

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 225 OF 89

NAME OF THE PARTIES Mahadev Yadav Applicant

Versus

Union of India Respondent

Part A.

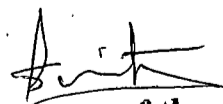
Sl.No.	Description of documents	Page
1 A	Check list	1/52
2 A	Order sheet	3/56
3 A	Petition with Annexure	7/16
4 A	Power	17
5 A	C.M. application 40/90	18 to 27
6 A	C.M. " 155/90	28 to 31
7 A	C.A.	32 to 47
8 A	R.A.	48 to 59
9 A	C.M. application	60 to 63
10 A	Supplementary C.A.	64 to 68
11 A	Rejoinder affidavit	69 to 83
12 A	Suppl. R.A.	84 to 94
13	Judgment	95 to 96
14		
15		
16		
17		
18		

CERTIFICATE

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

Dated 10-6-11

Counter Signed.....


Signature of the
Dealing Assistant

Section Officer/In charge

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

dinesh/

225/89 (L)

आदेश पत्र

११-८-८८. माननीय न्यायाधीशों के आदेश, उपाध्यक्ष
माननीय के. जे. राय, सदस्य

प्रार्थी के अधीवक्ता के अधीन
पर तदानीं ही 26-9-89
को अधीवक्ता है।

10/2

✓

ज. ज.

सदस्य (प्र.)

उपाध्यक्ष

26/9/89

Hon. Justice K. Nath, V.C.
Hon. K. Obayya, Jm.

OK
Case is submitted
for admission.

L
28/8

Issue notice to opposite parties
to show cause why the petition
may not be admitted. The
opposite party No 3 will show in
particular why the salaries of the applicant
are not being paid from 1-5-89.
The case be listed for admission
on 24-10-89 when it is likely
to be disposed of finally.

Am.

V.C.

OK
Copy of O.Ps received
by Sri V.K. Choudhary on
behalf of repdts.

No reply filed.
Submitted for admission

h
28/8

23.1990

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

No one for the appant. Shri.
K. C. Sinha, for the resents. Km.
S. Srivastava, for the t party namely
Shri. Brijendra Kumar.

This is an interg case. One
Shri. M. Yadav, filed alication
allegging himself to be employment
of the respondents as dar. The
petition was admitted. one Shri.
Brijendra Kumar, has m Civil Misc.
Appl. No. 155/90, alleged that he was duly
appointed as chowkidar of Shri.
M. Yadav. The appointer dated,
28.4.1989 has been charged certifiicate
dated 1.5.1989 has a filed. The
respondents also say Shri. Brijendra Kumar
is their employee and M. Yadav. The
anxiety of the resp that they have ^{been} ~~not~~
made to pay to Shri, who is not their
employee. Therefore made a Civil
Misc, Appl. No. 119 has been served
on the applicant bid post. The
controversy, thus, cated upon is,
as to whether Shri or Shri. Brijendra Kr.
is an employee of ents as Chowkidar.

In the aboance the application
of Shri. Brijendra for impleadment
(Civil Misc. Ap) is allowed. The
applicant is directed ^{read} ~~ment~~ him as resp-
ondent No. 3. Le Shri. Brijendra Kr.
be ^{added} ~~added~~ in t of the respondents
within 2 weeks, regard the disposal
of the Civil M 119/90 for vacating
interim ^{order} ~~order~~ ^{relief} ~~relief~~ by newly added
respondent be weeks, hereof and
rejoinder affi the applicant to
the counter for s No. 1, 2 & 3, ^{be filed} ~~be filed~~ within
6 weeks, there

List disposal of Civil
Misc. Appl. case ^{may} ~~will~~ be finally
disposed of.

Impleadment
made today
27/3

sd. *[Signature]*

J.M.

CM 20/9064
Filed today
30/3

O-A 225/89

29.8.90

Hon Mr. D. K. Aggarwal, Jm.
Hon Mr. K. Singh, Jm.

Shri S. B. Mishra for applicant
Shri K. C. Sinha for respondents

M. P. 453/90 is allowed. Delay
is condoned in filing the counter.
On the request of Shri S. B. Mishra
the case is adjourned to
24.9.90

b
Am.

Do
T. B.

24.9.90

No sitting Adj to 14.12.90

Do

14.12.90

case not searched Adj to 15.2.91
for hearing

15.2.91

No sitting Adj to 20.5.91.

Rec.

Do

OK

Case ready

Hon Justice U. C. Srivastava - vc
Hon Mr. A. B. Goyal

Am.

S. P. H.

On the request of Shri S. B. Mishra
counsel for applicant case is
adjourned to 4.9.91 for
hearing

h
17/3/91

Am

vc

Am

Do

A

4.9.91

Hon. Mr. D. K. Agrawal - JM.
Hon. Mr. K. Chagga - DM

On the request of counsel for
applicant case is adj. to 12.12.91
for hearing. Sri K. C. Singh is not
present.


DM.


JM.

12.12.91 Dine in Sadanmra of B.D.
Chad. Adv. ref. made by bar.
Case adj. 31.1.92


DM

195

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

.....
Registration O.A. No. 225 of 1989

Mahadeo Yadav Applicant.

Versus

Union of India and Others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

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

The applicant was appointed as Contingency Paid Chowkidar on 15.9.1988 to guard the Ateha Post Office, District Pratapgarh. Although no written order was given to the applicant, in the month of May, 1989 the applicant came to know that some Brijendra Kumar Singh is being appointed and ultimately the said respondent was appointed.

2. The grievance of the applicant is that the applicant is the resident of the said village and ~~have~~ worked more than 7 months on the said post and there was nothing against him and he having been also appointed in accordance with the departmental circular which provides that a person should be from the resident of the same village. The applicant was arbitrarily ousted in this manner to accommodate the said Brijendra Kumar Singh by the respondents, and the father of the said Brijendra Kumar Singh is also postman in this circle.

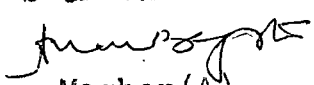
3. The respondents have refuted the claim of the applicant and have contended ^{that} ~~as~~ pending a regular appointment, the applicant was appointed but when the regular appointment was made, the said Brijendra Kumar Singh was selected. From the counter affidavit, it does not appear that the applicant was also given an opportunity to participate in the said selection. According to the respondents, the said Brijendra


Contd ...2p/-

Dej 6

Kumar Singh was also resident of the same village and they have filed certain documents in this behalf. While the applicant has also filed some documents that he was not resident of that village but was resident of one village 'Kumbhi'. The said documents create doubts that the said Brijendra Kumar Singh may not be the resident of this village. Obviously, he was resident of one village Kumbhi. Obviously, it was within the jurisdiction to appoint a regular Chew-kidar but when the applicant was working on the said post and undoubtedly, he was the resident of the same village, an opportunity should have been afforded to him but that was not done. Though, the applicant cannot claim any right to the said post but in view of the fact that he was resident of the same village, ^{could have been} he was given preference and his case ought to have been considered.

4. Accordingly, as in ^{the} case ^{on} the enquiry ^{is} needed, the senior Superintendent Post Office is directed to make a fresh enquiry, through a sub-ordinate who may not be posted in that circle, within a period of 3 months to find out as to whether, in fact, the applicant is a resident of the same village and the said Brijendra Kumar Singh is resident of another village, and if the department decides to keep the said Brijendra Kumar Singh's service then they can shift Brijendra Kumar Singh to another village and give preference and priority to the applicant for the appointment to the post of said Chewkidar in the said circle. The application is disposed of with the above terms. Parties to bear their own costs.


Member (A)


Vice-Chairman

Dated: 31.1.1992

(n.u.)

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

EOA. NO. 225 (L) of 1989

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 29/8/89
Date of Receipt by Post...

In re :

Deputy Registrar(J)

Mahadeo Yadav ...

Applicant

AND

Union of India & 3 Ors. ---

Respondents.

I N D E X

S.No.	Particulars	Pages
1.	Application	1 To 6
2.	Annexure No. 1	- 7
3.	Annexure No. 2	- 8
4.	Postal Order	9
5.	Power of Counsel	10

Lucknow;

August 22, 1989

S. B. Mishra
(S. B. MISHRA) 22/8/89
Advocate
Counsel for the Applicant.

Noted for 11/9/89

S. B. Mishra
29/8/89

AD

①

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

O.A. No. 225 (L) of 1989

BETWEEN :

Mahadeo Yadav ... Applicant

AND

Union of India, through the Secretary,
Tele-Communication (Postal) Parliament-
Street, New Delhi. and 3 Others. ... Respondents.

APPLICATION U/s 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT, 1985 (1985)

I. Particulars of the Applicant :

- i) Mahadeo Yadav
- ii) Son of Dwarka Yadav
- iii) Contingency paid Chowkidar, Post Office Ateha,
District : Pratapgarh.
- iv) Contingency paid Chowkidar, P.O. Ateha,
District : Pratapgarh.
- v) Resident of Village : Ateha, P-argana : Ateha,
Tehsil : Lalganj, District : Pratapgarh.

2. PARTICULARS OF THE RESPONDENTS :

- i) Union of India, through the Secretary, Tele-
Communication (Postal), Parliament Street, N. Delhi
- ii) Sub-Divisional Inspector of Post Offices,
Pratapgarh, North, Pratapgarh
- iii) Sub-Post Master, Ateha (Lower Selection Gr.),
Pratapgarh.
- iv) Senior Superintendent of Post Offices,
Pratapgarh.

22/3/90

Added of Imp. order
as per order of the Tribunal V.
dt. 20.3.90.

S. B. Singh
Advocate
Lucknow dt. 27.3.90

Shri Prigendra Kumar S/o Shri Chyagan
Bahadur, S.O. V. of Post Office Ateha
District - Pratapgarh.

contd..2

3. i) There is no particular order but the allowances are not being paid to the applicant every month for the last few months, although he is still guarding the Post Office overnight, his presence on duty is being marked in the attendance register of the office, he has not been relieved of his duties and there is no order of termination of his service as contingency paid Chowkidar and he is still continuing in service.

ii) SUBJECT IN BRIEF :

The applicant was appointed as a contingency paid Chowkidar by the Respondent No. 3 vide his order dated 15th September, 1988 to guard Post office : Ateha, district : Pratapgarh overnight which he has been doing ever since, honestly and faithfully but he is not being paid his monthly allowances totally Rs.922.50 P. per month by the respondent No.3 on the direction of the Respondent No.4 ^{for the period from 1.11.88 to 31.12.88} It has come to the knowledge of the applicant that some Brijendra ^{Kumar} ~~Bansal~~ Singh, who lives at a distance of ten kilometres has been appointed on the post held by him, but neither the applicant's services have been terminated nor he has been relieved of his responsibility and he is actually doing his duty after signing the attendance register. The said appointment, if any, is wholly invalid and improper on many grounds which will appear in subsequent paragraphs.

4. The applicant declares that the subject matter of this application is within the jurisdiction of the

Al

3

P-3

Hon8ble Tribunal.

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

6. FACTS OF THE CASE :

- i) That the applicant was appointed as Contingency Paid Chowkidar on 15th Sept. 1988 by the Respondent No.3 to guard the Ateha Post Office, district - Pratapgarh, on an allowance of Rs.750/- plus a D.A. of Rs.172.50 P., totalling Rs.922.50 P. every month. The Respondent No. 3 has paid this allowance to the applicant.
- ii) That ever since the date of his appointment namely 15.9.1988 by an order of the date passed by the Respondent No.3, the applicant has been working honestly, sincerely and faithfully on his job and he is doing so even to this day. It may be noted in this connection that the applicant is a resident of the same village;- Ateha where the Post office in question is situated.
- iii) That in the month of May, 1989 the applicant came to know through rumours that some Brijendra ^{Kumar} ~~Schadur~~ Singh had been kept on the post occupied by the applicant but the applicant was never given any notice of the same nor his appointment was otherwise terminated or brought to an end ; and he is still working on his job and signing the attendance register regularly but he is not being paid his said allowances for the past four months, i.e. since 1.5.89

4815a

A/2

4
P-4

- iv) That it has come to the knowledge of the applicant that the Respondent No. 4 has directed the Respondent No.3 (Sub-Post Master - Ateha) to stop payment of the allowances to the applicant, without there being any order of termination of his services;
- v) That the non-payment of monthly allowances to the applicant who is working even to this day on the said Post is a clear case of violation of his legal as also moral right to receive wages regularly, without interruption after performing his duties faithfully;
- vi) That the respondents are withholding the monthly allowances payable to the applicant with malafide intentions and evil motives, just to harass and harm him.
- vii) That the appointment of said Shri Brijendra ^{Kumar} ~~Behadur~~ Singh, if any, is wholly bad in law for he is a resident of a place Ten Km. away from the Post office in question and no compliance of character and ~~xxx~~ antecedents Verification by the Police under rule 111 of C.S.Orders has ever taken place before his appointment, the fact remaining that neither the services of the applicant have been terminated nor he has been relieved of his duty to guard the post office in question overnight. He is regularly signing the attendance register kept in the office;
- viii) That the applicant represented to the various authorities including the Hon'ble Communications Minister, Government of India, New Delhi on 18th May, 1989 and thereafter on 1st June, 1989 against the above said highhandedness; but to no avail. The applicant is filing herewith the photostat copies of the said representations as ANNEXURES I AND II respectively to this application.

46140

ix) That no relief being possible, the applicant was advised to file a civil suit for permanent injunction at Pratapgarh which he did, but the plaint/^{which} was registered as Misc. Case No. 44 of 1989 instituted on 27th July, 1989 in the Court of Munsif Kunda, Pratapgarh, was returned to the applicant since according to the court it could not take ~~cognizance~~ cognizance of the case.

x) That there being no alternative the applicant is making this application before this Hon'ble Tribunal.

xxx
7.

RELIEFS SOUGHT :

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

- a) The Respondents be directed to pay all the due allowances to the applicant ^{for the period from 1.5.89} without any further delay and continue doing so in future till he is lawfully employed on his job.
- b) The respondents be directed to treat the applicant in service as hitherto for all intents and purposes;
- c) Costs of this application may be awarded to the applicant.

8. The balance of convenience being heavily in favour of the applicant and there being no order of termination of his service otherwise, the respondent No. 3 and 4 be directed to pay all the due allowances upto date, ^{to} the applicant immediately and continue doing so in future;

9. The applicant declares that he has availed of all the remedies available to him under the relevant service rules and hence this application is being filed.
10. That the applicant further declares that the matter regarding which this application is being made, is not pending before any court of law or any other authority or any other Bench of this Hon'ble Tribunal;
11. That the application Fee of Rs. 50/- is being paid through a Postal order No. DD/5/029059 issued by the Post Office High Court Branch, Lucknow on 28.8.89 and payable at Lucknow.
12. An Index in duplicate containing the details of the documents to be relied upon is enclosed.
13. LIST OF ENCLOSURES :
 - i) Representation dated 18th May, 1989 to the Communication Minister, Government of India, New Delhi.
 - ii) Representation dated 1st June, 1989 to the Sub-Post Master, Ateha, District : Pratapgarh.

IN VERIFICATION:

I, Mahadeo Yadav, S/o Shri Dwarka Yadav, aged about 25 yrs., working as Contingency paid Chowkidar, P.O. Ateha, Distt. Pratapgarh and resident of Vill. Ateha, Pargana Ateha, Tehsil: Lalganj, Distt. Pratapgarh, do hereby verify that the contents of para. 1 to 13 above are true to my personal knowledge & belief and that I have not suppressed any material fact.

Lucknow;

Aug. 22, 1989

(MAHADEO YADAV)
Applicant.

