

1/2

THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

O.A. No. 21 of 1990

Girish Kumar Singh ... Applicant

Vs.

Union of India & Others ... Respondents

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

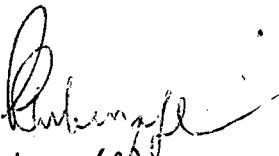
Hon. Mr. K. Obayya, A.M.

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

The applicant who was appointed as Extra Departmental Post Master was suddenly removed from service and one Ram Prakash Gupta the respondent who was on work for some time has been appointed. He has challenged this termination by means of this application. It appears that the post of E.D.M.P. cum E.D.D.A. was vacant because of the retirement of the permanent incumbent. The Employment Exchange was asked to sponsor names, accordingly, 8 names was sponsored by the Employment Exchange. After the death of previous incumbent Shri Ram Prakash Gupta regarding whom it is said that he was related to the Superintendent of Post Office, Shri R.D. Gupta^{who} has filed a Counter Affidavit in this case was working as a substitute and worked for 8 months. Although it is stated by the respondents that his name was also sponsored by the Employment Exchange but his services were terminated on the ground that he was related to one Shri Siyaram Gupta, who was Branch Post Master of Sandhana. But later on inquiry revealed that he was not related.

From out of these persons whose names were sponsored by the Employment Exchange, the applicant was considered to be better than others and consequently he was appointed. Shri Gupta was appointed as Superintendent of Post Office who has stated that it was not necessary ~~to~~ for him to assign the reasons or issue notice within a period of 3 years to the applicant. The applicant has contended that no enquiry whatever regarding relationship has been made and that from the evidence indicated it is clear that Shri Ram Prakash Gupta was also sponsored from Employment Exchange, but he was not selected. The appointment of the applicant was not cancelled by the Director of Postal Services. The Superintendent of Post Office has no right to terminate the services of regularly appointed employee by this manner in order to give appointment to other persons. In case his appointment would have been cancelled, fresh selection could have been made but the procedure which has been adopted by the Superintendent of Post Office for appointment of Shri Ram Prakash Gupta is against the principles of natural justice. Even if there was some irregularity, the services of the applicant should not have been terminated unless an opportunity of hearing was given to him or the incumbent has been ^{apprised} ~~appointed~~ of so called irregularity. ^u The order of cancellation/terminating the applicant and the appointment of Shri Ram Prakash Gupta is manifestly illegal and can not be sustained and

accordingly this application is allowed and both the orders are quashed and the applicant shall be restored back in the office and he will be deemed to be continued. However, it is open for the authority to proceed in the manner in accordance with law. No order as to costs.


Member (A)


Vice Chairman

Lucknow
Dated 24.6.92

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title GIA 21/90 of 199

Name of the parties

E. K. Singh

Applicant.

Versus

Union of India

Respondents.

Part A.B.C.

Sl No.

Description of documents

Page.

- ① Check list -
- ② arched sheet -
- ③ Seizement -
- ④ Petition copy with annexes -
- ⑤ Paper -
- ⑥ Cover -

A 1 + A 2
A 3

A 4 + A 5

A 7 to A 18

A 19

A 20 +

A 29 +

B. File

- ⑩ Petitioner Copy
- ⑪ Annexes
- ⑫ Counter
- ⑬ Response
- ⑭ Application for adj. op. party
- ⑮ C. File
- ⑯ Unrecorded notes -

B. File
41-6-2012

20/12/92

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

10/11/50
Date

Registration No. 21 of 1950

APPLICANT(S) G. K. Singh

RESPONDENT(S) P. O. M.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ?
2. a) Is the application in the prescribed form ?
b) Is the application in paper book form ?
c) Have six complete sets of the application been filed ?
3. a) Is the appeal in time ?
b) If not, by how many days it is beyond time ?
c) Has sufficient case for not making the application in time, been filed ?
4. Has the document of authorisation/ Vakalatnama been filed ?
5. Is the application accompanied by B.D./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?
c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents been filed and paging done properly ?
9. Have the chronological details of representation made and the out come of such representation been indicated in the application ?
10. Is the matter raised in the application pending before any court of law or any other Bench of Tribunal ?

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

1/2

Particulars to be Examined

Endorsement as to result of examination

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

Ys

Yb

Yb

Yb

NA

Yb

Yb

Yb

dinesh/

21/90(L)

(X)

18 19.1.90

Hon. J.P. Sharma, J.M.

