Mahboob Ali Siddiqui ..... Applicant.

versus

The Union of India ..... Respondants.  
& Others.

Filed on 3.9.1990 for hearing

The applicant, above named, begs to submit as  
under :-

1. That the above case, in which the transfer order of the applicant from one post office to the another is under challenge, was last fixed for hearing, at the bottom of the cause list, on 20.3.1990 and finding this position the applicant requested this Hon'ble Tribunal to put off the case to some short date.

2. That ignoring the above request of the applicant this Tribunal adjourned the above case to 3.9.1990 ( a date after about six months) for hearing.

3. That the ~~present~~ transfer orders of the applicant as also other persons of his cadre are to be made during this month and the applicant shall greatly suffer if his case is not decided within the shortest possible time.

F. T.  
S. T.  
6/4/90  
Put up on  
11/4/90  
29/4/90

S. B. Singh  
Adv.

..2/-

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(2)

4. That the above case shall be rendered infructuous if it is not decided by the next week.

WHEREFORE it is most respectfully prayed that the date fixed, i.e. 3.9.1990 for hearing be pre-poned to some date in the week commencing 9.4.1990 after recalling the order dated 20.3.1990.

Lucknow, Dated :

April 5, 1990.

  
( S.B. MISHRA ) 574  
Advocate  
Counsel for the Applicant.



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3

Before the Central Administrative Tribunal  
Circuit Bench Lucknow  
O.A. No. 208 of 89(L)

Mehboob Ali Siddique

..... Applicant

-vs-

Union of India and others

..... Respondents

Application for taking the counter affidavit on record

The opp. parties beg to submit as under:-

1. That in the above mentioned case the counter affidavit could not be filed with in time.
2. That the counter affidavit of the opp. parties is ready and they are filing the same today which may be taken on record in the interest of justice.

PRAYER

It is therefore most humbly requested that the accompanying counter affidavit may very kindly be taken on record and the case may be heard and decided on merit ~~and~~ after considering the counter affidavit.

(V K Chaudhari)

Addl Standing counsel for central  
govt. counsel for the respondents.

Lucknow

Dated:

19.12.89

89

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

O.A No. 208 of 89(L)

Mehboob Ali Siddique

... Applicant

-vs-

Union of India and others

... Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS.

I, J.R. Kamal, aged about 58 years,  
son of Lali Chaudhi e. Ram  
at present posted as Senior Supdt of Post Offices  
Pratapgarh do hereby solemnly affirm and  
state as under:-

1. That the deponent is working as  
Sr. Supdt of Post Offices, Pratapgarh and he has  
been authorised to file this counter affidavit  
on behalf of Respondents. He has read the  
application and has understood the contents  
thereof and is fully conversant with the facts  
stated in the application and he is in a  
position to give parawise comments as herein-  
under:-

2. That before giving parawise comments on the  
application it is pertinent to give brief

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history of the case as detailed below:

(a) That the applicant was posted in the following post offices last 13 years, which is nearest from his actual residence and he worked most of the period of his service in nearer post offices from his residence except Pratapgarh H.O. Jethwara SC and Garhi Manikpur Sub office for a few days.

1. Bhadri	10.3.76 to 4.10.78
2. Kunda	25.10.78 to 15.6.82
3. Pratapgarh HO	16.6.82 to 27.8.82
4. Bhadri	28.8.82 to 10.12.82
5. G.N. Pur	11.12.82 to 13.10.83
6. Kunda	14.10.83 to 4.6.84
7. Bhadri	5.6.84 to 20.1.86
8. Jathwara	21.1.86 to 19.5.86
9. Kunda	20.5.86 to 3.3.87
10. Pratapgarh HO	4.3.87 to 12.4.87
11. Kunda	14.4.87 to 11.5.89 2yr

(b) That on inspection by the then Director of Postal Service(DPS) Allahabad during 1987 and the DPS Allahabad wanted to know the reason of posting of the applicant for such a long period at Kunda/Badri. He also called for explanation of the then Sr. Supdt of Post Offices, Pratapgarh.

*Amrinder*

A-6  
u

(c) That one TD case cropped up on receipt of a complaint made by Shri Shambhunath Yadav the depositor of 5 years TD Account No.426105 standing at Kund SO addressed to Communication Minister through IMG UP Circle Lucknow letter No.SB/N.2/176/88/2 dated 12.12.88.against the applicant while working as SPM Kunda. That the said depositor had opened a SB Account No.718757 and 5 years. TD Account No.426105 both standing the books of Kunda Sub Office. There was balance of Rs.1122.75 in his SB account and Rs.4300/- together with intt. in the said TD account. The depositor attended Kunda PO to withdraw Rs.1100/- from his SB Account on 26.9.88 and wanted to deposit Rs.1000/- in his said 5 years. TD account for the purpose of getting more interest. He presented his both the above pass book to the counter clerk of Kunda sub office for the purpose. The SB ~~xxxxxx~~ CC called the NS Agent and gave him direction to fill up SB 7 for a withdrawal of Rs.1100/- from the said SB account and also SB 7 for premature closure of the above TD account. The SB CC asked the agent

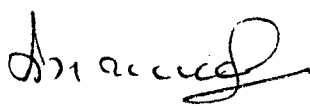
12/11/88

Dr. Anand

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Shri Rajendra Singh to prepare the document SB 3 and pay in slip (SB 103) for opening new 5 years TD account. The said agent did so as directed by SB counter clerk. A Withdrawal of Rs.1100/- was allowed from his said SB account and premature closure of the said TD account with the balance of Rs.4300/- was also allowed. As such a new TD Account No.426552 with the initial deposit of Rs.5000/- was opened in the name of the said depositor. The rest amount viz. Rs.400/- was paid to the depositor saying that the name his father was written incorrectly in his old TD pass book as such the closure of old TD account made and a new TD account opened and pass book delivered. The agent receipt were prepared, signed and stamped by the SB counter clerk and countersigned by the applicant. The NS commission was thus shared by the agent, SB counter clerk ~~who~~ and ~~countersigned~~ SPM Kunda. The applicant failed to exercise the vigilance and control over his office bearer. The applicant who is convinced with the said agent duped the depositor to deprive him of interest as a result of premature closure and with foul and undesirable act to earn agent commission otherwise there was no necessity of closure of said TD account. The correction of his father's name ~~which could have been done on a single entry~~



In 

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- 5 -

which could have been done on a simple application with a fresh SB.3 . The applicant allowed PNC without proper scrutiny of said alleged difference. Thus the depositor have lost his interest due to allurement of commission by the SPM through the NS Agent. All these work were done on the direction of the applicant. Due to his carelessness and unbecoming working the applicant was charge sheeted and punishment was awarded to him by withholding of one increment for 6 months without any future effect, vide ~~xxxx~~ office Memo No.CR-9/SB-88/89 dated 18.9.89.

(d) That a further complaint made by Shri Rajendra Bahadur Singh NS Agent against the applicant received by the answering deponent. A sum of Rs.900/- was paid in excess to the depositor of 5 years TD account No.425894 on 16.7.88 by the applicant. During course of enquiry it was found that excess payment was made by the applicant by his carelessness and unbecoming working and the said TD account was prematurely closed and a loss of Rs.900/- sustained to the Department.