सेवा में,

श्री वीर बहादुर सिंह जी
संचार मंत्री, भारत सरकार
नई दिल्ली ।

क्रियः:- निरीक्षक डाक्टर उत्तरी, उपखण्ड प्रतापगढ़, श्री आर०डी०
पाण्डेय की अनियमितता एवं मनमाजी ।

मान्यवर,

प्रार्थी एक बहुत ही गरीब और पिछड़े वर्ग का व्यक्ति है। वर्तमान समय में अठेठा उपडाकख, पिता-प्रतापगढ़ उत्तर प्रदेश में सी०पी० चौकीदार के पद पर कार्यरत है। प्रार्थी को उपडाकखाल अठेठा ने अपने आदेशों तः सी०पी० चौकीदार अठेठा [अरेम्पमेन्ट] दिनांक 15-9-88 के द्वारा आदेश दिया कि प्रार्थी अठेठा डाक्टर पिता-प्रतापगढ़ के सी०पी० चौकीदार पद पर कार्य करे। तभी से प्रार्थी इस पद पर कार्य कर रहा है।

डाक निरीक्षक प्रतापगढ़ उत्तरी, श्री आर०डी० पाण्डेय ने मुझे न तो कोई सुचना दिया और हटाये जाने का आदेश। एक अन्य व्यक्ति श्री दुबेन्द्र बहादुर सिंह जो इसी डाकखाने के पोस्टमैन श्री रयाम बहादुर सिंह के लड़के हैं और पिता मकान डाकखाने से लगभग 10 कि०मी० दूर ग्राम व पोस्ट कुम्भी आड़मा में हैं, की नियुक्ति कर दिया है। उन्हें फर्जी तौर पर अठेठा खात का निवासी दिखाकर डाक अधिष्ठाता श्री देवदत्त तिवारी व निरीक्षक महोदय की ताठ-गांठ से ही रुपये के बल पर रखा गया है। जिससे प्रार्थी के प्रति घोर अन्याय किया गया है। अतः प्रार्थी इस सम्बन्ध में निम्नलिखित प्रार्थना करता है :-

1- प्रार्थी इस पद पर लगभग आठ माह पहले से ही कार्य कर रहा था। कार्यकाल में प्रार्थी की कोई शिकायत नहीं पायी गई तो बिना प्रार्थी को सुचित किये उसी पद पर अन्य की नियुक्ति करके प्रार्थी के साथ अन्याय किया गया है।

2- प्रार्थी को उसका कोई अपराध नहीं बताया गया है। उसे कोई आरोप नहीं दिया गया। उसे अपनी बात कहने का कोई मौका नहीं दिया गया फिर भी दूसरे व्यक्ति को काम करने का आदेश दे दिया गया।

3- श्री दुबेन्द्र बहादुर सिंह पुत्र श्री रयाम बहादुर सिंह पोस्टमैन अठेठा, जिन्हें सी०पी० चौकीदार अठेठा के पद पर कार्य करने का आदेश दिया गया है, वह ग्राम व पोस्ट-कुम्भी आड़मा के निवासी हैं, उनके पिता, श्री देवदत्त तिवारी डाक अधिष्ठाता और श्री आर०डी० पाण्डेय डाक निरीक्षक को भिठाकर और 10000/- रुपये रिश्वत देकर तथा फर्जी तौर पर अठेठा खात का निवासी दिखाकर यह आदेश कराया है जो एकदम अन्यायपूर्ण है। यह अठेठा खात के निवासी नहीं हैं।

4- श्री दुबेन्द्र बहादुर सिंह उनकी नियुक्ति की गई है, सी०पी० के मरीज हैं जो बीमारी के कारण बहुत ही कमजोर हैं और डाकखाने की चौकीदारी जैसे जिम्मेदारी का काम कर सकने में पूर्णतः अक्षम हैं।

महोदय

..2पर

312.81 4714016

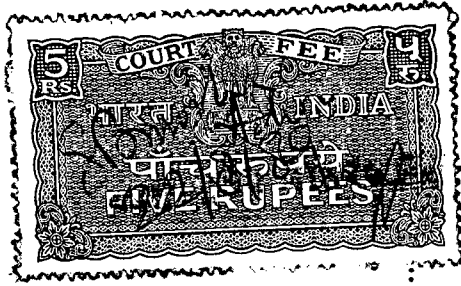
मार्गदर्शक
विनाश विप्लव है कि प्रार्थना करने से
पहले के चौकीदार भगवान के हथामे लगे से ठाढ़ होकर
बराबर चौकीदार के पद पर काम कर रहा है। उसे कानि
तक हथामा नहीं गया। जो बुराई बहादुर सिंह को बिना
मुझे हथामे काम पर भगवान हर पंजाब से अभिवादन है।
प्रार्थना के साथ अभ्यास है। इस सम्बन्ध में प्रार्थना ने मायका
संचार मित्र, निदेशक: पी. एम. जी, अन्ध्रा प्रदेश राज्य की
अपने अपार है रहे अत्याचार से जान्य है। प्रार्थना जन प्रार्थना
मित्र है परन्तु अभी तक कल से कोई भी अन्ध्रा प्रार्थना को नहीं
प्रार्थना है शक्ति है। ३७ प्रार्थना प्रार्थना की शक्ति अभिवादन। प्रार्थना
है संगठन है।

आत्मः श्री गुरु जी है पूर्णता है वे जब तक भैंस
उदयुक्त प्रार्थना पत्र विचारणा है और उच्च कार्यवाही
की किन्हीं निमित्त नही हो जाता कि एक पक्षों को तरह मुझे ही उच्च
आचार बताने देने रखने की कृपा की जाय जहाँ कि पहले ही उच्च
तक में लगातार काम करता चला आ रहा है। यदि उच्च कार्यवाही
का निमित्त भैंस पक्ष में हो तो कामों में मुझे काम करने का अवसर
दिना जाय और यदि निमित्त भैंस पक्ष में न हो तो उसी के
आचार भैंस प्राप्ति कोई कार्यवाही की जाय।

T. C. महादेव महादेव (महादेव)

श्री जगदीश्वर महाराज
 श्री गुरुदेव महाराज
 श्री गुरुदेव महाराज
 श्री गुरुदेव महाराज

Before the Central Administrative Tribunal (10)
ब अदालत श्रीमान् Allahabad, Lucknow Bench, Lucknow महोदय
[वादी अपीलान्त] प्रतिवादी [रेस्पाडेन्ट] का वकालतनामा (A/7)



वादी (अपीलान्त)

Mahadeo Yadav — Applicant

बनाम

प्रतिवादी (रेस्पाडेन्ट)

न० मुकद्दमा D.A. No. (1) सन् 1989 पेशी को ता० 22/8/89 १९८९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Shashi Bhal Mishra, Advocate and Shailendra Mishra Advocate, both residents of 508/49-A, Rai Behani Lal Road, Lucknow-7

वकील

महोदय

एडवोकेट

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

हस्ताक्षर महोदय

साक्षी (गवाह) साक्षी (गवाह)

दिनांक 22/8/89 महिना August सन् १९८९ ई०

स्वीकृत

Accepted
Shailendra Mishra Adv.
22/8/89

Accepted
Shashi Bhal Mishra Adv.
22/8/89

A18

Before The Central Administrative Tribunal

circuit Bench , Lucknow

O. A. NO. 225 of 1989 (L)

C.M. 40/90L

Mahadeo. Yedav

.....Applicant

-VS-

Union of India and others

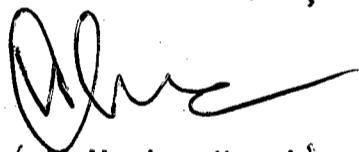
.....opp. parties

AFFLICATION FOR CONDATION OF DELAY IN FILLING COUNTER AFFIDAIT

The Respondent beg to submit as under:-

1. That the counter affidavit could not be filed earlier due to want of some information , which took time in collecting the same . The counter affidavit is being filed herewith this application.
2. That the delay in filing the counter affidavit was not intentional.
3. That the counter affidavit being filed herewith may be taken on record of this Hon'ble court and the delay in filing the same may be condoned.

wherefore it is most humbly prayed that the Hon'ble court may be pleased to condone the delay in filing of the counter affidavit and the same be taken on record, in view of the reson and circustances explained.



(V K chaudhari)

Advocate, High court
counsel for opp. party

Lucknow,

Dated: 19.1.1990

19/1/90

A19

O.A. No. 225 of 1989(L)

... Applicant

-VS-

.. Opp. parties

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.

I, R.D. Dandey, Sub-Divisional Inspector (North)
Dratapgarh, aged about 44 years, son of Shri B.P. Dandey,
do hereby solemnly affirm and state as under:-

1. That the deponent is at present posted as ^{Inspector (P)} Sub Divisional Officer (North) Pratapagarh and he is Opposite party no.2 in the above noted case. He has been authorised to file this counter affidavit on behalf of all other 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 hereinunder:-

2. That before giving parawise comments on the application it is pertinent to give brief history of the case, as detailed below:

(C) That Shri Bhagwan Din C.F. Chowkidar Atheha
FO Fratapgarh had completed his 65 years of age and he
was declared unfit for further service as C.F. Chowkidar
~~Chief Medical Officer~~

170

by Chief Medical Officer Iratapgarh. So he was ordered to be retired from the post of C.F. Chowkidar Athaha under Sub Divisional Inspector Post Offices North Sub Division, Memo No. A/Athaha dated 5.9.88. In this way the post of C.F. Chowkidar fell vacant with effect from 15.9.1988.

4. (b) That the post of C.F. Chowkidar was to be notified through the employment exchange and the delay in appointment was ~~xxx~~ anticipated so as to manage the work of C.F. Chowkidar Athaha, the Sub Post Master ^{Athaha engaged for Mahanada in application temporarily} till regular arrangement was made.

(c) That the post of C.F. Chowkidar could be notified through employment exchange vide SDI North Memo No. A/Athaha/88-89 dated 30.1.1989 because the retiree Shri Bhagwan Din Ex.C.F. Chowkidar made some representation regarding his age and physical fitness for the job of Choukidar which was referred to C.M.O. Iratapgarh. Chief Medical officer's certificate could be received only on 30.12.88. The notification to ~~xxxxxxx~~ the employment exchange is mandatory for C.F. employees and no C.F. Employees can be engaged or retained unless sponsored by employment exchange. ~~Thxxxxxxx~~

7/12/03

amp

121

RHE

(d) The Employment Exchange Pratapggarh under
(copy enclosed Annexure-C1)
his No. ~~11/3773~~ 89/665 dated 23.3.89 informed that
only three persons of Atheha delivery jurisdiction
are registered in the Employment Exchange but they
did not turn up on notification. Employment
Exchange letter is being enclosed as Annexure G-12
to this counter affidavit. Therefore the vacancy 6
for the post of C.P. Choukidar was notified to
the General Public under registered post. (A copy
of the same is being enclosed as Annexure-C-3
to this counter affidavit. After notification
three application were received, but no application
was received from the applicant thus the
selection was made among the applicants whose
applications were received through general
Notification. The name of selected
candidates ~~xxxx~~ was also found registered
in the Employment exchange Pratapggarh under No.
1068/88.

(e) That Brijendra Kumar Singh who was selected
for the post of C.P. Chowkidar ^{Atheha} and joined his duty
on 1.5.1989. Appointment letter and joining duty
by Shri Brijendra Kumar Singh are enclosed as
~~Annexure-C-3~~ to this affidavit.

7/12/89

mmP

1922

3. That the contents of paras 1. & 2 of the application need no comments.

4. That in reply to the contents of para 3(i) of the application it is submitted that after appointment of regular C.I. Chowkidar the temporary arrangement automatically ceased. The action of the sub post master Respondent no.3 for not paying the allowances of the applicant from 1.5.89 is regular. It is not ~~admitted~~ ~~submitted~~ that the applicant is attending duties regularly, because two person can not work on the same post.

5. That in reply to the contents of para 3(ii) of the application it is submitted that the applicant was merely engaged by the S.I.M. temporarily and not by the Sub Divisional Inspector of Post offices respondent no.2 as alleged by the applicant. The arrangement ceased after the regular appointment of C.I. Chowkidar. The applicant had not applied for the post at any stage, the Gram Pradhan Atheha has clearly certified that Shri Prijendra Kumar Singh is local resident of Atheha village. So the averment of the ~~xxx~~ applicant is wrong. Since the applicant was not regularly appointed, therefore the question of issue of the termination order did not arise, other contents of this para are denied.

7/12/05

[Handwritten signature]

(A23)

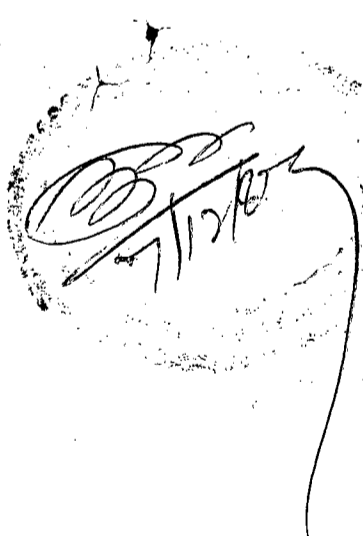
6. That the contents of para 4 of the application need no comments.

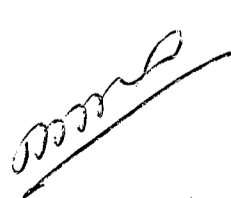
7. That the contents of para 5 of the application are legally correct and as such need no further comments.

8. That the contents of para 6(i) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was engaged temporarily for a period during which the proceeding for regular appointment was in process. After appointment of regular C.L. Chowkidar the applicant automatically ceased to function.

9. That the contents of para 6(ii) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was merely engaged by S.M. Atheha, respondent no.3 and not by Sub Divisional Inspector Post Offices, Pratapgarh, the answering deponent.

10. That in reply to the contents of para 6(iii) of the application it is submitted that after observing requisite formalities Shri Brijender Kumar Singh was appointed ~~xxxxxx~~ on the post and was given charge on 1.5.89 by the Sub Postmaster Atheha (appointment order and copy of charge report dated 1.5.89 are annexed as Annexures- C-4 & 5) and other contents of this para are baseless, hence denied.

A handwritten signature is written over a circular official stamp. The signature appears to be 'B. S. Singh' or similar. The stamp contains some text, but it is mostly illegible due to the signature and the quality of the scan.

A handwritten signature, possibly 'mm', written in cursive script.

11. That the contents of para 6(iv) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was not regularly appointed on the post by respondent no.2 ie. the answering Opp. No.2 . So the question of issue of order of termination does not arise.

12. That the contents of para 6(v) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant is not performing the duties of C.F. Chowkidar, so the question of payment of the allowances from 1.5.89 does not arise at all.

13. That the contents of para 6(vi) of the application are not admitted being baseless and in fact it is submitted that the action of Respondent no.3 is regular and under law.

14. That the contents of para 6(vii) of the application are incorrect as stated and in reply it is stated that no adverse have been noticed against the appointee Shri Brijender Kumar Singh and all formalities have been got completed before his appointment.

15. That the contents of para 6(viii) to 6(x) of the application need no comments.

16. That in reply to the contents of para 7 of the application it is submitted that the applicant is not entitled for any relief as he was not regularly appointed

725

on the post of Chowkidar. The applicant has not exhausted the departmental channels.

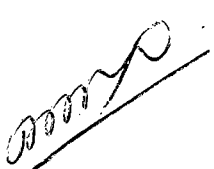
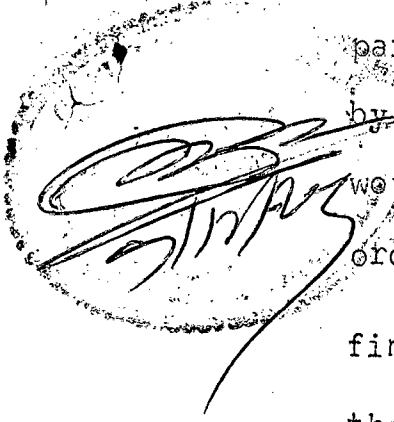
17. That the contents of para 8 of the application need no comments.

18. That the contents of para 9 of the application are incorrect, hence denied and in reply it is submitted that the applicant has not exhausted the departmental remedies available to the applicant before filing this application before this Hon'ble tribunal.

19. That the contents of para 10 of the application not admitted as the respondents have no knowledge.

20. That the contents of para 11 and 12 of the application need no comments.

21. That there is no post of Contingency paid Chowkidar except the post filled by Shri Brijender Kumar Singh, and the Department would face great hardship in case the interim order is continued or the claim petition is finally allowed. It is pertinent to mention that the applicant was never duly appointed by the competent authority on the post. However, he was given chance to work in stop-gap arrangement to work by the Sub Post master concerned even without any approval from the competent authority till the final/regular selection of the post. In case the applicant was interested in getting the appointment he should have applied for regular selection, but he failed



to do so as such he has no ~~ee~~ claim now.

22. That the application is bad in law for non-joinder necessary party ie.

Shri Brinder Kumar Singh who was appointed after due process of selection and the applicant was fully aware that Shri Brijender Kumar Singh has been appointed on the post in question.

application
In case the ~~application~~ is allowed Shri Brijender Kumar Singh will be adversely affected and as such he is necessary party to this application. As such the present application is liable to be dismissed for non-joinder necessary party ie. Brijender Kumar Singh, s/o.

Shri Shyam Bahadur Singh resident of village Atheha, District Hamirpur. *Paralapgarh*

23. That in view of the facts and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs to the Respondents.

Deponent.

Lucknow,

Dated: *7/12/89* Dec. 1989.

[Signature]
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 *4* to *5* of this affidavit are believed by me to be true on

A27

the basis of the information gathered while
those of the contents of para ~~1~~ to
are also believed by me to be true on the
basis of legal advice. No part of it is
false and nothing material fact has been
concealed.

Deponent.

Lucknow,

Dated: 7 Dec. 1989.