S. Rajan Kumar for reply to

Sri P.N. Bapji & Co.

Mr. V.K. Chaudhary counsel
to respondents has labored
where.

Reply has filed in
four weeks.

For interim relief
after the reply. on 19.2.90

le

No reply filed
S. F. order.
L
16/2

Hon. Justice K. Nall, VC
Hon. Mr. K. Obayya AM

19.2.90.

Admit
Issue notice to SP. No 4
to file CA. within 4 weeks.
but the case for order on
9.4.90.

mm vc

OK
2/c for the applicant has
incorporated amendment. but
no copy to be served on the
OP No 4 has been filed.
No RA filed. on behalf
of 1 to 3.
S. F. O

L
5/4/90

9/4/90

Hon. P.S. Habib Mohammad, A.M.
Hon. J.P. Sharma, J.M.

Rejoinder affidavit has been
filed as ordered by the last sitting
Bench, by the applicant.

Fio for final hearing on

6/11/90

✓

J.M.

PSH

A.M.

sd

original order
on
main Petition

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH : LUCKNOW
.....

ORDER SHEET NO. _____

O.A./T.A. No. 21/90

OFFICE REPORT	DATE	ORDER
---------------	------	-------

M.P. 883/92

application for

recalling order

dt. 24.6.92 has

been filed by

Ad. counsel for the

applicant.

S.F.O.

8

16/10/92

MANISH/-

19-10-92

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

This is an application by the respondent no. 4 for recalling back the order dated 24/10/92. The case was heard and disposed of on merit and as such no application for recalling our order is maintainable. Further, no one is present. The application is rejected.

O.K.

M.P. 943/92
recalling order
dt. 19.10.92
has been filed
by applicant.
Case is fixed
for delivery on

18.11.92.

S.F.O.

18

13/11/92

(ug)

A.M.

18-11-92

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

Learned counsel for the respondent states that he is filing review application. Let it be done.

(ug)

A.M.

V.C.

In the Central Administrative Tribunal, Additional
Bench, Allahabad,

Central Administrative Tribunal Circuit Bench, Lucknow.

Circuit Bench

Date of Filing

Date of Receipt

by Post

Deputy Registrar(U)

Application No. 883 of 1992

In re:

O.A. No.21 of 1990.

Ram Prakash Gupta, son of Raja Ram, resident of
village Sadhana, P.O. Sadhana, Pargana Kurauna,
Tahsil Misrikh, District Sitapur.

-----Applicant

In re:

Girish Kumar Singh

...

...Applicant

Versus

Union of India and others

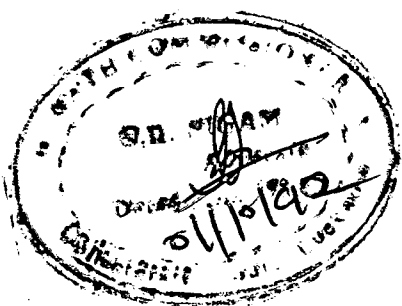
...Opposite parties.

Application for recalling back
the order dated 24.6.1992 passed
by Hon'ble Mr Justice U.C. Srivastava,
V.C. and Hon'ble Mr. K. Obayya A.M.
on the following facts and grounds: -



BRIEF FACTS OF THE CASE

1. That one Girish Kumar Singh filed the abovenoted O.A. No.21 of 1990 before this Hon'ble Court challenging the order dated 8.1.1990 passed by the Superintendent Post Office, Sitapur contained in Annexure No.2 to the application.
2. That by the said order the appointment of the applicant Girish Kumar Singh was cancelled and on this place the applicant Ram Prakash Gupta was appointed .
3. That earlier the applicant Ram Prakash Gupta was not impleaded in the array of the parties but lateron by order dated 19.2.1990 passed by ths Hon'ble Court the present applicant Ram Prakash Gupta was impleaded as O.P.No.4 in the array of parties.
4. That the present applicant has not given any opportunity to contest the case and even no counter affidavit was filed by him and without affording any opportunity to the present applicant

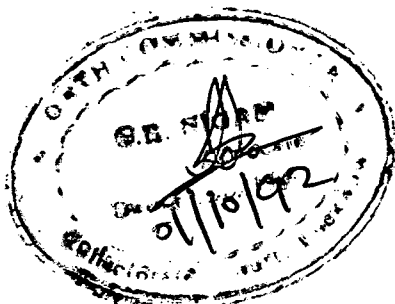


an order was passed by this Hon'ble Court on 24.6.1992 by which the O.A. was allowed. It is submitted here that in the O.A. the counter affidavit was filed on behalf of Shri R.S.Gupta, Superintendent of Post Office, Sitapur.