(e) That due to his above acts, carelessness and unbecoming working of the applicant, he has been transferred from M Kunda to Pratapgarh H.O. vide office Memo No.B/ Corr.9/88 dated 11.5.89 in the interest of Government service.

12/11/89

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A-6  
9

(f) That a representation dated 15.5.89 preferred by the applicant which was received in the office of the deponent on 22.5.89 against the said transfer. A detailed report of the case was submitted to the ~~appx~~ appellate authority along with the representation of the applicant vide office letter No. of even No. dated 1.6.89. The representation of the applicant was considered and rejected by the appellate authority on 13.7.89 and which was communicated to the applicant on 18.7.1989.

4. That the contents of para 1 to 5 of the application needs no comments.

5. That the contents of para 6(i) & (ii) of the application are not disputed.

6. That in reply to the contents of para 6(iii) of the application it is submitted that the applicant has been transferred from Kunda to Pratapgarh H.O. on administrative grounds vide office Memo No. B/Corr.9/88 dated 11.5.89.

7. That the contents of para 6(iv) & (v) of the application needs no comments.

8. That the contents of para 6(vi) of the application needs no comments.

12/11/89

*Amended*

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9. That the contents of para 6(vii) & (viii) of the application needs no comments. 4

10. That the contents of para 6(ix) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant misguided and duped the depositor by closing his old TD account and PNC and opened a new 5 Years TD account for Rs.5000/- only for the allurement of commission. Under the above circumstances the applicant was charge sheeted vide Memo No.SB.9/SB.88/89 dated 15.3.89 and punishment was awarded to him by withholding of one increment for 6 months without any future effect vide office Memo No.CR.9/ SB-88/89 dated 18.9.89.

11. That the contents of para 6(x) of the application are incorrect as stated, hence denied and in reply it is submitted that the version of the applicant is away from the truth.

12. That the contents of para 6(xi) of the application are incorrect as stated, hence denied and in reply it is submitted that the version of the applicant is false and misconceived.

13. That the contents of para 6(xii) of the application are incorrect as stated and in reply it is denied



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submitted that there is nothing illegality in the said order of the appellate authority, and the action taken against the applicant is correct and legal.

14. That the contents of para 7(a) of the application are incorrect as stated and ~~xxx~~ brief history of the case given above is reiterated.

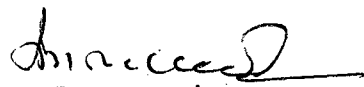
15. That the contents of para 7(b) of the application are incorrect as stated in the application and the the applicant had been transferred from Kunda on administrative grounds and exigencies of service.

16. That the contents of para 7(c) of the application are incorrect, hence denied.

17. That the contents of para 8 to 13 are formal and as such needs no reply.

18. That the applicant is not entitled to get any relief as sought by the applicant and the grounds taken by the applicant is not tenable in the eyes of law.

19. That in view of the facts, reasons and circumstances stated in the preceeding paragraphs the application filed by the applicant is liable to be dismissed with costs to the Respondents.

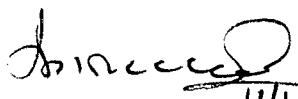
  
Deponent.

Lucknow,  
Dated: 12.11.89

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Verification.

I, the above named deponent do hereby verify that the contents of para 1 & ~~2~~ of this affidavit are true to my personal knowledge and those of paras 2 to 16 of this affidavit are believed by me to be true on the basis of the information gathered while those of the contents of para 17 to 19 are also to be true on the basis of legal advice. No part of it is false and nothing material fact has been concealed.

  
Deponent. 11/12/89

Lucknow,

Dated: 12 Nov. 89

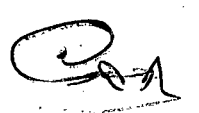
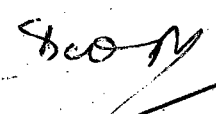
I identify the deponent who has signed before me is the same person, who is personally known to me.

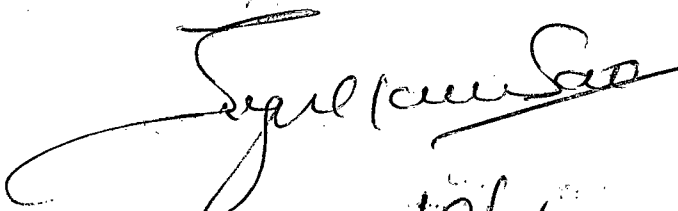
  
(VK Chaudhari)

Addl Standing Counsel for Central Govt  
Counsel for the Respondents.

Lucknow,

Dated: 12 Nov. 89

  
  
SP Kumar  
V. K. Chaudhari

  
12/11/89

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1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,  
LUCKNOW.

C.A. No. 208/89 (L)

*Filed on 29-1-1990  
for hearing*

Mahboob Ali Siddiqui ... .. Applicant.

Versus,

Union of India & Others ... .. Respondents.

SUB: REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT TO  
CONTROVERT THE COUNTER AFFIDAVIT DATED NIL FILED ON  
19.12.1989.

I, M.A. Siddiqui aged 51 years, applicant, S/o Sri Abdul Razzak, at present Asstt. Postmaster of Counters at Posts & Telegraphs, Head ~~Office~~ Post Office, do hereby solemnly affirm and state on oath as under :-

1. That the applicant-deponent has gone through this Counter Affidavit of respondents and its contents have been explained to him which he has fully understood and is in a position to give parawise comments to controvert the same.

2. That the contents of para-2(a) of the Counter Affidavit are admitted only to the extent that he was transferred and posted to offices noted at serials 1 to 11 by the predecessors of the respondent No.2 in between the years 1976 and 1987. It is further submitted that Garhimanikpur is at a distance of about 22 Kms. from the residence of the applicant, Bhadri at about 5 kms., and Kunda at 10 km.s, Jethwara at 30 kms. and Pratapgarh at about 55 kms. It is also added that every year in April or May before start of the new academic session from July next with a view to saving of travelling expenses to Govt., all subordinate employees are called upon to furnish names at least 3 offices where they would like

their transfers without any expenditures to Govt. as there are specific orders from the Govt. to invite request from the officials desirous of their transfers on their cost. These orders available in B.Rlg-9 and acted upon from his file B.Corr-9 in many chapters. It is further submitted that the officials at serial No.2 and 3 in Annexure-1 to the application are residents of Pratapgarh and posted to Garwara at about 10 Km. and Kishunganj at about 20 kms. on their promotion. It is also submitted that there is no ban on transfers and postings to offices near their residential town or village in which no extra expenditures are involved to Govt. ~~For~~ In this regard it is respectfully submitted that the Hon'ble Chief Postmaster General of Uttar Pradesh, Lucknow Sri S.P. Rai, a member of All India Service, is a resident of Ghazipur District within his own circle. Besides there is a huge number of such officers ~~of~~ and officials who have been posted at their local offices and they are working there because there is no such bar that they should not be posted to their home town offices or to offices nearby.