[Signature]

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

(VK CHAUDHARI)
Addl Standing Counsel for Central Govt
Advocate, High Court Bench, Lucknow
(Counsel for the Respondents)

Lucknow,

Dated: 7/12/89 Dec. 1989.

[Signature] R. D. Pandey
[Signature] V. K. Chaudhary

[Signature]
Comptroller of Accounts
Date: 7/12/89

A28

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

Civil Misc. Application No. 155 of 1990 ly

ON BEHALF OF

Sri Brijendra Kumar, son of Sri Shyam
Bahadur, resident of Village & Post
Atheha, District Pratapgarh.

IN

REGISTRATION O.A.No.225/1989(L).

Mahadev Yadav

.....Petitioner

Versus

The Union of India & others

.....Respondents

To,

The Hon'ble Vice-Chairman and his other
companion Members of the aforesaid Tribunal.

The humble application of the above named
respondent MOST RESPECTFULLY SHOWETH as under :-

1. THAT the aforesaid petition has been
filed seeking relief ^{that} ~~for~~ Mahadev Yadav should be

allowed to continue as Contingent paid Chowkidar, Atheha, and the respondents be directed to make the payment.

2. THAT in paragraph no. 6. (iii) of the petition it has been asserted by the petitioner himself that the above named Brijendra Kumar Singh had been kept on the post occupied by the petitioner. In paragraph no. 6.(vii) of the petition it has been further asserted and assailed that the appointment of Sri Brijendra Kumar Singh is bad in the eye of law. In paragraph no. 6.(viii) of petition it has been further asserted that the petitioner has referred the representation against the appointment of Brijendra Kumar Singh to the various higher authorities.

3. THAT in view of the pleadings, it is clear that in directly the petitioner is challenging the order of the appointment which has been issued to Sri Brijendra Kumar Singh.

4. THAT surreptitiously the petitioner has not arrayed Brijendra Kumar Singh as a party in the aforesaid case.

5. THAT in fact Brijendra Kumar Singh

was appointed as contingent paid Chowkidar, post, Atheha, by the appointing authority in place of the petitioner and in case the petitioner is allowed to work on the said post, obviously Brijendra Kumar Singh's appointment will be affected, as obviously Brijendra Kumar Singh will be directly to make the room for the petitioner.

6. THAT in view of the aforesaid contingency Brijendra Kumar Singh is not only the proper party but it is a necessary party and in fact the ~~petition~~ petition suffers with the infirmity of the non-joining of the necessary parties.

7. THAT in view of the facts and circumstances stated above, Brijendra Kumar Singh may be allowed to be arrayed as respondent no. 5 in the aforesaid petition otherwise Brijendra Kumar Singh would suffer a grave irreparable loss.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to direct for the impleadment of Brijendra Kumar Singh as respondent no. 5, in view of the facts and circumstances stated above, otherwise the

A31

4 -

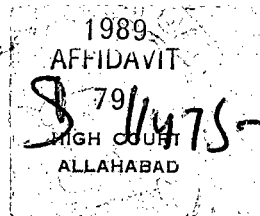
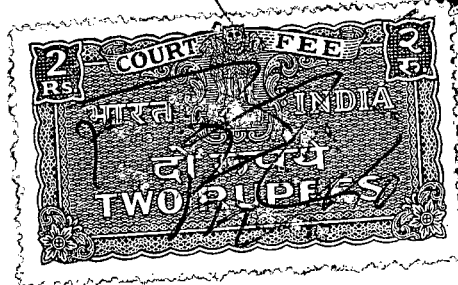
Brijendra Kumar Singh would suffer a grave
irreparable loss.

Sadhna Srivastava
(KM. SADHNA SRIVASTAVA)
ADVOCATE
COUNSEL FOR THE PROPOSED RESPONDENT
NO. 5.

February 23, 1990.

Allahabad.

-oOo-



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW.

-oOo-

COUNTER AFFIDAVIT

ON BEHALF OF

RESPONDENTS

IN

REGISTRATION O.A.NO.225/1989(L).

Mahadev Yadav

.....Petitioner

Versus

The Union of India & others

.....Respondents

Affidavit of Sri Bijendra

Kumar Singh aged about

24 years, son of Shri Shyam

Bahadur Singh,

C.P. Chaukidar, Post Office, Alha

Pratapgarh. (Deponent)

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

1. THAT the deponent is C.P. Chaukidar

and as such is well acquainted with the facts of case deposed to below.

2. THAT Brijendra Kumar Singh is a resident of village & post Atheha, District, Pratapgarh, and a general notification regarding the vacancy of contingency paid Chowkidar and it's recruitment came to his knowledge through beat of drums and after having the said knowledge the petitioner approached to the Sub-Divisional Inspector, Post Offices, North Sub-Division, Pratapgarh and acquaint himself about the proforma of the application for preferring the application for appointment as a C.P. Chowkidar, Post, Atheha, in response of the aforesaid notification dated 12.4.1989. It was also noticed by the Brijendra Kumar Singh that it has also been pasted on the notice board.

3. THAT in response of the aforesaid general notification, three candidates submitted applications giving all the details on the proforma of the application.

4. THAT it is also pertinent to mention here that his name was also registered in the Employment Exchange, Pratapgarh, bearing it's number as 1068/88 and he fulfills all the conditions which have been given in the proforma. A true copy of the



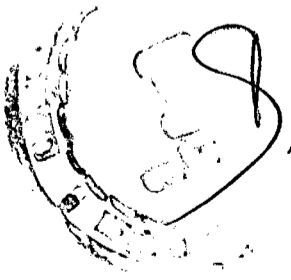
बिजेन्द्र कुमार सिंह

application preferred by Brijendra Kumar Singh is annexed with this counter affidavit and is marked as ANNEXURE NO. I.

5. THAT it appears that after scrutinising all the applications received in response of the aforesaid general notification dated 12.4.1989, the respondent no. 2 finalised the appointment and it was issued in favour of Brijendra Kumar Singh on 28.4.1989. A photocopy of the said appointment letter dated 28.4.1989 is annexed with this counter affidavit and is marked as ANNEXURE NO. II.

6. THAT Brijendra Kumar Singh also got the information that in response of the aforesaid general notification only three applicants applied for the said post, but the petitioner was not amongst those three persons.

7. THAT in view of the aforesaid appointment dated 28.4. 1989, Brijendra Kumar Singh took over the charge of his office and joined his duties on 1.5.1989. A photocopy of the charge report in the prescribed proforma is annexed with this counter affidavit and is marked as ANNEXURE NO. III



पुनःप्राप्त

8. THAT it is also pertinent to mention here that it came to the knowledge of Brijendra Kumar Singh that prior to the regular appointment of him, the petitioner was working as C.P. Chowkidar against the temporary arrangement after the retirement of one Sri Bhagwan Din, the regular incumbent.

9. THAT since Brijendra Kumar Singh has been appointed on regular basis after following all the norms of the recruitment and appropriate appointing authority has finalised the appointment and issued the appointment order and as such the temporary arrangement which was made by ~~deploying~~ deploying the petitioner came to an end automatically.

10. THAT the contents of paragraphs nos. 1 and 2 of the petition needs no comment.

11. THAT in reply to the contents of paragraph no. 3(i) of the petition, it is submitted that since the petitioner was ~~asked~~ working as a temporary arrangement on the retirement of Sri Bhagwan Din, who touched the age of superannuation of 65 years, and his appointment was not made after following norms of the regular appointment. The moment when the regular appointment is made i.e. of the deponent the deployment of the petitioner, which was purely

बिजेन्द्र कुमार सिंह

against the stop gap arrangement, came to an end automatically, so question of giving any order doesn't arise.

12. THAT in reply to the contents of paragraph no. 3.(ii) of the petition it is submitted that after 28.4.1989, the petitioner is not working on the post of Chowlidar and as such question of making any payment doesn't arise. It is also made clear that there was only one post of Chowkidar in Post Office, Atheha, and against the said post the deponent has takenover the charge on 1.5.1989. It is also not correct to allege that Brijendra Kumar Singh is not a resident of the said village and he resides about 10 Kms away from the Post Office. Contrary to this the Gram Pradhan of Gram Sabha, Atheha, has given a certificate that Brijendra Kumar Singh, son of Shyam Bahadur Singh is a resident of Village Atheha. A photocopy of the said certificate is annexed with this counter affidavit and is marked as ANNEXURE NO. IV. An extract of Kutumb register issued by the Gram Panchayat Adhikari dated 22.3.1989 is also being annexed with this counter affidavit and is marked as ANNEXURE NO. V.



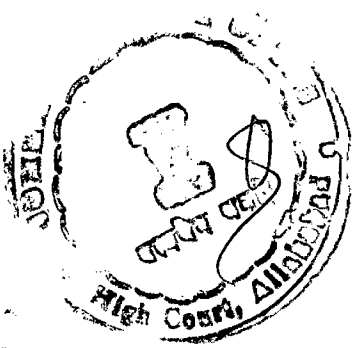
13. THAT the contents of paragraphs nos. 4 and 5 of the petition needs no comment.

प्रतिवादी की ओर से

14. THAT in reply to the contents of paragraph no. 6 (i) of the petition, it is submitted that it is not correct as stated. As stated earlier, the petitioner was deployed on the retirement of Sri Bhagwan Din after attaining the age of superannuation, against the step gap arrangement, pending the regular appointment is made as per the rules.

15. THAT the contents of paragraphs no. 6.(ii) don't relate to the answering respondents and as such no positive comments are being offered.

16. THAT the contents of paragraph no. 6.(iii) of the petition ~~ixixixixix~~ are not correct as stated. It is further submitted that it is absolutely wrong to allege that the petitioner came through rumours that the appointment of Brijendra Kumar Singh has been made. Contrary to this on 1.5.1989, as stated earlier, the Sub-Post Master, i.e. respondent no. 3, has given a charge of office and since then the Brijendra Kumar Singh is performing the duties of Chowkidar. However it is also made clear that the petitioner is not at all working/performing duties as Chowkidar of Post Office, Atheha, after 1.5.1989. It is also wrong to allege that the petitioner is still working on the said post. Since the deponent is working from 1.5.1989 as Chowkidar and as such



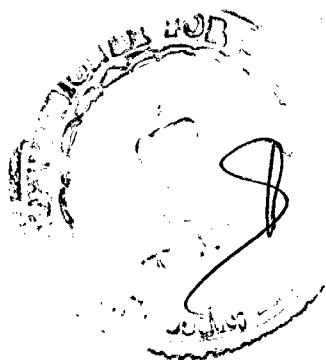
पिजेदे उमालिडे

the question of payment, after 1.5.1989, to the petitioner doesn't arise.

17. THAT the contents of paragraph no. 6.(iv) of the petition don't relate to the answering respondent and as such no positive comments are being offered.

18. THAT the contents of paragraphs nos. 6.(v) & 6.(vi) of the petition are not correct as stated. As stated earlier, that the petitioner is not working as C.P.Chowkidar of Post Office, Atheha, and since he is not working as Chowlidar, as such question of making any payment doesn't arise.

19. THAT the contents of paragraphs no. 6.(vii) of the petition are not correct and as such are denied. A detail reply has been furnished above. In this connection it will prove that the appointment of the deponent was made by the competent authority after following all the channels of making a regular appointment. However it is also made clear that the character was verified by the police authorities also and nothing adverse had been reported, as far as the deponent knows. As regard the signing of the petitioner on the attendance register, it is not within the knowledge of the deponent.



For the deponent

However it is made clear that from 1.5.1989 to 17.5.1989 the deponent was signing on the attendance register but on 18.5.1989 another Post Master took over the charge of the office of Atheha Post Office and as such at the dictates of the said new incumbent, the deponent was stopped signing on the attendance register and he was asked that for the C.P. Chowkidar, it is not necessary that one should sign on the attendance register. It appears that since the petitioner was not able to put his signature on the attendance register. The petitioner was an illeterate person and somehow the other Post Master was interested in continuing the petitioner to work as a Chowkidar, he has stopped the deponent to sign on the attendance register, instead of he himself marked 'P' against the deponent as well as the petitioner also. Whereas the fact remains that the deponent was regularly appointed person on the post of Chowkidar and being only post on the said post Office, the ^{question of} ~~the~~ continuance of the petitioner on the said post doesn't arise. It is also made clear that the duty of C.P. Chowkidar starts after the closure of the Post Office i.e. after 5.00 p.m. and it continues to the next day upto 9. a.m..



6.(viii) & 6.(ix) of the petition are not within the knowledge of the answering respondent and as such no positive comments are being offered.

21. THAT the contents of paragraph no. 6.(x) of the petition needs no comment.

22. THAT in reply to the contents of paragraph no. 7 of the petition, it is submitted that in view of facts and circumstances stated above, the petitioner is not entitle for any relief as prayed in paragraph under reply.

23. THAT the contents of paragraph no. 8 of the petition are not correct and as such are denied. A detail reply has already been furnished in the foregoing paragraphs and need not to be repeated here again.

24. THAT the contents of paragraphs nos. of the petition don't relates to the answering respondent as it is not xwithin the knowledge of the answering respondent.

25. THAT the contents of paragraphs nos. 11, 12 and 13 of the petition needs no comment.



दिवाकर मलिक


I, the deponent named above, do hereby solemnly affirm and state on oath and verify that the contents of those of paragraphs nos. _____

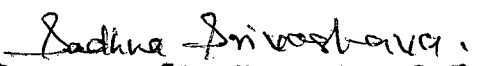
_____ of this affidavit are based on my personal knowledge and those of paragraphs nos. _____

_____ of this affidavit are based on perusal of records of the case and those of paragraphs nos. _____

_____ of this affidavit are based on legal advice which has been received and I believe that the same are true and no part of this affidavit is false and nothing material has been concealed.

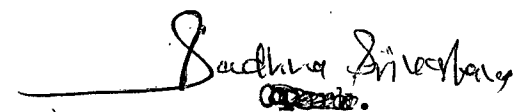
SO HELP ME GOD.


Deponent


I, Sadhna Srivastava, Advocate, High Court, Allahabad, do hereby declare

that the person making this affidavit and, alleging himself to be the deponent is known to me from the ~~perusal of the records of the case.~~ ^{to me from the perusal of records of the case.}




ADVOCATE

AMZ

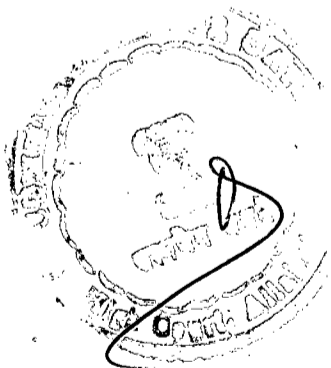
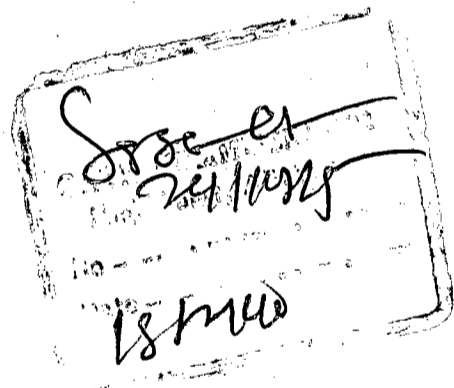
11 -

Solemnly affirmed before me on this 15th
day of February 1990 at 12.00 am/pm at Allahabad by
the deponent who has been identified by the aforesaid
Clerk.

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

OATH COMMISSIONER

Deponent.



सिद्धेश्वर मिश्रा

-000-

Annexure CH-111

RECEIVED
17TH MAY 1984

प्र.सं.जी०-61
A.C.G.-61

भारतीय डाक-सार विभाग
INDIAN POSTS AND TELEGRAPHS DEPARTMENT

AKS

(भविष्य नियम 267, डाक-सार वित्तीय नियम पुस्तिका, खंड 1, द्वितीय संस्करण)
(Sec Rule 267, Posts and Telegraphs Financial Handbook, Volume I, Second Edition)

भारत की बदली पर धन और स्टाम्पों और चार्ज की रिपोर्ट
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि

Certified that the charge of the office of

C. P. Choudhary, Sr. Supt.
Atheha

भारत को (नाम) से
was made over by (name) Sri Mahadeo

(नाम) को स्थान
to (name) Sri Bijendra Kumar at (place) Atheha P.O.

तारीख को पूर्वाह्न
भास्वर्त

on the (d) 1/8/84 fore noon in accordance with
after

SD/1
No.

A1/Atheha
Dated

20/8/84

के अनुसार देखा गया है
from

निर्देशक, डाक-सार विभाग

आवृत्त अधिकारी
Relieved Officer

आवृत्त अधिकारी
Relieving Officer

O. S. ... (P. T. O.)
29/8/84
...

Dept of Post

of the

Inspector of Post Office
 Patna Branch Post-Office
 PATNA, AWARH-230001

Memorandum No. A/Alieho dated 28/09

For Bijayendra Kumar Singh & Co.
 For Sugam Bahadur Singh No. 111
 and Post Alieho Dist. Patna
 is hereby ordered to work as a
 chartered Alieho & with immediate
 effect.