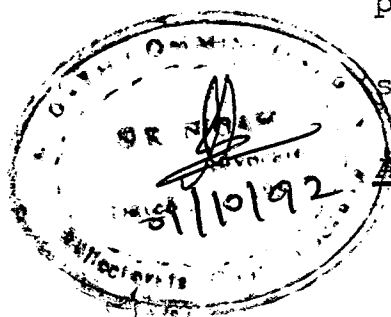
5. That the alleged allegations that the present applicant Ram Prakash Gupta is near relative to Shri R.S.Gupta, Superintendent of Post Office, Sitapur was held to be baseless and false in the enquiry proceedings conducted by the postal department.

6. That the appointment of the present applicant Ram Prakash Gupta was duly made on the basis of names sent by the employment exchange and on the basis that Shri Ram Prakash Gupta also worked on the post of Postman for a period of i.e. 8 months or 240 days.

7. That being aggrieved by the order dated 24.6.1992 passed by this Hon'ble Court the present applicant Ram Prakash Gupta filed a special leave to appeal No.11077/92 before the Hon'ble Supreme Court of India and on 19.8.1992 the Hon'ble Supreme Court of India was directed the petitioner to move an application



for recalling back the order passed by this Hon'ble Tribunal. A true copy of the order dated 19.8.1992 passed by the Hon'ble Supreme Court of India in special leave appeal No.110077 is filed here as Annexure No.1.



8. That in compliance of the orders dated 24.6.1992 passed by Hon'ble Supreme Court the applicant is filing this application for recalling back the orders dated 24.6.1992 on the following amongst other grounds: -

- : G r o u n d s : -

(a) Because the order dated 24.6.1992 passed by this Hon'ble Court is conterary to the principles of natural justice as it was passed without affording any opportunity to the present applicant.

(b) Because the learned members of the Tribunal have not taken into consideration that the present applicant is a duly selected candidate

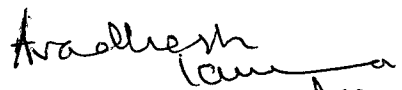
whose name was sponsored by the employment exchange and has also an experience for working as Postman for a period of eight ~~months~~ months.

- (c) Because the learned members of the tribunal have ignored the result of the departmental enquiry by which it was proved that the present applicant is not a relative of the Branch Post Master Sandhara of post office, Sitapur.
- (d) Because the tribunal has wrongly held that the appointment of applicant Ram Prakash Gupta is manifestly illegal and the same is passed without ~~hearing~~ the applicant Ram Prakash Gupta.

Wherefore it is most respectfully prayed that the order dated 24.6.1992 may be recalled and after hearing the present applicant Ram Prakash Gupta and the other side, the case may be decided on merits.

Lucknow, dated
September 30.1992.

✓ 01-10-92 ✓


(Avadhesh Kumar)
Advocate
Counsel for the applicant

ITEM No. 8

COURT No. 3

SECTION

XI

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

I.A.No.1

Petition(s) for Special Leave to Appeal (Civil/Cd) No.(s) 11055/92 (CC 17273)

(From the judgment and order dated 24.6.92

of the High Court of ~~Madras~~ Central

Administrative Tribunal, Lucknow in O.A.No.21 of 1990

Petitioner (s)

Shri Ram Prakash Gupta

Versus

400365

Union of India & Ors.

Respondent (s)

(For permission to file SLP)

Date: 19-8-92 This/these petition (s) was/were called on for hearing today.

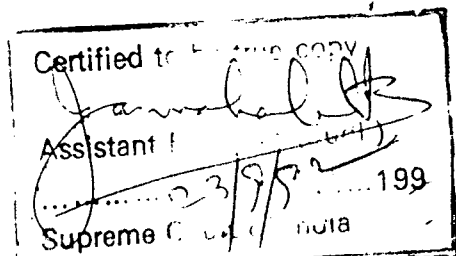
CORAM:

Hon'ble Mr. Justice M.N.Venkatachaliah
 Hon'ble Mr. Justice P.B.Sawant
 Hon'ble Mr. Justice N.P.Singh

For the petitioner (s)

Mr.D.K.Garg, Adv.