3. That contents of para-2(b) of the Counter Affidavit are denied as false. The transfers of the applicant to neighbouring offices Bhadri and Kunda Sub offices were ordered without any extra expenditure to Govt. and within the statutory powers of ~~the~~ the then respondent No.2 concerned. It is further submitted that the alleged suo-moto review by Respondent No.3 regarding transfers was barred by jurisdiction and it must have gone without any action. It is further submitted that no document has been adduced in support of the alleged review by respondents.

4. That the contents of para 2(c) of the Counter Affidavit are correct to the extent that S.B. A/c No. 718757 and 5 year Fixed Deposit Account No. 426105 were opened and stood in the books of Kunda Sub Office and the rest are denied as incorrect. In ~~xxx~~ reply it is submitted that the S.B. and other Counters

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-2-

are such arranged as to attend customers from outside in the Verandah without any access to the seat of the Sub Postmaster applicant whose seat is inside the office and all public transactions are done through the counter postal Assistants. It is further submitted that the depositor never attended the Post Office Counter on 26.9.88 for any purpose. It is further submitted that the depositors attend the Post Office either direct or by the Agents authorised by the State Govt. and on 29.6.88 as alleged the depositor concerned did not make any approach to the S.P.M.- applicant. It is further submitted that whatever the depositor desired through his Agent at the S.B. Counter, it was done by the Counter Postal Asstt. who submitted the relative books and documents which were found to be in order, passed and signed ~~the~~ by the Sub Postmaster applicant as under prescribed procedure. It is further stated that the depositor concerned did not make any oral or written complaints to the Sub Postmaster(L.S.G.) applicant at the spot and the one alleged to have been lodged after some 3 months is due to ill-will of some office-bearers of Respondent No.2 and has no footing to stand. In reply it is further submitted that the applicant was well conversant with the procedure for change of name or any correction but nothing of the sort was complained to him by the depositor. It is also submitted that the allegations of sharing any commission as alleged was found without base and prima facie and the penalty of withholding the increment of the applicant for 6 months was arbitrary, malefide and a thrust which stands appealed to the Respondent No.3 on 20.10.89 which fact has been concealed from Counter Affidavit. Copy of original complaint, Annexure-7 enclosed.

5. That the contents of para 2(d) of the Counter Affidavit are absolutely false, hence denied. In reply it is submitted that the allegation raised is nothing but to justify the impugned transfer order, otherwise had there been any such

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-4-

complaint of any excess payment, the Respondent No.2 must have taken steps to order recovery of Rs. 900/- from the party at fault. It is also submitted that the so-called Agent must have been called and induced for raising the allegation to justify the transfer. It is further submitted that had there been any such fault of excess payment on the applicant, the Respondent No.2 should not have hesitated to take action against the applicant in as much as this allegation never finds place in the charge-sheet. Copy of Annexure No.8 is enclosed.

6. That the contents of para 2(e) of the Counter Affidavit are false and not admitted. In reply it is submitted that the premature transfer for mere petty irregularity or any false allegation is wholly unjustified and malafide in as much as nothing has been brought home against the applicant in any enquiry affording opportunity to the applicant. The applicant was very recently posted to Kunda at a distance of 10 kms. from his house after foregoing his travelling expenses, and House rent allowance amounting to over Rs. 200/- per month in the interest of looking after his domestic affairs and his premature transfer much before completion of his tenure of 4 years is arbitrary, harassive and disturbing. The tranquility of mind in as much as the official Sri D.P. Tripathi(Junior Most ) posted to Kunda P.O. is also a resident of the neighbouring village of a distance of about 8 kms. from there and this transfer was also made on own request of the incumbent concerned without any Govt. Interest or exigency. Thus, these transfers have been made merely to afford facility to one and deprive the applicant of the same which is impliedly malafide and liable to be quashed as per judgment of Hon'ble C.A.T. of Chandigarh in Kashmir Chandra Sharma Vs. Union of India, which is exhibited vide Annexure-9. The Hon'ble Supreme Court has also observed that the court must interfere with the malafide transfer orders

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to ascertain its true nature. ( Pushpakaran Vs. Chairman, Coir Board, 1978, K.L.J. 539: 53 F.J.R. 90. reported in C.C.S. (C.C.A.) Rules, 1965 (5) 1983 Edition Annexure-10.

7. That the contents of para 2(f) of the Counter Affidavit are accepted to the extent that the applidant had made a representation to the appellate authority, Respondent No.3 and the rest is denied as being twisted. In reply it is further submitted that the appellate authority first allowed the representation on 23.5.1989 ( Annexure-5) and directed that the order of transfer ( Annexure-3) be cancelled to avoid expenditures to Govt. and inconvenience to the official-applicant whereupon the respondent No.2 himself being prejudiced to the applicant made representation and got the order dated 23.5.89 replaced by the next order dated 13.7.89 ( Annexure-6). It is submitted that the respondent No.2 made the transfer issue as a matter of prestige and insisted upon rejection of the representation of the applicant which was an act of malafide. It is also submitted that a number of other representation have been made to the Post Master General, U.P. on Union level and the matter has been pending decision with D.P.S., Allahabad ( Annexure-11).

8. That there has been omission of Srl. 3 in the Counter Affidavit and no comments have been offered on paras 1 to 5 of the application as in para 4 of the Counter Affidavit which will mean that the respondents have admitted the contents of these paras.

9. That the contents of para 5 of the Counter Affidavit Show that contents of paras 6(i) and (ii) of the application stand admitted by the Respondents.

10. That the contents of para 6 are denied as not correct. It is submitted that the transfer order is without any Govt. interest rather it involves the Govt. to unnecessary extra expenditures there being complete ban on such premature

....6.

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transfers and harassment to the officials.

11. That the contents of para-7 of the Counter Affidavit show that contents of para-6(iv) and (v) of the application have been admitted by the respondents.

12. That the contents of para-8 of the Counter Affidavit denotes that the respondents have admitted the contents of para 6(vi) of the application.

13. That the contents of para 9 of the Counter Affidavit also show that the contents of paras 6(vii) and (viii) of the application have been admitted by respondents.

14. That the contents of para 10 of the Counter Affidavit are not correct, hence denied. In reply it has already been submitted that the depositor must have attended the S.B. Counter through his agent who did all as desired by him at the Post Office counter and the applicant passed and signed the documents and books when placed before him on finding them in accordance with procedural rules. It is added that the impugned punishment order stands appealed to the appellate authority. It is further submitted that a minor penalty never affects adversely in the matter of promotion or so in as much as it being based on prejudice will not justify any premature transfer.

15. That the contents of para-11 of the Counter Affidavit are denied as false. In reply it is submitted that the respondent No.2 made it a prestige issue and got previous order dated 23.5.89 altered as stated in para 6 above of this Rejoinder Affidavit.

16. That the contents of para-12 of the Counter Affidavit are not correct and equitable hence denied. It is submitted that every competent authority passes a transfer order after giving due consideration to family circumstances and inconveniences of the Govt. Servants so affected and the



respondents 2 and 3 have done a great injustice to the applicant by ordering his premature transfer.