Charge report should be sub-
 mitted to all concerned.

(R. D. Pandey)
 Inspector of Post Office
 Patna Branch Post-Office
 PATNA, AWARH-230001

- Copy to 1) For Bijayendra Kumar
 Singh & Co. For Sugam Bahadur
 Singh No. 111 P.O. Alieho
 Patna
- 2) For Alieho
- 3) For Post market Patna
- 4) For

For
 For

Amesbury CH-IV

১৫৮

प्रमाणित किया जाता है कि इस विनिर्देश अनुसार
 यह श्री अमरवर्षापुर सिविल की ई. अंगी-
 भाषित जानता परमाणवा है। ये रॉबर्टा के
 निर्मात्री हैं, इनका चरित्र इस आलेख
 आलेख है। यह ईश्वर उल्लेखन और
 प्रमाण कर रहा है।



11/11/11

1056300711875

Oct 8 1874
H. C. C.
29/11/75
1874

147

प्रार्थना पत्र सी०पी० चौकी पद हेतु) जम्मेदार (अठेहा डाक घर प्रतापगढ़)

- १- प्रार्थी का नाम व स्थायी पता विजेन्द्र कुमार सिंह ग्राम को० अठेहा जनपद प्रतापगढ़
- २- प्रार्थी के पिता का नाम व पता :- श्री श्याम बहादुर सिंह ग्राम पो० अठेहा प्रतापगढ़
- ३- प्रार्थी की जन्मतिथि:- १०-१०-६७
- ४- प्रार्थी की शैक्षिक योग्यता :- हाई स्कूल फेल
- ५- प्रार्थी की आयु दिनांक
- ६- सेवायोजन कार्यालय में प्रार्थी की पंजीयन सख्या
- ७- क्या प्रार्थी किसी अन्य जगह कार्यरत है तो विवरण
- ८- क्या प्रार्थी का कोई निकट संबंधी डाकघर में कार्यरत है पिता विभागीय पोस्टमैन
यदि हाँ तो विवरण दे ।
- ९- क्या प्रार्थी किसी संस्था का निर्वाचित प्रतिनिधि है नहीं ।
यदि हाँ तो विवरण दें ।

१०- दो संभात व्यक्तियों का चरित्र प्रमाण पत्र संलग्न ।
जिसमें एक ग्रामप्रधान का हो ।

११- घोषणा पत्र में घोषित करता हूँ कि उपर दिये गये विवरण
सर्वथा सत्य है ।

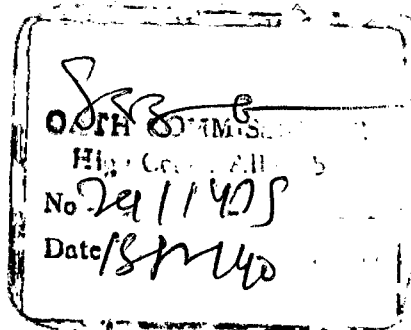
संलग्न:-

- १- निवास प्रमाण पत्र
- २- चरित्र प्रमाण पत्र ग्राम प्रधान
- ३- चरित्र प्रमाण पत्र राजपत्रि अधिकारी
- ४- शिदा प्रमाण पत्र

विजेन्द्र कुमार सिंह
प्रार्थी के हस्ताक्षर तथा
पूरा पता:-

विजेन्द्र कुमार सिंह
ग्राम पो० अठेहा जिला
प्रतापगढ़

20/4/89



(Aud)

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

C.M. APPLICATION NO. 201/90 (L)

/1990 dt. Nil.

In re:

Registration No. 225/1989 (L)

Fixed on 17-5-90 for F.H.

Mahadeo Yadava Applicant.

Versus,

Union of India & Others Respondents.

To,

The Hon'ble Vice-Chairman and his other
Companion Members of the aforesaid Tribunal.

The humble application of the applicant above named
most respectfully sheweth as under :-

1. That the true facts and objections have been stated
in the accompanying affidavit.

:: P R A Y E R ::

It is, therefore, most humbly prayed that the
application and the Supplemental Counter Affidavit of the
respondents may very kindly be rejected as without sufficient
cause being assigned to its maintainability in this Hon'ble
Tribunal may graciously grant other reliefs which the humble
applicant be considered to be entitled to in the circumstances
of the case.

Lucknow.

Dated: 30.3.1990.

S. B. Misra 373
(S.B. MISRA) ADVOCATE,
COUNSEL FOR THE APPLICANT.

Filed today
Sfuf
30/3/90

Am

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

C.M. Application No.

/1990 dt. Nil.

In

Mahadeo Yadva Applicant.

Versus,

Union of India & Others Respondents.

REJOINDER AFFIDAVIT OF MAHADEO YADVA, S/o
SRI DWARKA YADVA, R/O VILLAGE AND POST² ATEHA,
PARGANA- ATEHA, TEHSIL- LALGANJ,
DISTRICT- PRATAPGARH.

... APPLICANT/DEPONENT.

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

1. That the deponent is applicant in the above noted case and is fully acquainted with the facts ~~and~~ and circumstances of the same as deposed below.
2. That the contents of the application and affidavit of the respondents have been read and explained to the ~~applicant~~ applicant-deponent who has understood them and is in a position to raise objections to controvert those contents.
3. That the contents of para-1 of the application and those of the affidavit of the respondents need no comments.

...2.

9
H215a

4. That the contents of para-2 of the affidavit are false hence denied. In reply it is stated that Bhagwan was not retired but forced to leave work by the S.D.I.(P) of Pratapgarh North Sub Division in a fraudulent manner otherwise he is quite hale and hearty and more energetic than the newly engaged C.P. Chowkidar, Sri Brijendra Kumar Singh, S/o Shyam Bahadur Singh, Postman, R/o Village- Pure Bansa, Post Kumbhi Aima, District- Pratapgarh at a distance of 10 kms. from Ateha P.O. It is added that this Shyam Bahadur Singh has been posted as a Postman at Ateha P.O. It is further submitted that Bhagwan was on duty on 5.2.86 and as per judgment of the Hon'ble Supreme Court delivered on 5.2.86, he could not have been removed or disturbed without obtaining orders from the Government in as much the S.D.I.(P), Pratapgarh North was not empowered to pass any termination order on the C.P./Staff on duty on 5.2.86. It is further submitted that there has been framed no hard and fast rules for any recruitment of casual labour or contingency paid Chowkidars and as per precedent, the local suitable person was engaged for the job to guard the Post Office at night and in absence of any valid order of termination, the applicant has still been at work without any allowance which has been arbitrarily withheld by the respondents, Sr. S.P.Os. of Pratapgarh and S.D.I.(P), North Division- Pratapgarh. It is also stated that the respondent S.D.I(P) has no power to appoint or terminate the services of the C.P. Chowkidar-applicant who has been continuously working since 15.9.88 without any objection from the Respondents 2 ~~xx~~ and 4 who have paid repeated visits to Ateha P.O. The plea of

7
813149

regular recruitment of C.P. Chowkidar in absence of any service conditions is a mere contemplation to provide job to the sons of Sri Shyam Bahadur Singh, Postman of Ateha in the same office which is malafide and discriminatory to the petitioner and detrimental to his interest of earning his livelihood. The Respondents 2 and 4 were determined to deprive the petitioner of his job and provide the same to their favourite son of the said Postman and for this reason no notice of recruitment though unwarranted for the employment of a casual labour or C.P. Chowkidar, was ever sent to Sub Post Master, Ateha or Police Station or any other public office like block etc. by a Registered post, particulars of which have not been cited in fact the uncalled for arrangement of said Brijendra Kumar Singh, a non-local, lean and thin man was made stealthily lest other suitable local candidates should come in the way. It is also submitted that the Government Certificate dated 7th May, 1985 has not been annexed, hence its contents are denied as not disclosed to the court.

5. That the contents of para-3 of the Counter affidavit are denied as the Respondent-deponent has not annexed the copy of the Government letter dated 7.5.1985 to disclose the correct facts to this Hon'ble Tribunal. In case the above letter is subsequently attempted to be brought on record the petitioner reserves his right to refute it by supplemental R.A. Impliedly there is no such provision of engagement casual labour on C.P. staff through the employment Exchange. It is further

7
H/2149

submitted that all temporary appointments are subject to a valid termination order which has not been made in the instant case and in absence of any termination order the petitioner has right to continue at the post which he has been doing.

6. That the contents of para-4 of the affidavit as written are not admitted. There is no regular post of any Group 'D' Chowkidar at Ateha for which a regular procedure is to be followed through employment or by way of holding some examination for the recruitment of a casual labour or C.P. Staff. The procedure adopted by the S.D.I.(P) respondent was unwarranted and simply to engage the 1st son of the said Postman as C.P. Chowkidar and his other son as C.P. Safaiwala in the same office which is malafide and against the rules of employment of father and his sons in the same office. It is further submitted that the C.P. post carries an allowance of about Rs. 1005/- per month as such it cannot be said that no suitable incumbent offered or was found fit for the job as such not sponsored by the Employment Exchange in as much as the letter containing this information has not been annexed. Actually the deposition is false and based on the fraudulent action of the S.D.I.(P) concerned to favour the said Postman and his 2 sons to give them job in the same office. It is also submitted that as per government orders, the 1st preference is to be given to schedule caste/schedule tribe candidate or to a backward class to which the petitioner belongs and there is hardly any justification of appointment of Brijendra Kumar Singh, S/o Sri Shyam Bahadur Singh, Office Postman and it is also strange that his 2nd son has been engaged as C.P. Safaiwala in the same office

42149

without any notification or collecting informations from the Employment Exchange concerned. These appointments were stealthily made lest some local Harijan candidates should come forward in the way. It is further submitted that the petitioner is more suitable physically than the incumbents employed being weak and too feeble to carry on the job. The version that only 3 candidates turn up is false in as much as their names and caste have been concealed for apprehension of some might be of a Harijan or backward class to gain preference. The appointment as stated to have been made on merits is a fraud on principles laid down by the Government as such liable to be quashed to its entirety. It is again submitted that Sri Brijendra Kumar Singh is never a local man of Ateha proper and he is a resident of village- Pure Bansa 10 kms. distant from Ateha P.O. and that he joined his duties on 1.5.19 as written is false.

7. That the contents of para-7 of the affidavit of the respondents is false and incorrect hence denied. The petitioner is regularly performing his duties but the respondents are not making payment of his allowances and even the 2 months' salary as ordered by this Hon'ble Tribunal.
8. That the contents of para-8 of the affidavit of respondents are false hence denied. The respondents never sent any employment notice any way by ordinary or Registered post to Ateha P.O., Ateha Police Station or Block or Office of the local College. As submitted above in foregoing paras every step stated to have been taken by the respondent No.2 is a fraud on Government orders otherwise the petitioner being a candidate of backward class ought to have been given preference to

2/5/49

a non-local man, Sri Brijendra Kumar Singh. The services of the petitioner-deponent have never been terminated as such he has still been performing his duties to guard the P.O. over night for which respondents are not paying remuneration which is a subject matter of dispute before this Hon'ble Tribunal. Had the respondents issued any termination order, the petitioner must have challenged it. The applicant-deponent has been performing his duty but the payment of his allowance is not being made by the respondents which has been claimed through this Hon'ble Tribunal.

9. That the contents of para-9 of the affidavit of respondents is false hence denied. In reply it is stated that the applicant-deponent has been regularly performing his duty to guard the Post Office at night. It is further submitted that in absence of any termination order, the deponent continued at his post. It was incumbent on the said Brijendra Kumar Singh to have brought the termination order and served on the applicant and taken charge of his duty by signing a charge report which has not been done and the question of challenging the appointment of Brijendra Kumar Singh does not arise as the order is ab initio void as the maker of the said order S.D.I.(P) respondent No.2 lacks in jurisdiction and an order passed without jurisdiction or competence is a nullity which is a settled law. It is further stated that applicant-deponent has pleaded that he has been performing his duty but the respondents 3 and 4 are not paying is allowance which action is arbitrary. The applicant has no where stated that he has not been performing his duty.

11/8/49

-7-

The pleadings in para-7a and 7.6 are clear and specific to show that the applicant-deponent has been performing his duty but the respondents have withheld payment of his allowance and this action is malafide. It is incorrect to allege that the applicant has not been working at the post. It is also submitted that the applicant has never been asked to hand over charge and sign any charge report even in absence of any termination order from the respondents. The S.D.I.(P) respondent No.2 is not empowered to pass any termination order and the power is vested in respondent No.4 who has not made any order and in view of the judgment of the Hon'ble Supreme Court, the S.D.I.(P) respondent No.2 is not the appointing authority of the C.P. staff. The onus to prove that the services of the applicant-deponent were terminated and ~~xxxx~~ as a result he has made over charge and signed the charge report shifts on the respondents. It has already been stated that the appointment of said Brijendra Kumar Singh a non-local man, is fraudulent and void and the charge has not yet been transferred him in absence of any termination order of the applicant.

10. That the contents of para-10 of the affidavit of respondents are not correct, hence denied. In reply it is submitted that the so-called Brijendra Kumar Singh is not a necessary party to the instant case in as much as on the basis of a fraudulent and void order as stated above, he has no claim to the post at which the applicant has been continuously working for several months without any valid termination order from a competent authority. It is again submitted that the S.D.I.(P) respondent No.2 is not competent to make appointment of C.P. staff.

21/5/49

11. That the contents of para-11 of the affidavit of the respondent No.4 are not admitted. In reply it is submitted that no sufficient cause of delay has been explained to make the application for recall of the ex-parte order dated 24.10.89. A copy of this order dated 24.10.89 was served on the Sr. Supdt. of Post Offices of Pratapgarh Division, respondent No.4 on 2.11.89 under receipt. Had he any objection to the order, he would have hurried to Sri V.K. Chaudhary, Standing Counsel or Sri K.C. Sinha, Advocate, High Court, Allahabad for making an application to this Hon'ble Tribunal for recall of the ex-parte order dated 24.10.89. The respondent No.2 Inspector of Post Offices concerned signed and filed Counter Affidavit on 19.1.90 on behalf of all the respondents in which nothing was spoken of the ex-parte order dated 24.10.89 as such it became final between the parties hence binding on them. The application of respondent No.4 dated nil served on the applicant under Allahabad Regd. letter No. 219 dated 5.3.90 on 7.3.90 is time barred and is liable to be rejected as such. It is further submitted that no sufficient cause has been shown for condonation of delay in making the application on 5.3.90 for recall of the ex-parte order dated 24.10.90. The respondents are in the knowledge of the ex-parte order since 2.11.89 and while making an application for recall of an ex-parte order after one month from the date of issue or knowledge, each day's delay will have to be explained as held by the Hon'ble Supreme Court in Ram Lal Vs. Rewa Coal field, reported in A.I.R. 1962 S.C. 361 followed by Hon'ble High Court of Calcutta in Bhaktipada Majhi Vs. S.D.O. Kaina reported in A.I.R. 1971 Cal. 204, D.B. and in many
-9.
- 9
421401

AST

-9-

other cases. The Supreme Court has held that there should be no negligence or inaction or want of bonafides on the part of the petitioner and that whole of the delay must be explained. In the instant case the Standing Counsel, Sri V.K. Chaudhary is in the knowledge of the ex-parte order since 1.11.89 and respondent No. 2 to 4, since 2.11.89. They have signed and filed Counter Affidavit on 19.1.90 but they did not raise any objection to the order or made any application for its recall by that date. This shows that they were not aggrieved at the order as such the ex-parte order dated 24.10.89 became final and binding on the parties and the respondents have not shown sufficient cause for invoking further discretion by this Hon'ble Tribunal. It is also submitted that the applicant has been working and his salaries have been withheld arbitrarily as such he has a prima facie of his case with substantial monetary loss being cause to him. The balance of convenience rests on the side of the application.

12. That contents of para-1A of the application of the respondents are denied as false. The notices have been duly served on the respondents as well as on the Standing Counsel, Sri V.K. Chaudhary, Advocate but they did not appear before the Hon'ble Tribunal deliberately in as much as they did not take this plea in the Counter Affidavit filed on 19.1.90. The respondents are in the knowledge of the ex-parte order dated 24.10.89 since 2.11.89 and they could have very well armed their counsel with instruments to make him ready for an effective contest. Mistake of counsel for non-appearance or his wrong advice cannot be a good ground for condonation of delay (1968 R.D. 215) B.R. It has

4/3/90

MSD

-10-

also been held by various Law courts that the mistake of the counsel will be the same as that of the party. As they did not raise this plea in the Counter Affidavit dated 19.1.90, they are now barred by taking such plea in as much as there has been no affidavit from Sri V.K. Chaudhary, Standing Counsel.