For the respondent (s)



UPON hearing counsel the Court made the following
 ORDER

Learned counsel for the petitioner states that the petitioner was not heard before the Tribunal and that on principles laid down in Shivdeo Singh and Ors. v. State of Punjab and Ors. (AIR 1963 SC 1909) he is entitled to move the Tribunal to recall the order which affects him adversely and which has been made without an opportunity to the petitioner of being heard. Accordingly, learned

*T.C.
 Kariside*

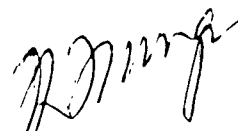
7

2

counsel seeks leave to withdraw the petition with liberty to move the Tribunal.

We abstain from making any comments on the merits. Petitioner is at liberty to pursue such other remedies as may be open to him at law. Special Leave Petition is dismissed as withdrawn with liberty to move the Tribunal.

Court Master


(I.L. Dhingra)
Court Master

T.C.
L. S. D. D.
D. S. D. D.

27/8

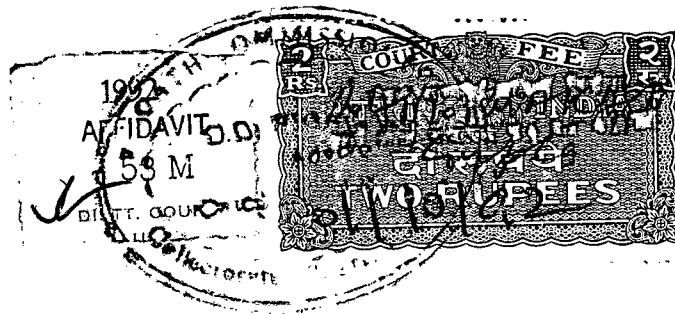

27/8

In the Central Administrative Tribunal, Additional Bench,
Allahabad, Circuit Bench, Lucknow.

Application No. of 1992

In re:

O.A. No.21 of 1990.



Ram Prakash Gupta ... Applicant

In re:

Girish Kumar Singh ... Applicant

Versus

Union of India and others ... Opposite parties.

Affidavit



I, Ram Prakash Gupta, aged about 27 years,
son of Raja Ram, resident of village Sadhana, P.O. Sadhana,
Pargana Kurauna, Tahsil Misrikh, District Sitapur,, the
deponent, do hereby solemnly affirm as under : -

1. That the deponent is the applicant in the noted application for recalling back the order, and as such, he is fully conversant with the facts of the case.

2. That the contents of paras 1 to 8 of the accompanying application are true to the personal knowledge of the deponent.

Lucknow, dated
~~October 1st~~
~~September 30~~.1992.


Deponent

Verification


I, the above named deponent, do hereby verify that the contents of paras i and 2 of this affidavit are true to my own knowledge. No part of it is false and nothing material has been concealed. So, help me God.

Lucknow, dated
~~October 1st~~
~~September 30~~.1992.



Deponent

I identify the deponent who has signed before me.




Advocate.

C11453M
I have read the affidavit of the deponent and he has signed the affidavit which he has sworn to. I have also read the application and I have verified the contents of the affidavit and the application and I have found that the contents of the affidavit and the application are true to the personal knowledge of the deponent.


01/10/92
Advocate
Oath Commission
Lucknow

10

In the Central Administrative Tribunal, Lucknow.

Misc.Appln.No. of 1992.

In re:

O.A. No.21 of 1990. (L).

--

Ram Prakash Gupta.

-----Applicant/
Opp-party.

In re:

Girish Kumar Singh.

-----Applicant

Versus

Union of India and others.

-----Opp-parties

--

Application for Stay.

The applicant most respectfully begs to
submit as under :-

1. That the applicant is moving an application for recalling back the order dated 24.6.1992, passed by Hon'ble Mr.Justice U.C.Srivastava, V.C. and Hon'ble Mr.K.Obayya, A.M.
2. That by order dated 24.6.1992, passed by this Hon'ble Court, the O.A. of Girish Kumar Singh was allowed and the appointment of present applicant Ram Prakash Gupta was declared to be manifestly illegal.

3. That the order dated 24.6.1992, passed by this Hon'ble Court has not been implemented so far and the applicant - Ram Prakash Gupta has still working on the said- post and charge has not been taken from him so far.

4. That the applicant would suffer an irreparable loss if the operation of the order dated 24.6.1992, passed by this Hon'ble Court is not stayed.