17. That the contents of para 13 of the Counter Affidavit are not just and correct, hence denied. The premature transfer order is bad, illegal and inequitable.

18. That the contents of para 14 of the Counter Affidavit are denied as incorrect on the basis of the submissions made in the foregoing paras.

19. That the contents of para 15 of the Counter Affidavit are false and denied. In reply it is submitted that the deponent respondent No.2 has misconstrued and misunderstood the meaning and sense of transfer on the ground of exigencies of service. It is further submitted that the term exigency of service may arise in war-like ~~xxxxxxxx~~ necessity of activating the applicant's services in Pratapgarh Head Office which is not involved nor any disclosed in the Counter Affidavit.

20. That the contents of para 16 of the Counter Affidavit are not correct, hence denied.

21. That the contents of para 17 of the Counter Affidavit need no comment.

22. That the contents of para 18 of the Counter Affidavit are denied as unjudicious. The application is amply maintainable in view of the court's various authorities cited in above paras.

23. That the contents of para 19 of the Counter Affidavit are far away from the principles of natural justice, hence denied in view of the appreciation of his good performances in S.B. work and award of Rs. 1,000/- (Rupees One Thousand only)

Lucknow.

Dated: 2/1/90

*S. B. Singh*  
A.S.

02/1/90

VERIFICATION

*Chander De. Singh*  
DEPONENT.

I, M.A. Siddiqui, above named deponent, do hereby

verify that the contents of paras 1 to 23 of the Rejoinder Affidavit are true to my personal knowledge and those of paras — to — are believed to be true on the informations gathered while the contents of paras — to — of this Rejoinder Affidavit are true on the legal advice.

No part of this Rejoinder Affidavit is false and nothing has been concealed. So help me God.

Lucknow.

Dated: 02/1/90

*[Signature]*  
DEPONENT.

I identify the deponent who has signed this Rejoinder Affidavit before me.

ADVOCATE.



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Office of the Sr. Supdt. of Post Offices  
Pratapgarh Division-230001.

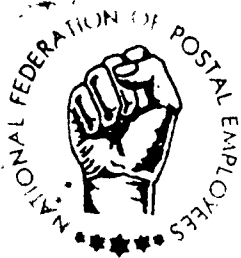
Statement of imputation of misconduct framed against Shri M. A. Siddiqui S.P.M. (LSG) Kunda Distt. Pratapgarh.

One Shri Shambhunath S/O Shri Sheo Shanker Yadav R/O Village Sagra P.O. Tejpur (Kunda) Pratapgarh had opened a SB A/C No. 718757 and a five year TD A/C No. 426105 both standing in the books of Kunda S.O.. On 29-6-88, there was a balance of Rs. 1122.75 in his SB Account and Rs. 4300/- together with interest in the said T.D. account. The depositor intending to withdraw Rs. 1100/- from his SB Account on 29-6-88 and make a deposit of Rs. 1000/- in his above T.D. account which would yield more interest, attended the P.O. SB Counter of Kunda S.O. and presented his pass books to the counter P.A. Shri Sita Ram for the purpose. Shri Sita Ram called the agent Shri Rajendra Singh and gave him directions to fill up SB-7 for a W/D of Rs. 1100/- from the said SB account also SB-7 for closure of the said TD A/C. The SB Counter P.A. also asked the said agent to prepare documents SB-3 & Pay in slip SB-103(a) for opening a new 5 yrs TD Account in the name of said Shri Shambhu Nath Yadav. The agent Shri Rajendra Singh did as directed by Shri Sita Ram. The amount of Rs. 1100/- was interest as P.M.C. paid and a new 5 yrs T.D. account No. 426552 with a deposit of Rs. 5000/- was opened in the name of said Shambhunath Yadav. The rest of money Rs. 400/- was refunded to him saying that the name of his father was written incorrectly as such the closure of the old TD account was made and a new one opened and P.B. delivered. The agents receipt were prepared signed & date stamped by the counter P.A. Shri Sita Ram and counter signed by S.P.M. Sri Siddiqui and the NSC Agents Commission was thus shared by the agent, SBC P.A. and the Sub Postmaster of Kunda. The SPM Shri M. A. Siddiqui failed to exercise due vigilance and control over his office bearer, Shri Sitaram SBC Asstt. who in connivance with the said agent duped the depositor to deprive him of interest as a result of premature closure and with foul and undesirable act to earn even share in the agents commission otherwise there was no necessity of closure of the said TD account for more correction of father's name Sheo Shanker/Shanker which could have been done on a simple application with a fresh SB-3. The said SPM Shri Siddiqui allowed the closure without proper scrutiny of the alleged difference in the father's name of the depositor who had to suffer loss of interest and also to lose confidence in the department as he had to close the said SB account on 18-7-88. The SBC Asstt. Shri Sitaram, Agent Shri Rajendra Singh and SPM Shri Siddiqui did what they should not have done while dealing with the members of the public. This acts adversely affected the moto of the Department and displayed that Shri Siddiqui could not run his office efficiently and without complaint as provided in Circle Order No. 1 attracting Rule 3(i)(ii) of CCS (Conduct) Rules, 1964.

*[Signature]*  
Sr. Supdt. of Post Offices  
Pratapgarh DN.-230001.

*[Signature]*

**BHARTIYA**



# POST

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Dada Ghosh Bhawan 1, Patel Road, New Delhi-8

Editor : K. L. MOZA

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No. 2

## Editorial

### Mechanization

The Federal Council met and discussed the Mechanization and introduction of Computers. The Central Working Committee of All India Postal Employees Union Class III and E.D. in its meeting at Rishikesh discussed the subject at length. At the both session, the apprehension was that it should not be a man eating device.

We are not averse to changing times but we are concerned with protection of our job. Yes, the job security is supreme in our minds.

The mechanization has slowly crept in our life in the shape of Registerex Machines, Money Order booking Machine, totaling machine, SBCO, stamp cancelling machine, franking machines (working for sale of postage stamps of rupees which could employ no vendors). Computers have been introduced at Bangalore and Savings Street H.O.

we are concerned with  
It may cause acci-  
on, the safe guards  
monuments for  
ought of, com-  
computerisation  
be thought of.

We will not agree to introduction of sorting machines which will replace hundreds of employees but we may consider computerization in Postal Account branches if A.P.M. accounts get promotion to H.S.G. II and P.O. and R.M.S. Accountants are placed in L.S.G. scale and if it can contribute to second promotion.

We asked for introduction of Electronic Mail although it comes under high technology. We did so as we saw danger to employed postman, Mailman and Sorting Assistants if it would have been taken over by Telecom.

We realised that money order traffic was falling due to higher tariff and competition from Nationalised Banks who issue bank drafts at less cost. We asked for change i.e. issue of P.O. drafts by depositing money in Savings Bank accounts at one end which can be withdrawn at other end. These transactions can be communicated by computers between capital cities.