13. That the contents of para-1.B. of the application of the respondents are not denied.
14. That the contents of para 1.c. of the application of the respondents as written are not admitted. In reply it is submitted that the respondent No.4 deponent has not given the particulars of the informations which were necessary to be disclosed to this Hon'ble Tribunal by the applicant. If these were not done, the objection should have been taken in the Counter Affidavit filed on 19.1.1990. In case the learned Additional Standing Counsel conducting the Respondents' case in this Tribunal, felt any difficulty in preparing Counter Affidavit on behalf of the Government, he could have consulted Sri K.C. Sinha, Advocate, ~~Exe~~ Standing Counsel for Govt. of India at Allahabad. In fact the respondents want to fill up the gap and lacuna of their case which is not permissible under law. In the last lines of their application, they have again omitted and concealed the certain facts which were inadvertently left to be mentioned in the Counter Affidavit on 19.1.1990. It was in the Rejoinder Affidavit when the non-compliance of order dated 24.10.89 was raised, hence the instant application and the supplemental Counter Affidavit through the Government Standing Counsel of Allahabad to save their skin for non-compliance of order of this Hon'ble Tribunal. They

4/2/90

AS9

--11--

have not given any sufficient explanation of the delay which will be deemed to be deliberate. The application and the supplemental Counter Affidavit of the respondents are liable to be dismissed with costs and the ex-parte order passed under Rule 16 of the C.A.T. (Procedure) Rules, 1985 may kindly be maintained.

I, the deponent above named do hereby solemnly affirm and verify that contents of para 1 to 14 of this affidavit are true to my personal knowledge and contents of paras + to — of this affidavit are based on legal advice which I believe to be true. No part of this affidavit is false and nothing has been concealed. So help me God.

Signed and verified this the 30th day of March, 1990 at Lucknow.

Lucknow.

Dated: 30.3.1990.

9
212149
(MAHADEO YADAV)
DEPONENT.

I identified Mahadeo yadav who has signed this R.A. before me

S. B. Mishra
Advocate
30.3.90

A60

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

-oOo-

Civil Misc. Application No. 119 /1990 6

IN

REGISTRATION O.A. NO. 225 of 1989 (L)

Mahadev Yadav

.....Petitioner

Versus

Union of India & others

.....Respondents

To,

The Hon'ble Vice-Chairman and his other
companion Members of the aforesaid Tribunal.

x. The humble application of the above
named respondents MOST RESPECTFULLY SHOWETH as under -

1. THAT by means of the petition, the
petitioner has sought the following relief which
has been mentioned in para no. 7 of the petition -

✓

Under take to
send the copy to the
applicant under registered
conv. 100/29/13.

PT

2

11/3/90

A. THAT it appears that before this Hon'ble Tribunal the counsel for the respondents could not put his appearance duly armed with the instructions in respect of the aforesaid case and it appears that it was only due to the notice as the respondents could not receive the same and as such they could not render full information to their counsel.

B. THAT on 24th October 1989, this Hon'ble Tribunal has passed an exparte order which is quoted below -

" Notice of this petition has been accepted by Sri V.K.Choudhary, Advocate. No reply to the show cause notice is submitted. The application is admitted.

The case be listed for exparte final hearing on 1.11.1989. Inform Sri V.K.Choudhary. In the meantime opposite parties 3 & 4 are directed to pay the applicant's salaries for the months of September and October 1989. Copy of the order may be given to the learned counsel for the applicant within twenty four hours." Sd/- V.C.

The aforesaid order would go to show

that the notices have been given to Sri V.K. Chowdhary that he was not present in the court and as such that is why the registry was directed to Sri V.K.Choudhary, Advocate, who is Adl. Standing Counsel for Government of India. In the said order the opposite parties no. 3 and 4 has also been directed to pay the applicant's salary for the months of September and October 1989 and the case was directed to be listed on 1.11.1989.

C. THAT after going through the pleadings of the petition, it appears that the court was not fully informed about the facts of the case and in the absence of these informations, this Hon'ble Tribunal has given this direction. Whereas fact remains that in case full facts would have been brought to the notice of this Court, this order would not have been passed. However in order to render proper assistance to this Hon'ble Tribunal, a supplementary counter affidavit is been filed which is annexed herewith and which may kindly be accepted as a part of the record as the full counter affidavit has already been filed. In the said counter affidavit, certain facts were also inadvertently could not be mentioned.

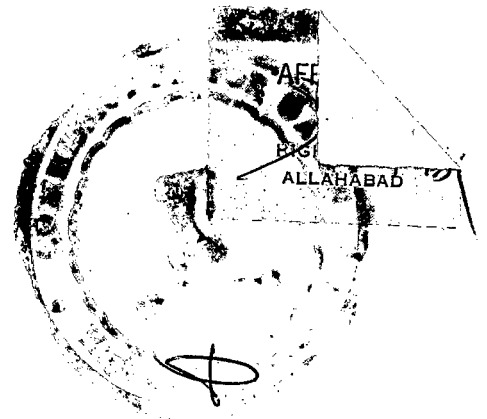
P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to accept the accompanying supplementary affidavit, in the interest of justice, as a part of record and order dated 24th October 1989 passed by this Hon'ble Tribunal may kindly be recalled otherwise the answering respondents would suffer a grave irreparable loss.

Ush
(K.C.SINHA)
ADVOCATE
COUNSEL FOR THE RESPONDENTS

January 16-2 1990.

Allahabad.



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

-3000 :-

SUPPLEMENTARY COUNTER AFFIDAVIT

On behalf of the respondents.

IN

REGISTRATION O.A. NO. 225 of 1989 (L)

Mahadev Yadav

.....Petitioner

Versus

Union of India & others

.....Respondents



Affidavit of Sri Jagannath
Ram Kamal, aged about 57 years,
son of Sri C. Ram, posted as
Sr. Supdt. Post Offices,
Pratapgarh.

Jagannath Ram Kamal
(Deponent)

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

7.a and 7.b, the petitioner has specifically prayed for the payment only but he has not said that since he is ~~not~~ working on the said post and as such he is entitle for the payment.

The petitioner should be put to the strict proof for the assertion which has been made in para no. 6.5 where it has been said that he is working even to this date on the said post, whereas the fact remains that Sri Brijendra Kumar Singh has already taken over the charge of the post of the contingent paid Chowkidar.

10. THAT it is also pertinent to mention here that Sri Brijendra Kumar Singh, who has been regularly appointed, has not been arrayed as a party and he is not only a relevant but a necessary party as the decision of the present case will effect his candidature.

11. THAT in view of the facts and circumstances of the case, the order dated 24th October 1989 may kindly be recalled.



Mauced

I, the deponent named above, do hereby verify that the contents of paragraphs nos. 11 & 12 of this affidavit are

true to my personal knowledge and those of paragraphs nos. 4 to 11 of this affidavit are based on record and those of paras nos. of this affidavit are based on legal advice to which I believe to be true and no part of it is false and nothing material has been concealed.

SO HELP ME GOD.

DEPONENT

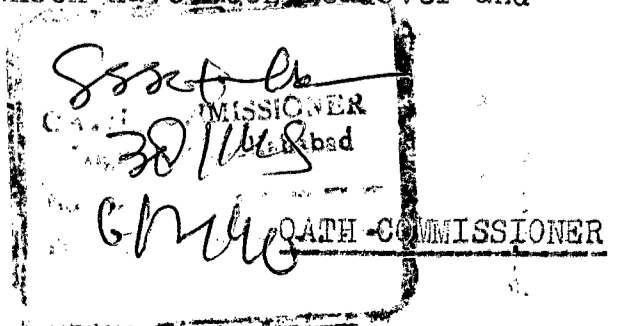
I, D.S. Chaubey, Clerk to Sri K.C. Sinha, Advocate, High Court, Allahabad, do hereby declare that the person making this affidavit and alleging himself to be the same person is known to me personally from the perusal of the papers.

CLERK

Solemnly affirmed before me on this 65 day of Feb 1 1980 at 5.00 p.m. at Allahabad by the deponent who has been identified by the aforesaid Clerk.

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

Deponent.



A89

HON'BLE
IN THE/CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH, LUCKNOW.

.....

~~P.P. No. 459/90~~

REJOINDER AFFIDAVIT

on behalf of applicant Mahadeo Yadav.

In

O.A. NO. 225 (L) of 1989

Mahadeo Yadav ----- applicant

Versus

Union of India & Others----- Respondants.

Fined on 28-8-90 for final hearing

Affidavit of Mahadeo Yadav aged about
25 years S/O Dwarika Yadav R/O Village &
Post-Ateha, Pargana-Ateha, Tehsil-Lalganj,
District-Pratapgarh. ----- Deponent.

Filed through:

S. B. Singh
Advocate

257/90
Counsel for the Applicant.

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

1. That I have read the contents of the Counter Affidavit of Respondent No. 5 and the same has been explained to me and I am now in a position to contravert the points raised therein as below:-
2. That the contents of para 1 of the affidavit are denied as false. It is submitted in reply that Brijendra Kumar Singh is not the C.P. Chaukidar of the Ateha Post Office. It is the applicant deponent who has been continuing as C.P. Chaukidar at Ateha P.O. since 15.9.88 and the respondents 1 to 4 have arbitrarily stopped payment of his allowances from the month of May 1989. It is further stated that this Hon'ble Tribunal has been pleased to order payment of allowances for Sept. &

महदेव

....2/-

Oct. 89 but the Respondents 1 to 3 have not yet complied with that order which amounts to contempt of Court's Order. It is also submitted that the applicant deponent has neither relinquished charge of his duty nor has he signed any charge Report in this regard.

3. That the contents of para 2 of the affidavit of Respondent No. 5 ~~are~~ denied as false. In reply it is submitted that Shyam Bahadur Singh Postman of Ateha Post Office and his two sons Brijendra Kumar Singh stated to be C.P. Chawkidar and Ajayendra Kumar Singh Safaiwala-cum-Sweeper of the same office are all residents of Village-Bansaka Purwa hamlet of Kumbhi Aima District-Pratapgarh. The respondent No.5 has also signed and sworn in a false affidavit to the effect that he is a resident of village-Ateha proper. The appointments of the above two sons of said postman in the same office by the Respondent, Sub-Divisional Inspector are all malafide and without jurisdiction in view of the judgement of the Hon'ble Supreme Court according to which the Appointing Authority of the C.P. Staff is the Superintendant or Sr. Supdt. of Post Offices and not the Sub-Divisional Inspector(P). The administrative powers of the Inspector of Post Offices are as in ANNEXURE-A. It is further submitted that no notification was ever made on the beat of drums and also no notice was fixed on the Notice Board of Ateha Post Office. If any notice of advertisement was issued and pasted on the office notice Board, there could not have been any necessity of the same at the beat of drums in the market. In fact there had been no notification at the beats of drums nor was any copy of advertisement pasted on the notice board of Ateha P.O. Had there been any, the applicant being C.P. Chawkidar of the same office must have seen it first and much before it

could have been seen by a person living at a distance of 10 kms from Ateha Post Office. It is further submitted that the Respondent No. 5 never says that he learnt ~~for~~ the vacancy through his father Postman of Ateha.

It is further submitted that the S.D.I. (P) Respondent, Shri R.D. Pandey has nowhere stated in his counter affidavit that the notification was made at the beats of drums inasmuch as no payment has ever been made to the man making the announcement of the vacancy at the beats of drum on 12-4-1989 at Ateha or at Pratapgarh. There has been no termination order of the services of Shri Mahadev Yadav as yet; hence there can be no existence of any vacancy caused by the applicant-deponent who has neither relinquished his duty nor signed any Charge Report. It is further stated that the place or market where the drum was beaten had not been stated by the opposite parties.

4. That the contents of para 3 of the counter affidavit of the respondent No. 5 ~~are~~ denied as false. In reply, it is submitted that there has been no general notification as deposed. Had there been any and that even on the beats of drum in the local market, the applicant who was at work for the last several months, must have again applied for the post. It is also submitted that the knowledge of the contents of Recruitment File of the said S.D.I. (P) Respondent, by the said deponent is a connivance and malafide to replace the applicant-deponent stealthily. Evidently, Ateha is a big town.. Had there been any notification in writing or at the beats of drum,

महदेव

AM

several applications from the local candidates must have been received by the competent authority . Thus, there has been no notification of any type by the competent authority. The names of the two other candidates, who applied, have been kept concealed.

5. That the contents of para 4 of the counter affidavit are denied as incorrect. In reply, it is stated that the applicant-deponent has been continuing at the post of C.P. Chaukidar at Ateha since 15-9-1988 and he must gain preference over all other candidates for the reason of his satisfactory past performance and experience. It is further submitted that the required application, character certificate and a descriptive particulars with a fitness certificate from the authorised Medical Officer had already been obtained by the Sub-Post Master, Ateha and forwarded to the Senior Superintendent-respondent for disposal and record in his office which the respondents are not bringing on record of this Hon'ble Tribunal simply to prejudice the case of a Backward class candidate and to cause injury to his interest by depriving him of his job. It is again submitted that providing jobs to the two sons of the said Postman, Shyam Bahadur Singh in the same office is wholly discriminatory and malafide. It is further submitted that entries against items/ columns 1 and 2 of the application dated 20-4-89 of Brijendra Kumar Singh are false as he is not a resident of village and Post Office Ateha and his father, Shyam Bahadur Singh, is also not a resident of village and Post Ateha. They both are residents of village Pure Bansa, P.O. Kumbhi Aima, district district Pratapgarh, 10 kms distant from Ateha. No particulars against columns 5, 6 and 7 have been filled in. Correct

महमद न

particulars against column No. 8 have also been concealed and as such the declaration dated 20-4-89 is false. Mere registration of name, if any, in the Employment Exchange Office, is not an obligation to deprive the applicant of his job in continuance of more than 240 days.

6. That the contents of para 5 of the Counter Affidavit of Respondent No. 5 are denied as false. In reply, it is submitted that the S.D.I. (P), Respondent No. 2, was not the Appointing Authority of C.P. staff and as such, Annexure-2, as annexed, is without jurisdiction, hence a nullity.

7. That the contents of para 6 of the Counter Affidavit of the Respondent No. 5 are denied as false. In reply, it is submitted that the applicant-deponent was in continued service since 15-9-1988 and that he is still working at the said post of C.P. Chaukidar at Ateha but the Respondents No. 1 to 4 are reluctant to pay allowance. It is worth noticing by the Hon'ble Tribunal that there has been no termination order of the services of the applicant at the time of the so-called appointment of Brijendra Kumar Singh on 1.5.1989 or even after that. The alleged notification on 12-4-89 and appointment order - Annexure II, stated to have been issued on 28-4-1989, is arbitrary and bad in law and contrary to facts. The source of information that only 3 candidates applied for the said post has not been stated - rather it has been concealed.

8. That the contents of para 7 of the Counter Affidavit of the Respondent No. 5 are denied as incorrect. In reply, it is stated that the said Brijendra Kumar Singh

महदेन

is shown at work on mere papers in an arbitrary manner and the applicant has not yet relinquished charge of his duty in as much as he has not signed any charge report or the Annexure-III.

9. That the contents of para 8 of the Counter Affidavit of the Respondent No. 5 are denied as false. In reply, it is stated that the post of casual or contingency Paid labour employee is not a regular post as held by this HON'BLE Supreme Court in the judgement delivered on 5-2-85. It is also submitted that the Respondent No. 2, SDI (P), arbitrarily ousted Bhagwan but without any substitute. Since the job of a C.P. Chaukidar cannot be kept under suspension even for a day, the Sub-Post Master, Respondent No. 3, made the arrangement and engaged the applicant who fulfilled all the required conditions and forwarded relative application, Character Certificate and Medical fitness certificate to the concerned Officer. The charge reports were prepared and sent regarding Resumption of duty by the applicant on 15.9.1988 and that he is still performing his duty. The so-called Appointment Letter dated 28-4-1989 and the notification dated 12-4-1989 are mere farce, unwarranted, hasty action based on malafide simply to disturb the peaceful work and performance of the applicant.

10. That the contents of para 9 of the Counter Affidavit of Respondent No. 5 are denied as false. In reply, it is stated that since a contingency Post is not a regular post, as such, no regular recruitment or appoinemtne is required for the purpose. It has been held that casual labours are not ~~not~~ in the category

महादेव

175

of regular employees. It is further submitted that there cannot be an automatic termination of services of even a casual or C.P./~~xxxxxx~~^{staff} who is at work for over 240 days and performing his duties well to the satisfaction of the local Officer, Respondent No. 3.

11. That the contents of para 10 of the said Counter Affidavit denote that the respondent-~~de~~ponent has admitted the contents of paras 1 and 2 of the application.