- P r a y e r -

Wherefore, it is most respectfully prayed that the operation of the order dated 24.6.1992, passed by this Hon'ble Tribunal may be stayed during the pendency of this application.

Avadhesh
Kumar
for

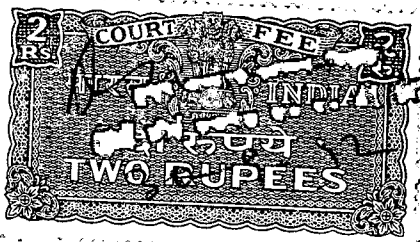
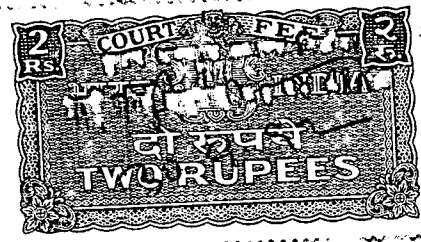
Lucknow, dated,
30.9.1992

(Avadhesh Kumar)
Advocate.
Counsel for the applicant.

ब अदालत श्रीमान Central Administrative Tribunal
वादी (मुद्दई) Lucknow
वकालतनामा

प्रतिवादी (मुद्दाअलेह)

O A No 218/1990



GIRISH KUMAR SINGH

VS

वादी (मुद्दई)

U. O. India

बनाम

प्रतिवादी (मुद्दाअलेह)

नं० मुकदमा

सन् १६

पेशी की ता०

१६

ई०

ऊपर लिखे अभियोग में अपनी ओर से

श्री अवधेश कुमार

एडवोकेट
RAVI SINGH, Advocate

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 पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फंसला हो जाता है तो उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

Accepted
Ravi Singh
Adv.

LKO. Dated

Accepted

Avadhesh Kumar
Adv.

COUNSEL FOR.....

12 X

Before the Central Administrative Tribunal
Additional Bench, Allahabad,
Circuit Bench, Lucknow.

O. A. No. 21 of 1990 (K)

70/1/90
Date

Girish Kumar Singh Applicant.
Versus
The Union of India & others ... Respondants.

COMPILATION A

Compilation B

Dated :- 18.1.1990

(P.N. Bajpai)
Advocate,
Counsel for the
Applicant.

Recd Chm. Pr. 18/1/90
Adv. P.N. Bajpai
18.1.90

87
18/1

13 80

Before the Central Administrative Tribunal
Addl. Bench, Allahabad
Circuit Bench, Lucknow.

O.A. No. 21 of 1990 (1)

Central Administrative Tribunal

Date 18-1-90
Date of

Deputy Registrar

Girish Kumar Singh ... Applicant.

Versus

The Union of India & others ... Respondants.

COMPILATION A.

S. No.	Particulars of documents relied on	Page Nos.
1.	Application Ups 19 of Central Administrative Act.	1-6
2.	<u>Annexure No. 2</u> Order of cancell ation of appointment.	7

Dated :- 18.1.1990

(P.N. Bajpai)
Advocate.
Counsel for the
applicant.

Noted for
19-1-90
18-1-90

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Before the Central Administrative Tribunal
Addl. Bench, Allahabad
Circuit Bench, Lucknow.

O. A. No. 21 of 1990 (L)

Names of parties.

Girish Kumar Singh aged about 39 years son of
Sri Madhav Singh R/o village and Post Sandhana
District Sitapur.

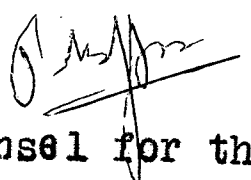
.... Applicant.

Versus

1. The Union of India through the Secretary
Ministry of Post and Telecommunication
New Delhi .
2. The Superintendant of Offices, Sitapur,
3. The Up Mandaliya Nirikshak Dak Ghar,
Sitapur.

.... Respondents.

Dated :. 18.1.1990


Counsel for the
Applicant.

15

R

Before the Central Administrative Tribunal
Additional Bench Allahabad
Circuit Bench Lucknow

I.A. No. 21 of 1990(L)

Girish Kumar Singh, aged about 39 years S/O Sri
Madhav Singh, R/O Village, & Post Sandhanā,
Distt. Sitapur.

... Applicant.

vs.