According to agreement of 11th July, 1987 the consultations with workers on introduction of Mechanization and computerisation has been agreed to. We are glad that the agreement has been honoured and we do hope that agreement will not be violated and cause unrest again.

## ● Family Planning

**Adopting Small Family Norms—Grant of Advance increment—representation dated 26-10-88 of Shri A. Raman, UDC, SBCO, Suramangalam H.O. Tamil Nadu Circle.**

DG(P) No. 14-2-88/Medical Dated the 20th January, 1989. to Shri K.L. Moza the General Secretary, the All India Postal Employees Union CI-III & E.D. Dada Ghosh Bhawan,

I am directed to refer to your letter No. P/23-14 dated 30-11-88, on the subject noted above, and to state that the representation received alongwith your letter under reference is from Shri R. Mahalingam, Sub Postmaster, Kolathur Post (Tamil Nadu) and not from Shri A. Raman, UDC, SBCO.

2. However, the issue of relaxation of date prior to 4-12-79 for grant of incentive increment under Family Welfare Programme had been taken up with the Ministry of Health & Family Welfare (Department of Family Welfare) many a times but it did not find favour with that Ministry. A copy of this office letter No. 14-2/86-Medical dated 21-1-88 in this regard is enclosed for ready reference.

● **Clarifications grant of incentive increment for adopting small family norms.**

DG(P) No. 14-2/86-Medical Dated 21-1-88

I am directed to say that references are being received from subordinate units seeking clarification about the time limit for claiming incentive increment, relaxation in the date of

M.G. Savai S.P.M. Vadgaon—Nimbalkar-412103 Maharashtra Circle, seeks mutual transfer with any T.B. O.P. P.A. in Karnataka Circle.

Interested Correspond Direct.

applicability of original orders and various sterilisation operations which are recognised for the purpose of incentive increment. The position is clarified as under :—

1. If the claim is preferred long after the operation, the officer should be asked to furnish reasons for the same. However, in such cases of claims for arrears which are not preferred within one year of their becoming due, the provisions of Rule 27 of F.H.B. Vol-I should be followed.

**Operations recognised for incentive increment.**

2. i) Vasectomy.  
ii) Traditional or conventional tubectomy, Minilap, Salpingectomy, Laproscopic sterilisation (or tubal occlusion), culdoscapic sterilisation.
3. Request for relaxation in the date of applicability of orders dated 4-12-79.

Time and again many representations are received seeking relaxation in the date of applicability of original orders dated 4.12.79 i.e. requests grant of incentive increment to those officials who or whose spouses had undergone operation prior to 4-12-79. The concerned Ministry have been approached a number of times in this respect but they have categorically said that it is not possible to grant incentive increment to those Central Govt. employees who or whose spouses underwent sterilisation operation prior to 4.12.79. It is again clarified that these are general orders of Govt. of India and decision in isolation, which is contrary to these orders is not possible.

## ● Trade Union—Adhoc Committee

**Ad-hoc Committee formed by Unions/Associations—Recognition of.**

DG(P) No. 19-1/89-SR Dated, the 20-1-89.

I am directed to invite your kind attention to this Department's letter No. 19-5/72-SR dated

● **Tribal Area Allowance—Condition reduced to one year stay**

**Tribal Area Allowance in various States.**

Copy of letter No. 20022/3/86-E. II (B), from Government of India Ministry of Finance Department of Expenditure.

The undersigned is directed to refer to this Ministry's office memorandum for grant of Tribal Area Allowance in Gujarat U.P., M.P., Tamil Nadu, Karnataka, Tripura, Orissa, Assam, Bihar and West Bengal as listed below, Para 2 (iv) of which reads as under :—

“The allowance shall be payable only after the employees has completed 4 years of continuous service in one or more of the Scheduled/ Tribal blocks, wherever such local allowance is admissible, by way of arrears for the period from the date of his first posting. On completion of four years, the allowance for the subsequent period will be payable monthly.

1. O.M. No. 19 (4)-E. IV (B)/70-Vol. II dt. 19-2-72 read with O.M. No. 20022/3/81-E IV(E, II (B) dt. 17-2-1988.

2. O.M. No. 20022/2/87-E. II (B) dated 9th June, 1987.

3. O.M. No. 20022/3/87-E. II (B) dated 9th June, 1987.

4. O.M. No. 20022/4/87-E. II (B) dated 9th June, 1987.

5. O.M. No. 20022/5/87-E. II (B) dated 20th August, 1987.

6. O.M. No. 20022/6/87-E. II (B) dated 8th September, 1987.

7. O.M. No. 20022/7/87-E. II (B) dated 1st December, 1987.

8. O.M. No. 20022/9/87-E. II (B) dated 9th February, 1988.

9. O.M. No. 20023/3/88-E. II (B) dated 13th June, 1988.

10. O.M. No. 20023/4/88-E. II (B) dated 15th June, 1988.

2. The President, in consultation with the staff side of the National Council (JCM) is pleased to decide, in partial modification of para

2 (IV) of the above mentioned orders, that the condition, regarding four years continuous service may be reduced to 'One year continuous Service.'

3. These orders shall take effect from the date of issue.

4. In there application to the persons serving in the Indian Audit and Accounts Department. these orders have been issued after consultation with the Comptroller and Auditor General of India.

● **H.R.A. Bundi (Rajasthan)**

**Upgradation of Bundi (Rajasthan) as 'C' class city for the purpose of House Rent Allowance to Central Govt. employees.**

Copy of Ministry of finance (DOE) letter No. 11016/1/E. II (B)/88 dt. 10-1-89.

The undersigned is directed to refer to this Ministry's OM No. 11016/5/82-E. II (B) dated 7-2-83 on the above subject and to say that consequent upon the reconstitution by addition of new areas to municipal limits of Bundi city of Rajasthan vide Rajasthan Govt. Notification No. F. 1(A) (13) DLB/75/5043 dt. 15-11-83 (effective from 15-11-83), the President is pleased to decide that Bundi city in Rajasthan, as reconstituted, may be included in the list of 'C' class cities as contained in Annexure-II to the OM dt. 7-2-83 referred to above for the purpose of grant of House Rent Allowance to Central Government employees working in Bundi.

2. These orders shall take effect from 15-11-83.

● **C.C.A. Jamnagar**

**Payment of Compensatory (City) Allowance to Central Govt. employees posted at Jamnagar at the rates admissible in B-2 class cities.**

Copy of Ministry of finance (D.O.E.) letter No. 11018/6/87—Ch. II (L) dt. 29-12-88.

The undersigned is directed to say that the question of payment of C.C.A. to Central Govt. employees posted at Jamnagar at the

8. Industrial status for regular in P&T. Decision will be given within One month. Workmen & others covered by Workmens Compensation Act will be Industrial.