12. That the contents of para 11 of the Counter Affidavit of Respondent No.5 are false, hence denied. In reply, it is stated that said Bhagwan, the then C.P. Chaukidar never touched the age of superannuation of 65 years which does not lay down any such retiring age for C.P. staff - rather there has been no age limit fixed for the retirement of such staff. It is also submitted that such staff may be retained till they can carry out their duties to the satisfaction of the Officer-in-Charge of the office (respondent No.3). It is also stated that when the post is not a regular one, no regular appointment can be made to it. In the counter affidavit, the Respondent-deponent has not adduced any document to show that the applicant was engaged in any stop-gap-arrangement, or on an ad-hoc basis for a definite period after which the arrangement might cease (on the expiry of the specified period) and even in such cases, a termination order would be necessary. The respondent No. 5 deponent could not file any evidence to show that the appointment of the applicant was purely temporary. It was of a permanent nature and the same would continue till the applicant is fit for it. The Respondent No. 2 did not issue any termination order because he knew that he

महादेव

was not competent to make it.

13. That contents of para 12 of the said counter affidavit are denied as false. In reply, it is submitted that the so-called notification dated 12-4-1989 and hasty appointment made on 28-4-1989 are all wholly illegal and inoperative. It is further submitted that the applicant has been continuously working as C.P. chaukidar at Ateha and the respondents 2 to 4 have unlawfully withheld payment of his allowance. They have also disobeyed the orders of this Hon'ble Tribunal for making payment of his salary for September 1989 and October 1989. It is further submitted that the Respondent No. 2 S.D.I. (P) has not challenged the ex-parte order of the Court in his counter affidavit filed on behalf of the respondents which indicates that they did not feel aggrieved at the said ex-party order which became final between the parties. It is further stated that the applicant has not relinquished charge of his duties nor has he signed any charge report.

It is further submitted that neither Brijendra Kumar nor his younger brother nor their father, Shyam Bahadur Singh, Postman of Ateha Post Office, are the residents of village Ateha proper but they are the residents of village Pure Bansa, hamlet of Kumbhi Aima as per service record of said Shyam Bahadur Singh, Postman which the applicant-deponent knows fully well vide Annexure-B being filed with this Rejoinder Affidavit. The Annexures IV and V of Brijendra Kumar Singh are false, fabricated and unreliable, illegal and without proper authentication, hence denied.

महोदय

A77

14- That the contents of Para 13 of the counter affidavit denotes that the respondent has admitted the contents of para 4 and 5 of the application.

15. That the contents of para 14 of the C.Affidavit of Respondent No.5 are repeated ones which have been denied in the foregoing paras of this Rejoinder Affidavit. It is further submitted that the meaning of the word deployed in the 4th line of the para is not clear. It is also stated that no age limit has been fixed for a C.P employee to retire on superannuation like regular employees. Bhagwan Chaukidar was compelled to retire by Respdt. No.2 in an arbitrary manner. The same game has been played with the applicant by the said Sub-Divisional Inspector (P) defendant No.2 by engaging the Respondent No.5 miraculously without any removal order of the applicant who has been performing his duty as usual. It is also stated that this Respondent No.5 is not a local man and resides in Purwa Bansaka hamlet of Kumbhi, Ateha District-Pratapgarh, some 10 Kms. away from Ateha P.O. It is also stated that the rule under which regular appointment of a C.P. Staff was warranted, has not been quoted by the said respondent. In fact there is no such rule or order under which a regular appointment of such staff be made and it was a motivated plan of Respondent No.2 to oust the applicant arbitrarily and engage the two sons of Shyam Bahadur Singh Postman of Ateha P.O. purporting them to be a local resident of Ateha. The name of Shyam Bahadur Singh finds place at Sl. No. 426 in the Elector Roll of Village-Kumbhi, Aima, 116 constituency, Rampur, Bowli, Pratapgarh of 1988 and he is not a voter of Ateha Village.

महादेव

16. That the contents of para 15 of the Counter Affidavit show that the deponent respondent No.5 has admitted the relative para 6 (ii) of the application.

17. That the contents of para 16 of the Counter Affidavit are denied as false. In reply it is submitted the appointment of Respondent No.5 is fake, forged and a fraud on principles of natural justice, Otherwise the applicant was satisfactorily working as C.P. Chaukidar and he has still been doing his duty without any necessity of his replacement by a lean and thin man of a distant place. The charge of duty has not been handed over to said Brijendra Kumar Singh who is shown as on duty on mere paper as per charge report annexed by Respondent No.5 which has not been signed by the applicant. The respondent 2 to 4 has arbitrarily stopped payment of his allowances even against orders of this Hon'ble Tribunal which amounts to contempt of Court's Order. As the applicant has not relinquished charge and has been continuously performing his duty he deserves payment of his salary from 1.5.89 which the respondents 1 to 4 are denying illegally.

18. That contents of para 17 of the Counter Affidavit of Respondent No.5 are ~~denied~~ without comments as such there will be a presumption of admission of relevant para of the application.

19. That contents of para 18 of the said Counter Affidavit are denied as false. In reply it is stated that the applicant has been continuously working at the post since 15.9.88 and his salary after 1.5.89 has been illegally & arbitrarily withheld without any

महादेव

A2A

termination order by the Respondent No. 2 who is not the appointing authority of C.P. Staff. The so called appointment letter dt. 28.4.89 on the application dt. 20.4.89 is wholly erroneous, without jurisdiction, a nullity and void and the same does not confer any right on Respondent No.5 deponent.

20. That the contents of para 19 of the said Counter Affidavit are denied as false. In reply, it is stated that C.P. Staff or casual labours are not appointed like those of regular staff. They are locally engaged for the work without any competition or inviting applications through any Employment Exchange. The procedure adopted stealthily by the Respondent No. 2 is irregular and malafide and motivated to employ whole family of the said Shyam Bahadur Singh, Postman of Ateha Post Office. It is unjust and discriminatory to provide job to 3 persons of the said family and in the same office after depriving a Backward class man of his job. It is further stated that the applicant has a good moral character with past satisfactory ~~and~~ experience of work inasmuch as the said Respondent is not a local resident of Ateha. If the personal file of Shyam Bahadur Singh, Postman or his Service Book is summoned, it must show that he and his sons are residents of Pure Bansa, hamlet of Kumbhi Aina 10 kms., away from Ateha Post Office. The attendance Register has not been signed, but the applicant has been marked (P' i.e. present. This has been done correctly by the Officer-in-Charge of the office.

.....12

महादेव

ABD

21. That the contents of para 20 of the said counter affidavit and those of para 21 obviously stand admitted by the respondent-deponent.

22. That the contents of para 22 of the Counter Affidavit of Respondent No. 5 are denied as incorrect. It is for the Hon'ble Tribunal to consider the facts and circumstances of the case and the appointment order obtained stealthily by perpetrating fraud as to the residence - showing it to be Ateha instead of Kumbhi Aima situated about 10 kms away from Ateha Post Office. It is again submitted that there exists a prima-facie case, the balance of convenience resting in favour of the applicant, besides irreparable monetary loss being caused to him by the respondents.

23. That the contents of para 23 are not correct, hence denied on the averments made in the foregoing paras of this Rejoinder Affidavit.

24. That the contents of para 24 of the counter affidavit obviously indicate admission of the contents of para concerned of the application.

25. That the contents of para 25 of the Counter Affidavit show that the concerned paras of the application stand admitted.

Lucknow;

Dated 25-7-1990.

महादेव

(MAHADEV YADAV)
DEPONENT

VERIFICATION

I, Mahadev Yadav, the deponent do hereby verify that the contents of paragraphs 1 to 23 of the Rejoinder Affidavit are true to my own personal knowledge, the contents of paras 24 and 25 are believed to be true on the basis of records and those of paras _____ are believed to be true on the basis of legal advice. No part of it is false and nothing material has been concealed. So help me God.
LUCKNOW : Dated 25/7/1990.

महादेव
DEPONENT.

महादेव
I have verified the deponent who
has signed this affidavit
Shankar Prasad Mishra
25/7/90

A81

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

O.A. NO. 225 (L) of 1989

Mahadev Yadav - - - - - Applicant

Vs

Union of India & Others - - - - - Opposite Parties

ANNEXURE NO. A

COPY OF SCHEDULE NO.4 (GIVEN ON PAGE NO.64) OF THE
"POSTS AND TELEGRAPHS MANUAL - VOLUME III":-

"SCHEDULE NO.4

SCHEDULE OF ADMINISTRATIVE POWERS OF AN INSPECTOR
OF POST OFFICES (OTHER THAN A TOWN INSPECTOR)

Nature of power	Extent of power	Remarks
-----------------	-----------------	---------

APPOINTMENTS, PENALTIES AND APPEALS

(See Schedule No. 1-A.)

1. Power to transfer from one office to another in the same time scale in his sub-division any official whom he is authorised to appoint.	Full powers, subject to the provisions of rule 37 of the Posts and Telegraphs Manual, Volume IV.	Rule 38 of the Posts and Telegraphs Manual Volume IV.
---	--	---

RESIGNATIONS

2. Power to accept resignation of an official.	May accept the resignation of any one whom he is authorised to appoint.	Rule 32 of the Posts and Telegraphs Manual, Volume II.
--	---	--

महादेव

. 2

282

Nature of power	Extent of power	Remarks
-----------------	-----------------	---------

PENSIONS AND GRATUITIES

3. Power to sanction ordinary pensions (including gratuities) and to decide questions allied to the grant thereof.	Full powers under the Civil Service Regulations in respect of officials to whom he is competent to appoint.	
--	---	--

MISCELLANEOUS

4. Power to grant casual leave.	Powers as defined in Rule 99 to 102 of the Posts and Telegraphs Manual, Volume IV."	
---------------------------------	---	--

महोदय

Sl. No.	Name of the Candidate	Grade	Remarks
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

क्र.सं.	विवरण	प्रकार	दिनांक	वर्ष	मूल्य	विवरण	वर्ष
१६	१०.३	सामान्य रिट	सामान्य रिट	१९६०	१९६०	१९६०	१९६०
		२२५५६३३ रिट	२२५५६३३ रिट	१९६२	१९६२	१९६२	१९६२
		२२५५६३३ रिट	२२५५६३३ रिट	१९६४	१९६४	१९६४	१९६४
		२२५५६३३ रिट	२२५५६३३ रिट	१९६५	१९६५	१९६५	१९६५
		२२५५६३३ रिट	२२५५६३३ रिट	१९६६	१९६६	१९६६	१९६६
		२२५५६३३ रिट	२२५५६३३ रिट	१९६७	१९६७	१९६७	१९६७
		२२५५६३३ रिट	२२५५६३३ रिट	१९७४	१९७४	१९७४	१९७४

56-6075-5m1847

457

700

900

16511312

A07

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD, CIRCUIT BENCH LUCKNOW

* * * * *

REJOINDER AFFIDAVIT

On behalf of
Mahadev Yadav, Applicant

In re :

O.A. NO. 225 (L) of 1989

Fixed on 28-8-90 for F.H.

Mahadev Yadav

..... Applicant

Vs

Union of India & others Respondents

Fixed on 28-8-90 for F.H.

Rejoinder Affidavit of Mahadev Yadav, aged ab
25 years, s/o Shri Dwarika Yadav, r/o village
and P.O. Ateha, Pargana Ateha, Tahsil Lalganj,
District Pratapgarh -- -- Petitioner-Deponent

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

1. That the deponent abovenamed is the
petitioner in the abovenoted case and, as such, he
has full knowledge of the facts and circumstances
of the same. The contents of the supplemental
Counter Affidavit of the respondents have been

Filed through,

G. B. Misra
Advocate

25/7/90
Counsel for applicant

गहदेव

1807

read over and explained to him and that he is now in a position to controvert the points raised therein.

2. That the contents of para 1 of the supplementary Counter Affidavit on behalf of the Respondent No. 4 deponent need no comment.

3. That the contents of para 2 of the Affidavit of the Respondent No. 4 that the petitioner was engaged as C.P. Chaukidar at Ateha Post Office is admitted and the rest is denied as false. In reply, it is submitted that Bhagwandin was arbitrarily thrown out of job by respondent No. 2, who was not empowered to do so or make appointments of C.P. staff. The petitioner was engaged on 15-9-1988 as C.P. Chaukidar, and since then he has been working continuously as such and the Respondents 3 and 4 are not paying his salary from 1-5-1989. It is further submitted that this Hon'ble Tribunal has been pleased to pass an order on 24-10-1989 directing the Respondents 3 and 4 to make payment of salary for the months of September and October 1989 to the petitioner. The aforesaid Order was personally served on the Respondent No. 4 on 2-11-1989, under clear Receipt and photostat copy of the same was given to Respondent No. 3 but they have deliberately ignored compliance of the Order, so far. It is also submitted that full information of facts was furnished with the application.

4. That the contents of para 2 of the supplemental Counter affidavit of Respondent No. 4, are denied as

महोदय

896

misguiding. It is submitted, in reply, that even if the petitioner deponent was treated to be temporary, his services of more than 240 days could not be terminated arbitrarily except by way of a valid order of termination as the Article 311 (2) of the Constitution of India is applicable to the temporary staff also. Further, it is submitted that the copy of the said letter dated 7-5-1985 has not been annexed.

5. That the contents of para 4 of the supplemental Counter Affidavit are not correct, hence denied. It is submitted that the name with the application of the petitioner, his Character Certificates etc., were available in the respective File of the Respondent No.4 as forwarded by the Respondent No. 3, but those material papers have been concealed and not disclosed to the Hon'ble Tribunal. It is further submitted that no notification had ever been made and the alleged action of the respondents is a fraud on justice and equity. It is also submitted that neither the copy of the requisition nor that of the response from the Employment Exchange, Pratapgarh, has been filed with the supplemental counter affidavit to offer comment. The requisition is stated to be 12-4-1989 and appointment order issued on 28-4-1989 in a hasty manner which is malafide inasmuch as the said S.D.I. (P), Respondent No. 2 has no jurisdiction for the purpose. It is further submitted that no notice was ever issued to anyone, as deposed, either by pasting on Notice Board or by Registered Post. It is also submitted that copy of the advertisement or notice and the original

महदेव

887

Registration Receipt have not been annexed because there is none with the respondents concerned lest there should have been applications from the local candidates of Ateha. It is also submitted that the Respondent No. 5 has stated in para 2 of his Counter Affidavit that he came to know of the vacancy through the beat of drum by Respondents 2 and 4 in the local market but the said Respondents 2 and 4 have nowhere spoken in their counter affidavit about this notification on the beats of drum, which was, in fact, never done in Ateha Market. It is a fact that the name of Shyam Bahadur Singh and his 3 sons finds place in the family Register of Kumbhi Aima and not in Ateha as annexed.

6. That the contents of para 6 of the supplemental Counter Affidavit were denied as fake and false. It is submitted that no notice was ever issued or pasted on any Notice Board lest other local candidates should apply as stated above. Respondent No. 5 is not a local man of Ateha. Copy of his Family Register is being filed by him. It is further submitted that the name of the respondent No. 5 is only on paper and the duty is being performed by the petitioner as he has not relinquished charge for want of a valid termination order.

7. That the contents of para 7 of the supplemental Counter Affidavit are denied as false and made arbitrarily. It is submitted that the petitioner is still at work but his salary has been withheld by the respondents.

8. That the contents of para 8 of the supplemental

.....5

महदेव

108

Counter Affidavit are denied as false. It is submitted that when the petitioner worked for over 8 months as temporary C.P. Chaukidar, there was nothing to show that he was disinterested in the job which he is still performing without being paid for it. There was no necessity to challenge the order dated 28-4-1989 which was without jurisdiction and hence a nullity itself.

9. That the contents of para 9 of the supplemental Counter Affidavit are denied as false. The petitioner has still been doing his duty as submitted above. It is also humbly submitted that the respondents have illegally withheld the salary of the applicant for which he has a valid claim. It is further submitted that the respondents had stopped payment of salary of the applicant beyond 1-5-1989 in any arbitrary manner without any opportunity or termination order after disclosing reasons therefor. There can be no automatic termination on the basis of a fake and void order as presumed by respondent deponent.

It is further submitted that the charge of the duty has not been transferred to the said Respondent No.5. The then Respondent No. 3 and the Postal Clerk of Ateha were the best persons to state that the applicant has still been performing his duty but they both have been transferred to Pratapgarh H.O. so that they might not speak the truth in favour of the applicant. The Respondent No. 4 deponent has purposely made their pre-mature transfers which is motivated and malafide. It is also submitted that people of the vicinity are the best proof.