9. HSG-1 in Telecom Wing.

(Telecom Department will decide)

## On Confirmations

**Simplification of confirmation procedure—delinking of confirmation from the availability of Permanent posts—Application of reservation orders.**

DG(P) No. IR. 9-U/89-SPB-II Government of India, Ministry of Communications, Department of Posts, New Delhi, dated the 30 January, 1989 to Shri K.L. Moza, General Secretary, All India Postal Employees Union, UD-7, P&T Quarters, Dev Nagar, New Delhi-5

I am directed to refer to your letter No. P/23-10 dated 23-12-88 on the above subject and send herewith a copy of letter No. 45-2/88 SPB-II dated 7-4-88 forwarding therewith copy of DOP&Trg. O.M. No.18011/1/89-Estt-D dated 28.3.88.

D.O. No. 45-2/88-SPB-II dated: 7-4-88

A very important decision has been taken by Government of India in the matter of simplification of confirmation procedure and delinking of confirmation from the availability of permanent posts, and the new instructions have come into force with effect from 1 April 1988. As the matter has wide ranging ramifications, I thought I will bring to your personal notice the office memorandum No. 18011/1/86-Estt. 'D' dated 28 March 1988, issued in this regard by the Ministry of Personnel, Public Grievances and Pensions (copy enclosed). You may carefully go through this new procedure, which will have the effect of eliminating the administrative work involved in confirmation of officials in Government offices every year with consequent reduction of workload. One feature of the new procedure will be reduced staff requirements as a result of this rationalisation.

2. As has been pointed out in the O.M., referred above, you will have the position reviewed in so far as your own Circle/Region is concerned and intimate by the end of September 1988 the details of reduction of staff effected as a result of the rationalisation and also any other point of importance which may come to your notice as a result of this review. The Regional Directors and Additional PMsG will submit the review to the PMG, who in turn will submit the review of the Circle, as a whole, to the Directorate. If there are any points concerning the above office memorandum on which you would like clarification, you may please write to Director (S) in this regard. If the issues are important enough they may even be brought to my notice demi-officially.

3. Please acknowledge receipt of this letter to Director Staff Shri S. Chadha, by name.

With best wishes,

**Simplification of confirmation procedure—Delinking of confirmation from the availability of permanent posts.**

(Copy of Office Memorandum No. 18011/1/86-Estt. (D) dated 28th March 1988 issued by Ministry of (Personnel & Training)

The undersigned is directed to say that in the existing system, the prerequisite for confirmation is the availability of a permanent post on which no other Government servant holds a lien. With a view to finding a permanent post to confirm a Government employee, a periodic exercise is taken up to identify vacant permanent posts alongwith exact date from which these are available. The availability of a permanent posts depends upon the factors such as retirements/resignation of a permanent Government employee, confirmation of a Government servant in a higher post, conversion of temporary posts into permanent ones etc. Further, according to the present procedure, confirmation is not a one-time event in the career of a Government employee. He has to be successively confirmed in each and every post or grade to which he is promoted subject to the availability of a permanent post in each grade.

2. Thus, the exercise of identification of



## 4.2 CCS (Temporary Service) Rules :

(i) As no officer otherwise eligible will have to wait for confirmation pending availability of a permanent vacancy, the need for following the existing procedure for declaring a person quasi-permanent ceases to exist. Accordingly, the provisions relating to the quasi-permanency in the CCS (Temporary Service) Rules will be deleted.

(ii) As there will still be situations where appointments are made against posts/establishments which are created for definite and purely temporary periods e.g. Committees/Commissions of Enquiry, organisations created for meeting a particular emergency which is not expected to last for more than a few years, posts created for projects for specified periods, the remaining provisions of the Temporary Service Rules will continue to be in force.

## 4.3 Lien

The concept of lien as the title of a Govt. Servant to hold substantively a permanent post will undergo a change. Lien will now represent only the right/title of a Govt. servant to hold a regular post, whether permanent or temporary, either immediately or on the termination of the periods of absence. The benefits of having a lien in a grade will thus be enjoyed by all officers who are confirmed in the grade of entry or who have been promoted to a higher post declared as having completed the probation where it is prescribed, or those who have been promoted on regular basis to a higher post where no probation is prescribed under the Rules, as the case may be.

The above right/title will, however, be subject to the condition that the junior most person in the grade will be liable to be reverted to the lower grade if at any time the number of persons so entitled is more than the posts available in that grade. For example, if a person who is confirmed or whose probation in a higher post has been declared as having been completed or one who is holding a higher post for which there is no probation on a regular basis, reverts from deputation or foreign service and if there is no vacancy in that grade to

accommodate him, the junior most person will be reverted. If, however, this officer himself is the junior most, he will be reverted to the next lower grade from which he was earlier promoted.

## 4.4 Pension

Since all the persons who complete probation in the first appointment will be declared as permanent, the present distinction between permanent and temporary employees for grant of pension and other pensionary benefits will cease to exist.

## 4.5 Reservation for SC/ST

As a result of introduction of confirmation only at the entry stage and the delinking of confirmation from the availability of permanent posts, the need for reservation at the time of confirmation in posts and services filled by Direct Recruitment as per the existing instructions will cease to exist as everyone who is eligible for confirmation will be confirmed.

## 4.6. Seniority

According to para 2.3 of the consolidated orders of seniority issued vide this Department O.M. No. 22011/7/86-Estt. (D) dated 3-7-86 where persons are confirmed in an order different from the order of merit indicated at the time of their recruitment or promotion, seniority shall follow the order of confirmation and not the original order of merit. Since there is confirmation in the entry grade, seniority will continue to be determined on the basis of confirmation in that grade.

5. The existing instructions/Rules in respect of the aspects mentioned above stand modified to the extent indicated in the preceding paragraphs. As regards rules relating to pension, Temporary Service, Lien etc. suitable amendments will be notified separately.

6.1 The revised procedures relating to confirmation outlined above will not apply to the cases of appointments made on adhoc basis i.e., it is only the appointments made on regular basis which will come within the purview of these instructions.

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as Sub Post Master at his own request due to domestic circumstances (Annexure R-1 being copy of his request) and he joined the said post on 20-5-1986. However, vide impugned order dated 18-4-1988 he has been transferred to Dehra HQs as a Signaller. He has challenged the legality and validity of the impugned order of his transfer on two grounds viz. (i) that under Rule 60 of the P&T Manual Vol. IV as amended from time to time and the departmental instructions issued by the respondents, the tenure of a Sub Post Master at one station is of four years, but he has been transferred even before he had completed two years of posting there and (ii) that he being Lower Selection Grade official was entitled to be posted against an erstwhile charge allowance post like Sub Post Master and could not be posted as Signaller, a post which he was holding long ago before his promotion to LSG. He points out that his substitute viz. respondent No. 4 had not put in requisite number of years in service so as to be entitled to Lower Selection Grade, but even then he has been posted to a post carrying higher scale of pay meant for LSG officials, the time scale of the post of Signaller being Rs. 975-1660 (Revised) only. The precise grievance of the applicant is that he has thus been singled out by the respondents and posted in a subordinate position to work as Signaller (Telegraphist) at the Headquarters Dehra, whereas the persons junior to him in the Lower Selection Grade are still working as Sub Post Masters Incharge of Sub Offices.

The application is hotly contested by the respondents, who contend that the transfer of the applicant from the post of Sub Post Master to that of Signaller was effected in public interest in as much as the work and conduct of the applicant in the former post was not to the satisfaction of his superiors and the public. As an illustration they contend that the Inspector Post Offices (Complaint and Public Grievances), Dehra paid a surprise visit to Thore Sub Office on 24th of February, 1988 and he found that the Postal Assistant was absent from duty. On enquiry, the applicant, who was the Incharge of Thore Sub Office failed to produce the casual leave application on the spot saying that no application had been obtained from the Postal Assistant. He also failed to produce the atten-

dance register as well as the casual leave account for the Postal Assistant when asked to do so. Hence a severe warning was administered to him by the Superintendent Post Offices, Dehra Division, Dehra, respondent No. 3 vide letter dated 25th of March, 1988 (copy Annexure R-2). As for the normal period of posting of four years, the respondents explain that the applicant could be transferred even before the expiry of the period of four years in public interest and the present place of posting of the applicant is only 15 K.M. from Thore and it hardly takes 30 minutes to reach Thore from the present place of his posting. They further point out that the applicant had been stationed in the area around Thore for the last 11 years. Hence the transfer of the applicant was in public interest. Even otherwise, because of nearness of his present posting to his earlier place of posting i.e. Thore, where his family live, he can frequently visit that place. Further his transfer to Dehra H. Qs. will hardly affect the education of his children, who are studying at Thore and are living with their mother, who is posted there.

The law is well settled that the transfer of a Govt. servant from one station of posting to another is an ordinary incidence of his service especially when the nature of the post is such that frequent transfers are inevitable. So looking at the matter from this angle, there can be no two opinions that the respondents had undoubted power to transfer the applicant from Sub Post Office Thore to Head Quarters Dehra. However, the power of transfer vesting in the competent authority is not unfettered and absolute inasmuch as it is circumscribed and controlled by various guidelines contained in administrative instructions etc. issued on the subject. For instance, under Rule 60 of P&T Manual Vol. IV, the normal tenure of a Non-gazetted Sub Post Master (Time scale) at a particular station is four years. However, as contended by the respondents, there is no bar to the transfer of a Sub Post Master even before the expiry of 4 years, if it is in public interest. Having regard to the fact that the applicant could not produce the relevant record viz. attendance register and casual leave account of the Postal Assistant when asked to do so by the Inspector

earlier carried charge allowance should necessarily be filled up by LSGs under TBOP Scheme. However, vide letter dated 19-4-1988 (copy Annexure A-3) modified instructions were issued to the effect that such posts (from which charge allowance had been withdrawn) should preferably be filled up by LSG officials and the competent authority would use his discretion after taking into account the willingness of the officials. It can hardly be gain said that the impugned order of transfer of the applicant is in clear violation of even the modified instructions. No doubt the discretion was conferred on the competent authority in the matter of posting of LSG officials as Sub Post Masters etc. but discretion itself is circumscribed by the condition "after taking into account the willingness of the officials." Admittedly, no such willingness was obtained from the applicant. It is well settled that discretionary power has to be exercised in a reasonable manner, fair play in action being essence of the same. In the instant case not only the applicant has been virtually reverted to a lower post, but also he was succeeded by a person who is not even qualified for higher pay scale of LSG under the Time Bound One Promotion Scheme. Certainly, under the circumstances, the transfer of the applicant from the post of Sub Post Master, Thore is stigmatised and smacks of malafides, discrimination and favouritism towards respondent No. 4. Incidentally, it may also be noticed that only a few days prior to the impugned order, the respondents had issued a general

order of transfers and postings on 28th of March, 1988 which was in respect of as many as 28 postal officials including some SPMs, but the name of the applicant was not included therein. This circumstance too lends support to the contention of the applicant that his transfer is punitive in nature.

To sum up, therefore, we are of the considered view that the impugned order is not an order of transfer simpliciter as having been passed purely in public interest. The attendant circumstances certainly point out to its being vitiated by mala fides, arbitrariness and colourable exercise of power. Hence it cannot be sustained and is hereby quashed. The respondents are directed to restore status-quo-ante as on the date of the impugned order (copy Annexure A-1) by putting the applicant back to his seat i.e. Sub Post Master, Thore, within a month from today. We may, however, clarify that it will be open to respondents to pass a fresh order of transfer of the applicant after he has worked there, say for about six months, if so advised, in public interest keeping in view the administrative instructions and guidelines bearing on this point including the rule of couple being posted at the same station or a nearby station. However, in the circumstances of the case, no order is made as to costs.

(V.S. Bhiri),

J.D. Jain)

Administrative Member Vice Chairman.  
January 19, 1989.

## 20% P.M. Cl. II for General Line

Minutes of the meeting held on 25-11-1988 with various Unions to discuss the issue of introduction of an element of Direct Recruitment in IPOs/IRMs Cadre.

The meeting was held under the Chairmanship of Secretary (P) in which the following were present :—

### Official Side

Member (F)  
Member (P)  
DDG (P)  
Director (Staff)

### Staff Side

S/Shri K.L. Moza, R.G. Savanur, K.P. Dutta, K.C. Bhardwaj, I.R. Prabhu, V.D. Sharma, Dev Anand, R.S. Tokas, K.B. Barot.

Discussion on the subject was initiated by Shri K.P. Dutta. Shri Dutta emphasized upon

March 1989

BHARTIYA POST

21

March 1989

BHARAT POST

Regd. No. D(C) 434

## NATIONAL FEDERATION OF POSTAL EMPLOYEES

Unit 7, P&T Quarter, Dev Nagar, New Delhi-5

Dear Comrades,

You are called upon to mobilize for the following Agitational Programme in pursuance to the Policy and Programme Resolution adopted at the Federal Council Session held at Dhanbad from 15th to 17th January, 1989, for full text of the same refer Postal Crusader February, 1989 issue.

### PROGRAMME

(I) 1st & 2nd March, 1989—2 days fast:

At Divisional level by Branch/Divnl. Union office-bearers before Divisional Office or H.O.

At Circle level by Circle Union office-bearers jointly before Postmasters General Office.

At CHQ level jointly all CHQs at Delhi before Dak Bhawan by mass participation of Branch/Divisional/Circle/All India office-bearers.

The Charter of Demands duly recast by Federal Executive and adopted at Federal Council Dhanbad is as under:

### CHARTER OF DEMANDS

#### A. Common demands: Central Govt. Employees

- \* Halt to Price Rise.
- \* Scrapping of Industrial Relations Bill.
- \* No retrograde change in Consumer Price Index.
- \* Withdrawal of 59th Amendment to Constitution.
- \* Remove ceiling of Rs. 1600/- on Bonus.
- \* Revise pay limit from Rs. 2500/- to Rs. 3500/- for Bonus.
- \* Increase festival advance to Rs. 1000/-.

#### B. N.F.P.E. Demands:

- \* E.D.As. Charter of Demands.

\* 2nd Time Bound Promotion to all: 1st T.B. Promotion to left over categories: MMS, Admn. offices, SBCO, Group-D, Non-test category.

\* Doubling of Special Allowances.