महदेव

10. That contents of para 10 of supplemental counter affidavit are denied as incorrect and false. Although Sri. Brijendra Kumar was not a necessary party but in compliance of Court's Order he has been arrayed as a party as Respondent No.5. It is again submitted that the said S.D.I(P) Respondent No.2 has no jurisdiction to appoint C.P. Cahukidars and his order dated 28.4.89 is null and ~~void~~ hence inoperative.

11. That the contents of para 11 of the Supplemental Counter Affidavit are not accepted. It is submitted most humbly that the Respondent No.4 deponent was in the knowledge of the exparte order dated 24.10.89. The copy of which was furnished to his office ~~under~~ receipt on 2.11.89. There has deliberately been no compliance till 26.6.90, the date of this recall application. This application has been made after a gap of more than 8 months without showing sufficient ^{Cause} ~~h~~. The mistake of the counsel is the same as that of the client or party in as much as no affidavit has been filed by Sri. V.K. Chaudhary S.C. for Central Govt. It is further submitted that the Respondent No.2 who has been conducting the state case has also spoken nothing about this exparte order. The Respondent No.4 deponent who is in the knowledge of the exparte order dated 24.10.89 since 2.11.89 has not explained the delay of each day. It was incumbent on him to have explained the entire period of delay by attributing sufficient cause. The copy of the said order was made over to Respondent No.3 who sought for orders from respondent No.4 deponent who kept silent over the matter. There has been utter failure on the part of Opposite Party and their counsel as fully established. The respondents

महोदय

are not entitled to claim any relief for recall of the Order dated 24.10.89.

महादेव

(MAHADEV YADAV)

DEPONENT

Lucknow:

Dated: 25/7/90 1990.

VERIFICATION

I, Mahadev Yadav, the deponent do hereby verify that the contents of paragraphs 1 to 11 of the Rejoinder Affidavit are true to my own personal knowledge, the contents of paras _____ are believed to be true on the basis of records and those of paras _____ are believed to be true on the basis of legal advice. No part of it is false and nothing material has been concealed. So help me God.

LUCKNOW: DATED

25/7/1990.

महादेव

(MAHADEV YADAV)

DEPONENT

I identify the deponent who has signed before me

Shailendra Mishra
25/7/90

Solemnly affirmed before me this _____ day of _____ 1990 at _____ AM/ PM by the deponent, who has been identified by Shri

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

महादेव

191

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

M. P. No. 453/90 (2)

Civil Misc. Application No. of 1990.

ON BEHALF OF

Mahadev Yadav s/o Dwarika Yadav
r/o Village and P.O. Ateha,
District Pratapgarh.

IN RE:

O.A. No.225 (L) of 1989

Fixed on 29-8-90 for F.H.

Mahadev Yadav Applicant

Vs

Union of India & Others Respondents

To

The Hon'ble Vice-Chairman and his other
companion members of the aforesaid Tribunal.

The humble application on behalf of the
abovenamed applicant most respectfully sheweth as under:-

1. That the abovenamed applicant has filed an application seeking relief that his peaceful performance of duty of C.P. Chaukidar at his local Post Office Ateha is being disturbed by the respondents by a fake and illegal appointment of one Brijendra Kumar Singh, s/o Shri Shyam Bahadur Singh, Postman of Ateha, r/o village

Filed today
S.B. Singh
2-11-90

Filed through,

S.B. Singh

2-11-90

and file applicants.

महादेव

Pure
Kumbhi Aima, ~~Post Office~~/Bansa, District Pratapgarh.

They both have falsely shown themselves to be resident of village Ateha proper on the basis of a false certificate from the Gram Pradhan as there is a requisite condition that the C.P. Chaukidar should be preferably a local man.

2. That to achieve the aim they both have fraudulently have shown their permanent residence at Ateha proper.

3. That to rebut their contention and to prove that Shri Shyam Bahadur Singh is a resident of Pure Bansa hamlet of Kumbhi Aima, it is necessary in the interest of justice to summon the Service Book of Shri Shyam Bahadur Singh, Postman, father of the respondent No. 5, which must contain the correct particulars of permanent residential address of the person concerned.

4. That the said Service Book of Shri Shyam Bahadur Singh is maintained by the Post Master of Pratapgarh and it must be available with him.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to direct Respondent No. 4, Senior Superintendent of Post Offices of Pratapgarh, to produce the Service Book of Shri Shyam Bahadur Singh, Postman of Ateha before this Hon'ble Tribunal with a certified copy of its 1st page otherwise the applicant would suffer a grave irreparable loss.

महोदय

Dated 25/7/ 1990.
LUCKNOW.

S. B. Mishra
(S.B. Mishra) 25/7
Counsel for the Applicant

A93

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

.....

AFFIDAVIT

On behalf of

Mahadev Yadav, aged about 25 years
s/o Shri Dwarika Yadav r/o Village
and Post Office Ateha, distt. Pratapgarh,
C. P. Chaukidar of Ateha Post Office

IN RE :

O.A. No. 225 (L) of 1989

Mahadev Yadav Applicant

Vs

Union of India and others Opposite Parties

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

1. That the deponent is C.P. Chaukidar Applicant
in the abovenoted case and as such, he is fully aware
of the facts and circumstances of the case.

2. That the respondent No. 5, Shri Brijendra Kumar
Singh deponent son of Shri Shyam Bahadur Singh, Postman
of Ateha has stated that he and father both are residents
of Ateha proper which fact is wholly incorrect and false
as they are residents of village Pure Bansa, hamlet of
Kumbhi Aima district Pratapgarh some 10 Kms. away from Ateha.

महदेव

894

3. That the said opposite party No. 5 has duped the other respondents and obtained a fake and illegal appointment order by practising fraud stating that he is a resident of Ateha and the respondent No. 2 issued an order without jurisdiction without proper verification of particulars and also without any advertisement just to harass him and disturb the peaceful performance of the applicant's duties.

4. That to prove the falsehood of their permanent residential address as shown in the application form filled in by respondent No. 5, it has become necessary in the interest of justice to call for and summon the Service Book of said Shri Shyam Bahadur Singh, Postman of Ateha from the custody of Postmaster of Pratapgarh through the respondent No. 4 who is the controlling Postal Authority of Pratapgarh.

5. That the Service Book of the said Postman must contain the correct permanent address of Shri Shyam Bahadur Singh, Postman which will be sufficient to rebut the contention that he and his son are not residents of Ateha proper.

6. That there is ~~prima facies~~ ^{prima facie} of the case and the balance of convenience rests with the applicant deponent.

महादेव

(Mahadev Yadav)
Deponent

Lucknow;

Dated 25/7/1990.

VERIFICATION

I, the abovenamed deponent, do hereby verify that the contents of paras 1 to 5 of this affidavit are true to my own knowledge and those of paras 6 are believed to be true on the basis of legal advice. Nothing has been concealed and no part of this affidavit is false.

So help me God.

महादेव

(MAHADEV YADAV)
DEPONENT

Lucknow;

Dated 25/7/1990.

महादेव

Identified the deponent who has signed this before me
Shailendra Mehta
25/7/90

Central Administrative Tribunal

Lucknow Bench

INDEX SHEET

Cause Title CA-42/92 of 1993

in O.A. 225/89

Name of the Parties Mahadeo Yadav Applicant

Versus

Dr. K. M. Singh & others Respondents

Part A.E.C.

Sl. No. Description of documents Page

A-1

A-2

A-3 to 15

A-16 to 17

A-18 to 20

B-1 to 15

C-1 to 2

A-1

Contempt application No. 42 of 1992

In

Original Application No. 225(L) of 89

Dated: 14.7.1992

Hon'ble Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

On the request of counsel for the
applicant, the case is adjourned to 18.9.92
for orders.

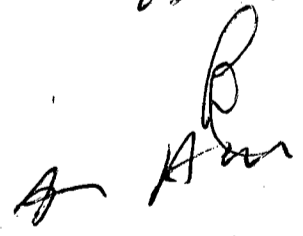

K.O.

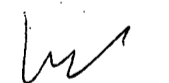

V.C.

18-9-92 Hon Mr Justice U.C.S, VC
Hon Mr K Obayya AM

Issue notice to respondents
to file counter reply within
2 months to enable the
Tribunal to hold the contempt
has been made out
or not. List on 14-12-92

OR
Notice issued
on 18/11/92
9



K.O.



VC

14.12.92 Hon Mr Justice VC Srivastava, VC
Hon Mr K Obayya, AM

Adjourn to 7-1-93

OR
A.D. received
for C.O. No. 2
S.F. O.
11/1/93


K.O.


VC

Misc. Appl. No.42/92

in

C.C.P. No.42/92

in

O. A. No.225 (L)/89

29/1/93

Hon.Mr.Justice U.C.Srivastava, V.C.
Hon.Mr. K. Obayya, A.M.

On the complaint of the applicant in his contempt petition that the orders of this Tribunal have not been complied with, notices were issued to the respondents. The non-compliance complained is that the Senior Supdnt. is to make a fresh enquiry within a period of 3 months to find out as to whether the applicant is a resident of the same Village or of another village. In case the applicant is a resident of the said village, Shri Brijendra Kumar can be shifted to another Village, and the applicant shall be given preference and priority for appointment.

From the counter affidavit filed to-day alongwith two documents it appears that Mahadeo Yadav (applicant) has been given the appointment and he has also joined the services. Shri Dubey, learned Counsel for the applicant states that it is in correct. In case it is not correct he can always move an application. But as the document is complete by affidavit etc. it is difficult to reject the plea made by the respondents. Even if the compliance is made late, no contempt subsists and as such contempt is consigned and the notices are discharged.

(tok)

A.M.

V.C.

A 3

In the Central Administrative Tribunal at Allahabad,

Circuit Bench , Lucknow .

C C P

42.192

Misc. Application No.

of 1992.

Inre:

O.A. No. 225 of 1989(L) of Pratapgarh.

Mahadeo Yadav...

... Applicant

Versus

Shri Ram Karan Mishra, the then Sr.Suptd.
of Post Offices of Pratapgarh Division
and other...

... Opp. Parties.

I N D E X

Sl.No.	Particulars	Pages.	
		From	To
1.	Application	1	to 7
2.	Affidavit	8	- 12
3.	Judgment dated 31/1/92	13	- 14
4.	Power of Counsel	15	

Lucknow :Date d :

30-6-,1992.

(Shailendra Mishra)
Advocate,
Counsel for Applicant .

①
A 11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH : LUCKNOW.

Misc. Application No. 42 of 1992 of Pratapgarh
Central Administrative Tribunal

I N

Circuit Bench, Lucknow

Date of Filing 30/6/92

O.A. No. 225 of 1989(L) of Pratapgarh, Date of Receipt by Post

Deputy Registrar (J).

Applicant

Mahadeo Yadava ..

Versus

Union of India & 4 others ..

Respondents.

In re:

Mahadeo Yadava, aged about 27 years, S/o Dwarka Yadava,
R/o Village and Post Atheha, Tehsil Lalganj, District
Pratapgarh Oudh contingency paid Chowkidar of Atheha
Post Office, Pratapgarh.

Petitioner.

Versus

1. Shri Ram Karan Mishra, the then Sr. Supdt. of Post
Offices of Pratapgarh Division;
2. Shri R.D. Pandey, the then Sub-Divisional Inspector
of Post Offices of Kunda Sub-Division and now Complaint
Inspector, Pratapgarh.

Contemner Respondents.

BRIEF FACTS OF THE CASE:

Shri R.D. Pandey, the then Sub-Divisional Inspector of
Post Offices of Pratapgarh North Sub-Division forced the
regular contingency paid Chowkidar - Sri Bhagwan to cease
work of guarding the Post Office over night but he did not
make arrangement for his substitute. The Post Office
could not be left unguarded at night as such the Sub-
Postmaster of Atheha Post Office made a telephonic refer-
ence to Ram Karan Mishra, the then Sr. Superintendent of
Post Offices of Pratapgarh, who directed him to engage a
suitable local man for the purpose. The said Sub-Postmaster

contd...2.

Filed today

30/6/92

the purpose. The said Sub Postmaster employed the petitioner on 15-9-88 after obtaining local character verification certificate. The Sub Postmaster of Atheha forwarded this certificate to the Sr.Suptd.of Posts of Pratapgarh.along with his compliance report.It is a fact that the appointing authority of contingency paid Staff is the Sr.Suptd.of Post Offices in Pratapgarh District.The S.D.I.(P) of Pratapgarh North has no power and jurisdiction to make appointments of Contingency paid Staff in view of Govt.order in persuance of the Supreme Court's judgment dated 5-2-86.This Hon'ble Tribunal had made aninterim order on 24-10-89 for payment of 2 months salary for May 89 and June 89 but the respondent no.2 did not pay it in compliance with the said order.After expiry of the stipulated period the respondent No.1 appointed respondent no.2 who was a friend of the said S.D.I.(P) Sri R.D.Pandey arrayed as respondent no.2 in the O.A. and had no power to appoint a C.P.Chowkidar. This power is vested in the Sr.Suptd.of Post Offices of Pratapgarh. The S.D.I.(P) Kunda was not a person of out side, the circle as desired by the Hon'ble Court. He did not record any evidence offered by the petitioner saying that he would record the statement of the Gram Pradhan only. This shows that the said S.D.I.(P) Sri Srikailash would not give a fair enquiry report in the matter. The respondents have not furnished a copy of the enquiry report to enable the petitioner to offer comments thereon. The respondent No.1 has not complied with the Court's order that if they desire to keep Sri Brijendra Kumar Singh in service, they should shift him to another Village. The said respondent no.1 did not remove said Brijendra Kumar Singh whose appointment was ordered by an Officer having no power or

9.6 (3)

jurisdiction for making the said appointment order. The S.D.I.(P) respondent No.2 in the O.A.stated that no names were sponsored by the employment exchange as such he made advertisement at the beat of Drum on 12-4-89 in the market of Atheha which was heard only by Sri Brijendra Kumar Singh residing in the Village of Kumbhi Aima at a distance of 10 Kms. It was further stated in the C.A.that a notice was also exhibited on the notice Board of Atheha P.O. where the petitioner was on duty.According to said Inspector of Posts respondent No.2 the proclamation was made at the beat of Drum on 12-4-89 and appointment was ordered on 28-4-89 on the single application of Brijendra Kumar Singh S/o Shyam Bahadur Singh Postman of Atheha P.O. which was irregular,illegal and malafide. It is a well settled rule of law that the order made by an authority having no power or jurisdiction to make it, is a nullity. In the instant case the order of appointment of Brijendra Kumar Singh was issued by Sri R.D.Pandey S.D.I.(P) Respondent no.2 in the O.A.who was not competent to make it. The Power was actually vested with the Sr.Suptd.of Posts contemner respondent No.1 in this petition. The appointment of the petitioner was made on the direction of respondent Sr.Suptd.of Posts of Pratapgarh and the same is still in existence. It is a fact that Shyam Bahadur Singh Post^{man}~~master~~ induced the Gram Pradhan of Atheha to make a forged entry of Brijendra Kumar Singh in the family Register which has now been scored out for fear of legal action. It is also a facts that a C.P.employee is not a regular employee and it did not warrant adoption

A-7 (4)

of a regular procedure as done in case of permanent posts. A copy of the enquiry report has also not been furnished to the petitioner. It is apprehended that Sri Srikailash S.D.I (P) Kunda has acted under the influence of respondents 2, 4, and 5 in the O.A. and given his report on points not ^{desired} warranted by the Hon'ble Tribunal. The Inquiry Officer was not impartial and free from influence as such his report must be a biased one and unsustainable.

GROUNDS OF CONTEMPT

1. That the contemner respondent No.1 has not shifted Brijendra Kumar Singh to else where as per order of the Court dated 31-1-92 . Copy annexed. The order stands disobeyed.
2. That the Inquiry Officer contemner respondent No.2 in this petition has refused to record evidence on behalf of the petitioner saying that he was not to collect evidence but he was only to contact Gram Pradhan which was bad and illegal.
3. That the said Inquiry ^{officer} in connivance with respondents has asked the Gram Pradhan to score out the forged entry of inclusion of name of Brijendra Kumar Singh in the family Register of Atheha while all his family members including his father Shyam Bahadur Singh are still in Village Panchayat record of Kumbhi Aima though Shyam Bahadur Singh was at work at Atheha P.O.as Postman.

4. That from the mode of enquiry it appeared that the said enquiry officer would criticise the judgment and sponsor a report on points not ^{wanted} warranted by the Hon'ble Tribunal which would prejudice the case of the petitioner.

5. That the enquiry was started without first shifting Brijendra Kumar Singh to else where in compliance with the Court's order as such the contemner respondents are guilty of defiance of courts contempt rules (CAT) 1986.

6. That the petitioner requested the said Inquiry Officer to take possession of the copy of requisition placed on employment exchange of Pratapgarh and that get exhibited on the Notice Board of Atheha Post Office and other Public Offices but he declined to do so which showed his unfair attitude to the great prejudice of the petitioner.