\* Bonus: formula revision; as per emoluments to EDAs, Substitute Postmen, RTP, contingent and part time staff.

\* Absorption of RTP, qualified LGOs, EDAs/outsideers.

\* OTA: Revision of rates, hourly Rates/Flat rates for Postmen (hourly).

\* Creation of justified posts.

\* Definition of Postal whether commercial or service oriented.

\* Scheme of Panchayat Dak Sevak/MMS other privatisation schemes to be dropped.

\* Grant of time factors for new items, instead of incentive, IVP, Regd./M.C. Speed Posts, National Savings Scheme etc.

\* Revision of pay scales of IPOs/RMs/P.O. and RMS Accountants and other categories.

\* All Items of uniforms of better quality and as per D.O.P. Standards.

\* No reduction of sanctioned strength in Postal and R.M.S. Office.

\* Disposal of RMS work in Post Office/demarcation of sorting work.

Present Memorandum addressed to Secy., Postal Department through Local Administration at the respective levels about the deepening discontentment of the staff and unions over the specific issues, giving briefs appropriately,

(Contd. on page 23)

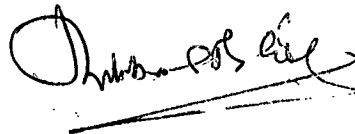
Printed and Published by K. E. MOZA, No. 1 Patel Road, New Delhi-8.

Printed at Gopal Printers, 1474, Abdul Rehman Road, Karol Bagh, New Delhi-110005

1978 S.L.J. 109: 1978 M.P.L.J. 59.]

✓ 15. **Court may examine the transfer order to ascertain its true nature.**—It cannot be disputed that an employer has a right to transfer his employee. An employee accepts employment fully knowing that he is liable to transfer from place to place for administrative reasons and in the interests of the employer. This is one of the conditions of service. No employee can demur or cavil at an order of transfer. It is only when an order of transfer is made otherwise than in public interest or for no administrative reasons and in the circumstances amounting to punishment or with main mala fide intentions, that the transfer order gets exposed to challenge. The right to transfer an employee is a powerful weapon in the hands of the employer. Sometimes it is more dangerous than other punishments. Recent history bears testimony to this. It may, at times, bear the mask of innocuousness. What is ostensible in a transfer order may not be the real object. Behind the mask of innocence may hide sweet revenge, a desire to get rid of an inconvenient employer or to keep at bay an activist or a stormy petrel. When the Court is alerted, the Court has necessarily to tear the veil of deceptive innocuousness and see what exactly motivated the transfer. This Court can and should, in cases where it is satisfied that the real object of transfer is not what is apparent, examine what exactly was behind the transfer.

[Pushpakaran v. Chairman, Coir Board, 1978 K.L.T. 539: 53 F.J.R. 90.]

A-7  
12

R. S. Shukla  
CIRCLE SECRETARY  
P-3, Tele No. 65835

All India Postal Employees  
Union Class-III

(Including E. D. A'S) U. P. Circle at Kanpur.

No. P. III/Pratargarb/89.

Date.....6.12.89.

To

Com. Nisha Kant  
Divl. Secretary,  
AIPU Union, Cl. III  
Pratargarb.

Subj:- Issue of mass transfers of officials by the SSFOs.  
Pratargarb vide memo. No. D. Com. 9/88 dt. 11.5.89.

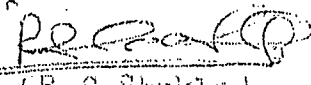
Dear Com.

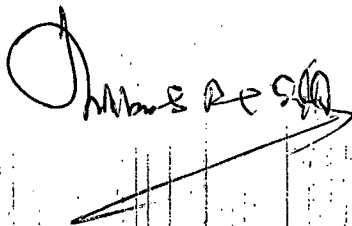
The above issue was discussed with the Chief FMO, UP circle, Lucknow as well as with the DFS Allahabad, in xxxxx a bi-monthly meeting held on 4.12.89 it was informed that deserving cases may be brought to the notice of the DFS Allahabad with a representation so that necessary orders may be issued in the relative case.

The DFS Allahabad has also informed that a report has been called for from the SSFOs. Pratargarb as to why the monthly meetings with the Union is not being held and then necessary action will be taken in the matter.

With greetings,

Yours fraternally

  
(R. S. Shukla)  
Circle Secretary.



Ann. (12)

:- प्रमाण पत्र :-

प्रमाणित किया जाता है कि श्री एम० ए० सिद्धीकोते बर्फ 1988-89 में उपडाकपाल  
हुण्डा बंद घर अर्थात् तराहनीय कार्य किया इनको बर्फ 88-89 में इनके तराहनीय कार्य  
एवं बर्फ प्रानराशि के जमा कराने में उत्तम सहयोग के लिए बर्फ कार्यालय द्वारा  
₹ 1000/- का नकद गुरत्कार प्रदान किया गया। मैं इनके उज्ज्वल भविष्य की कामना  
करता हूँ।

दिनांक :- 5-10-1989

5/10/89  
जिला मजदूर प्रतिकार  
प्रशासक

5/10/89

5/10/89

5/10/89

सहायक बाकियार  
सहायक बाकियार  
सहायक बाकियार  
सहायक बाकियार - 23000

1703-05

Registered A/B

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Opp. Residency  
Lucknow - 226 001

(Registration No. 22 of 1991)

No. CAT/LKO/Jud/CB/

dated 11/11/91

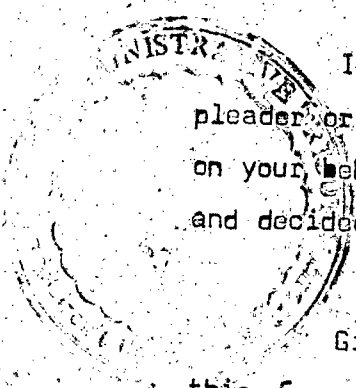
C/

Mehroola APPLICANT(S)

VERSUS

State of U.P. RESPONDENT(S)

Please take notice that the applicant above named  
has prescribed an application a copy whereof is enclosed  
herewith which has been registered in this Tribunal and has  
fixed 11/11 day of Oct. 1991  
for.



If, no appearance is made on your behalf, your  
pleader or by some one duly authorised to Act and plead  
on your behalf in the said application, it will be heard  
and decided in your absence.

Given under my hand and the seal of the Tribunal  
this 11/11 day of Oct. 1991.

dinesh/

Deputy Registrar  
For Deputy Registrar in Tribunal  
Lucknow

Encl:- copy of order dt. 23/8/91



CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH LUCKNOW

d/c  
C-1  
2

O.A. No.208 of 1989 (L)

Mehboob Ali Siddiqui

.....

Applicant.

Versus

Union of India

.....

Respondents.

23-8-89

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

Shri S.B. Misra appears as counsel for the applicant.  
Heard.

ADMIT.

Issue notice to respondents to file counter affidavit within 6 weeks to which the applicant may file rejoinder, if any, within 2 weeks thereafter.

List this case on 17-10-89 for orders/hearing as the case may be.

MEMBER (J)

//True Copy//

(rrm)

24/8

LUCKNOW