7. That the said Inquiry Officer did not collect copies of the applications on record of appointment file with the Inspector of Post Offices of Pratapgarh North who illegally appointed Brijendra Kumar Singh on the solitary application when it was binding on him to have seen if any Drum beating proclamation was done in Atheha Market. The enquiry report be presumably violative of guide lines given in the judgment. The Inquiry Officer Respondent No.2 has contributed to commission of offence under Rules 3 and 4 of Courts Contempt Rules 1986.

8. That the contemners have deliberately disobeyed the Court's orders to make proper enquiry in the matter and submit report within 3 months as desired by the Hon'ble Tribunal.
9. That the petitioner prays for the following reliefs:-
- a) The contemners be suitably punished for non compliance of Court's order in strict accordance with the directions given in the judgment dated 31-1-92.
 - b) The order of appointment of Brijendra Kumar Singh be declared as without jurisdiction and hence void.
 - c) The application of petition No.OA 225/89 be allowed with costs and he should be deemed in service without any break or monetary loss of pay and allowance.
 - d) Brijendra Kumar Singh be again directed to be shifted else where if the Respondents desire him to retain in service.
 - e) Any other relief considered to be proper in the interest of justice.

Petitioner.

महदेव
(Mahadeo Yadava)

Dated. 8-6-92.

15

VERIFICATION.

I, Mahadeo Yadava S/o Dwarka Yadava aged about 27 years C.P. Chowkidar Atheha, Post Office do hereby verify that contents of all paras of this petition are true to my knowledge and that have not suppressed any material fact.

Dated 2-6-92.

30

Petitioner.

महादेव

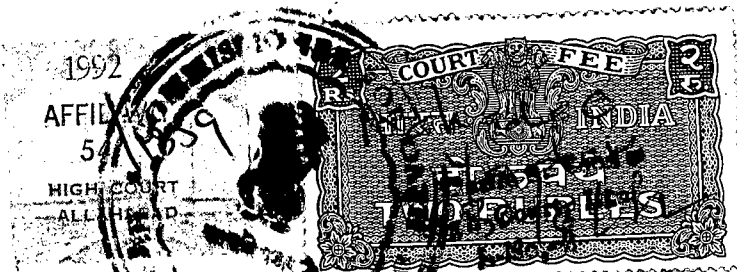
(Mahadeo Yadava)

Place. ~~Pratapgarh.~~ Lucknow

Signature of the Advocate.

Dated 2-6-92.

30



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH: LUCKNOW

Misc. Application No. _____ of 1992 of PRATAPGARH
DISTRICT

In

O.A. No. 225/1989 of Pratapgarh

Mahadeo Yadava .. Applicant

Vs.

Union of India & 4 others .. Respondents

In re:

Mahadeo Yadav, aged about 27 years, son of Dwarka Yadava
R/o Atheha, Tehsil Lalganj, District Pratapgarh

.. Petitioner

Vs.

1. Shri Ram Karan Mishra, the then Senior Superintendent
of Post Offices of Pratapgarh;
2. Shri R.D. Pandey, the then Sub-divisional Inspector
of Post Offices of Kunda, and now Complaint Inspector,
Pratapgarh.

.. Both Contemner Respondents

AFFIDAVIT

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

1. That I am the petitioner in the above noted
case as such, I am fully acquainted with the
facts and circumstances of the case.



2. That I was appointed as contingency paid Chowkidar to guard the Post office of Atheha over night on 15-9-1988, when the previously appointed Chowkidar - Sri Bhagwan was forbidden from performance of his duty by Sri R.D. Pandey, Inspector of Post Offices of Pratapgarh North Sub-division, without any alternative arrangement to carry on work vice Bhagwan.
3. That the appointment was made by the Sub-Post Master of Atheha Post office with the approval of the Sr. Supdt. of Post Offices of Pratapgarh division, who was the competent authority for the purpose.
4. That as the appointment was made on the oral approval of the competent authority, it did not object to the arrangement when that authority visited Atheha P.O. in June and July, 1989.
5. That in the attendance register of the office, the petitioner was marked (present) which was accepted to be satisfactory as per remarks in that register by Sr. Supdt. of Post Offices of Pratapgarh done under his dated signature.
6. That on the basis of continuous performance of the petitioner, this Hon'ble Tribunal had ordered payment of 2 months' salary to him on 24-10-1989, which order was also not complied with nor the said S.D.I. (P) - Sri R.D. Pandey made any request for recall of that order in his C.A.



7. That the said S.D.I. (P) - Sri R.D. Pandey knew it fully well that he was not the competent authority to employ C.P. staff but still exceeded his limit and appointed Brijendra Kumar Singh to the post which action was malafide and arbitrary. The petitioner was not given preference as being local and working at the post.
8. That the appointment of the said Brijendra Kumar Singh is without jurisdiction hence a nullity as a well settled principle of Law. It is based on forged Panchayat records.
9. That the so-called order of appointment of Sri Brijendra Kumar Singh was further bad for forged proclamation on beat of drum at Atheha and other formalities stated to have been followed by the said S.D.I. (P).
10. That the said S.D.I. (P) kept every thing concealed because he was influenced by the Postman - Shyam Bahadur Singh to engage his two sons at the two C.P. Posts of Chowkidar and Sweeper at the same office which was malafide and prejudicial to the interest of the petitioner.
11. That the respondents did not consider that the petitioner was working for more than 7 months had gained experience which has been



- 4 -

brused aside by saying that he did not apply for the post as he did not like to work which was wholly false.

12. That the said respondents did every thing secret in the interest of providing job to two un-employed sons of Shyam Bahadur Singh, Postman in the same Office. It is further stated that no termination order was ever issued and served on the petitioner by any respondent as they knew well that their action would be illegal and arbitrary.
13. That the contemner No. 2 had been directed by Senior Superintendent of Post Offices to ignore evidence on behalf of the petitioner in order to save the skin of the said Sri R.D. Pandey, who has acted illegally throughout and this is the reason why the enquiry report has not been disclosed to the petitioner.



...5.

7/8/82

14. That for the above reason the enquiry has been viciated in as much as the Inquiry Officer was not a person outside the Circle and also that the respondent contemner No. 2 has allowed him to continue at the post in utter disregard of the orders of this Hon'ble Court which amounts to contempt of Court under the aforesaid Rules of 1986 and the same warrants punishment.

Deponent

Dated: 30.6.92

(MAHADEO YADAVA)

VERIFICATION

I, Mahadeo Yadva, the deponent above named, do hereby solemnly affirm and verify that the contents of paras 1 to 13 of this Affidavit are true to my knowledge and those of para 14 on the legal advice which I believe to be true.

Nothing has been concealed and nothing is false.
So, help me God.

Place of Verification
Compound of ~~Collector~~ High Court
rate Court, ~~Pratapgarh~~ U.O.
Pratapgarh.

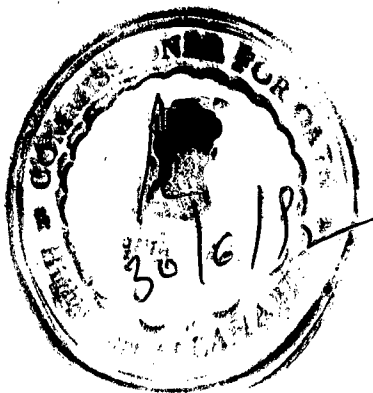
DEPONENT

Dated: 30.6.92

(MAHADEO YADVA)

I identify the deponent who has signed this before me.

Shaitendra Mishra
30/6/92



CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LOCKHORN.

....

Registration C.A. No. 221 of 1989

Mahadeo Yadav Applicant.

Versus

Union of India and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

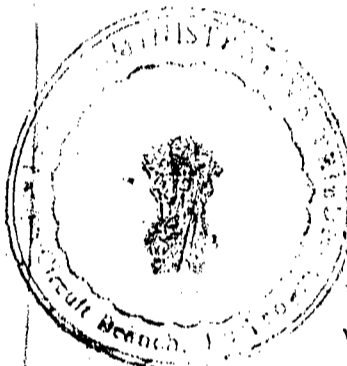
(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Contingency Paid Chowkidar on 15.9.1988 to guard the Ateha Post Office, District Pratapgarh. Although no written order was given to the applicant, in the month of May, 1989 the applicant came to know that some Brijendra Kumar Singh is being appointed and ultimately the said respondent was appointed.

2. The grievance of the applicant is that the applicant is the resident of the said village and ~~has~~ worked more than 7 months on the said post and there was nothing against him and he having been also appointed in accordance with the departmental circular which provides that a person should be from the resident of the same village. The applicant was arbitrarily posted in this manner to accommodate the said Brijendra Kumar Singh by the respondents, and the father of the said Brijendra Kumar Singh is also postman in this circle.

3. The respondents have refuted the claim of the applicant and have contended ^{that} ~~as~~ pending a regular appointment, the applicant was appointed but when the regular appointment was made, the said Brijendra Kumar Singh was selected. From the counter affidavit, it does not appear that the applicant was also given an opportunity to participate in the said selection. According to the respondents, the said Brijendra

Contd ...2/-



A-17

(14)

- 2 -

Kumar Singh was also resident of the same village and they have filed certain documents in this behalf. While the applicant has also filed some documents that he was not resident of that village but was resident of one village 'Kumbhi'. The said documents create doubts that the said Brijendra Kumar Singh may not be the resident of this village. Obviously, he was resident of one village Kumbhi. Obviously, it was within the jurisdiction to appoint a regular Chow-kidar but when the applicant was working on the said post and undoubtedly, he was the resident of the same village, an opportunity should have been afforded to him but that was not done. Though, the applicant cannot claim any right to the said post but in view of the fact that he was resident of the same village, ^{could have been} he was given preference and his case ought to have been considered.

4. Accordingly, as in ^{on} case ^{the} enquiry needed, the senior Superintendent Post Office is directed to make a fresh enquiry, through a sub-ordinate who may not be posted in that circle, within a period of 3 months to find out as to whether, in fact, the applicant is a resident of the same village and the said Brijendra Kumar Singh is resident of another village, and if the department decides to keep the said Brijendra Kumar Singh's service then they can shift Brijendra Kumar Singh to another village and give preference and priority to the applicant for the appointment to the post of said Chowkidar in the said circle. The application is disposed of with the above terms. Parties to bear their own costs.

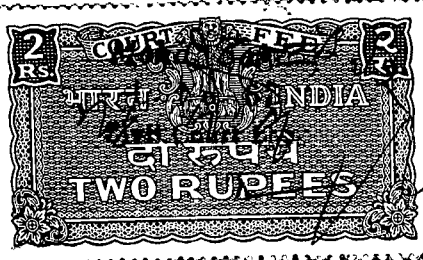
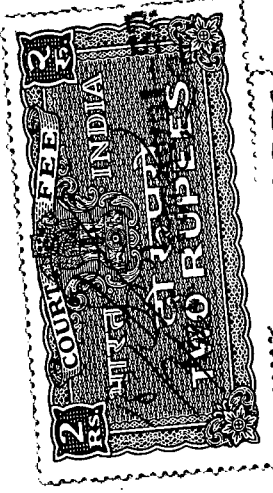
Dated: 31.1.1992
(n.u.)

[Signature]
Deputy Registrar
Central Administrative
Lucknow Bench
Lucknow

A-18

ब अदालत श्रीमान *In the C.A.T. Circuit Bench Court* महोदय

[वादी अपीलान्त] श्री *Mahadeo Yashwantrao* बकालतनामा
प्रतिवादी [रेस्पण्डेंट]



Mahadeo Yashwantrao Applicant

बनाम

R.K. Mishra Ananth (प्रतिवादी रेस्पण्डेंट)

नं. मुकद्दमा 42 सन् १९८२ पेशी की ता. 18.9. १९८२ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री *Raven Kumar*

वकील *Shri R.K. Mishra* एडवोकेट

नाम अदालत
मुकद्दमा नं.
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (करोकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (इस्तखती) रसीद से लेवे या बंध नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर *Mahadeo Yashwantrao*

साक्षी (गवाह) (गवाह)

दिनांक 12.9. सन् १९८२ ई०

स्वीकृत

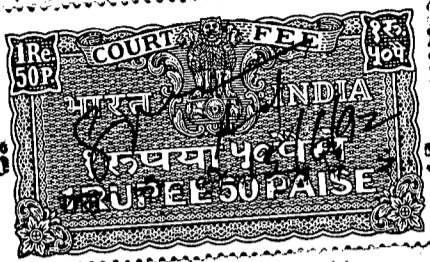
ब अदालत श्रीमान

[वादी अपीलान्ट]

प्रतिवादी [रेस्पाडेंट]

In the Central Administrative Tribunal at ^{Mahabul} महोदय ¹⁵
Circuit Bench, Lucknow का **वकालतनामा**

Mahadeo Yadav - Applicant



The In. Supt. of Post Offices Lucknow for Rajan & Co. Dargah

बनाम

प्रतिवादी (रेस्पाडेंट)

नं० मुकद्दमा

सन

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर श्री Shailendra Mishra, Advocate, Rai
Behari Lal Road, Lucknow 7

वकील

महोदय

एडवोकेट

नाम अदालत	नाम फरीकन	नाम
मुकद्दमा नं०		

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करे या लौटावे या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करे या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करे और तसदीक करें मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको-संवन्धा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसको जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिमा प्रमाण रहे और समय पर काम आवे ।

Accepted
Shailendra Mishra
Counsel for the Applicant
15/6/92

हस्ताक्षर

महोदय

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

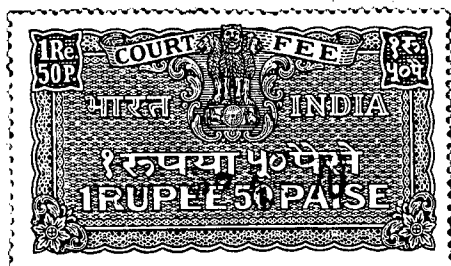
15

महीना

6

सन १९२८ ई०

स्वीकृत



A-20

व अदालत आमान

A. T. Circuit Bench, Luck

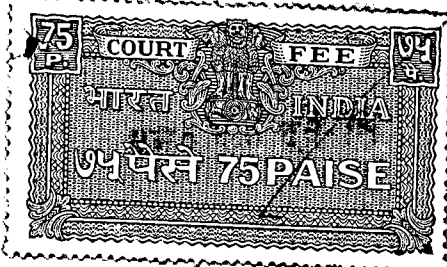
महोदय

बादो अपीलान्त

Mahades

वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]



Mahades

(अपीलान्त)

S. Ram Karam Nish
a aris
प्रतिवादी रेस्पान्डेन्ट

नं० मुकदमा 42

सन् 92

पेशी की ता०

१६

ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Munni Duhay

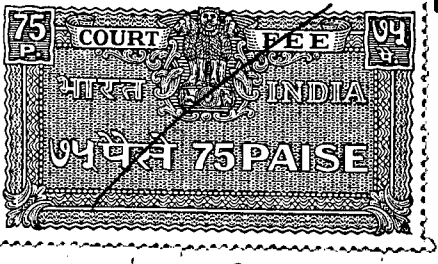
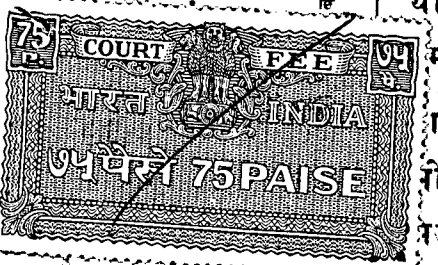
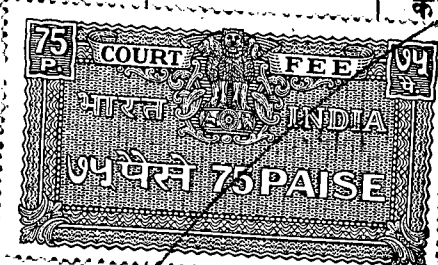
(M. Duhay), Bar 4th Lane, Nawainy
Eganeshgaw Lucknow

वकील

महोदय

एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं
इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ
वो व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें
हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा
इकबालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर
स दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें
या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या
मारे हस्ताक्षरयुक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें वकील महोदय
ारा की गयी वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह
भी स्वीकार करता हूं कि हर पेशी पर स्वयं पर अपने किसी पैरोकार को
मजता रहूंगा अगर मुकदमा अदम पेशी में एक तरफ मेरे खिलाफ फैसला हो
जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसीलिए यह वकालत
नामा लिख दिया प्रमाण रहे और समय पर काम आवे ।



हस्ताक्षर

महोदय

साक्षी (गवाह)

Rajniyam

साक्षी (गवाह)

दिनांक

4

महीना

सन्

१६९३

ई०

FT
27/1

M. Duhay
BAN