1. The Union of India, through the
Secretary Ministry of post and Telecommunica-
-tion, New Delhi.

2. The Supdt. ,Post Offices, Sitapur.

3. The Upmandalaya Nirikshak Dakghar,
Sitapur. Respondents.

4. Ram Prakash P.O Village Sandhana P.O
Sandhanā, Distt. Sitapur
Application Under Section 19 of the Central
Administrative Tribunal Act.

DETAILS OF APPLICATION

1. PARTICULARS OF THE APPLICANT.

- (i) Name of the Applicant : Girish Kumar Singh
(ii) Name of the Father : Sri Madhav Singh
(iii) Designation and Office : Dak Bahak, Branch
in which employed : Post Office,
Sandhana, Distt.
Sitapur.
(iv) Office Address : As above.
(v) Address for service
of all notices : - do;

2. JURISDICTION OF THE TRIBUNAL

The Applicant declares that the subject
matter of the order against which he wants to

2.

redressal is within the jurisdiction of the Tribunal.

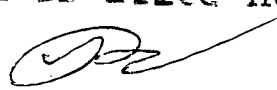
3. LIMITATIONS

The Applicant further declares that the application is within the limitation and as prescribed in section 21 of the Administrative Tribunal Act. 1985.

4. FACTS OF THE CASE.

The facts of the case are given below:-

- (1) That the Educational qualification of the Petitioner is High School and he is handicapped due to defect in his hand. He is fully qualified for the post of Dak Vahak.
- (ii) That the Petitioner applied for the post of Dak Vahak in the Brnach Post Office Sandhana, Distt. Sitapur, through the Employment Exchange. He was selected accordingly and was appointed vide order dated 26.5.89 passed by the O.P.No.3. The copy of the appointment is filed herewith as Annexure-1 to this Petition
- (iii) That the work and conduct of the Petitioner remained always satisfactory and there was no complaint against him from any corner. He was peacefully working without any interruption but he has been told that the O.P.No.2 had issued an order on 8.1.90 in which the appointment of the Petitioner has been cancelled, and one Ram Prakash has been appointed in place of the Petitioner. The Petitioner had arranged a copy of the order which is filed herewith.



as Annexure -2 to this Petition.

(iv) That the Applicant has not handed over the charge till today, and the charge is with him.

(v) That the order of cancellation of the appointment is illegal, void and could not be operative against the Applicant in the eye of law.

(vi) That the order of appointment has already been implemented as the applicant had joined the duties and has worked about 7 months and 15 days. He has also received the salary.

(vii) That the order of appointment could not be cancelled without serving the show cause notice against the Petitioner.

(viii) That the applicant has not been given an opportunity of hearing without assigning any reason. The order is arbitrary.

(IX) That there is no adverse material against the Petitioner which could be basis of the impugned order.

(xx) That there was no illegality or irregularity in the appointment of the Applicant.

(xxi) That the appointment of the Petitioner was made by the O.P.No.3 but the order has been cancelled by the O.P.No.2 which is without jurisdiction.



(xxii) That the order of cancellation of the appointment is violation of the Art. 311 of the Constitution of India, and the principles of natural justice.

(xxiii) That the applicant is filing the Application without exhausting the Departmental remedies, as no fruitful result will come out if the Appeal is made. No Stay order will be passed by the Appellate authority and the Petitioner will face the financial trouble in these hard days.

(xxiv) That Ram Prakash who has been appointed by the O.P.No.2 is the Cousin Brother of Branch Post Master, Sandhana, Distt. Sitapur.

(xxv) That no reasons of cancellation of appointment has been disclosed, hence the applicant could not know the reasons of cancellation of the appointment.

(xxvi) That the impugned order is the result of mala fide intention of the O.P.No.2.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

(a) That the show cause notice was necessary to be given to the Applicant before passing the order of cancellation of the appointment.

(b) That the applicant has not been given an opportunity to explain the conduct.

(c) That there was no illegality or irregularity in the appointment of the Petitioner.

(d) That the order contained in Annexure-2

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is arbitrary, without any basis and is also without jurisdiction. The appointing authority is the Respondent no.3 and the order has been passed by the Respondent no.2.

(e) That there is no justification of cancelling the Appointment order.

(f) That the provisions of Art. 311 of the Constitution of India and the principles of natural justice have been violated.

(g) That the implementation of the order Annexure-2 is liable to be stayed during the pendency of the Application.

6. DETAILS OF THE REMEDIES EXHAUSTED

No departmental remedies are available under any rule or law against the order of cancellation of the appointment. Further the Appellate Authority will not pass the order of Stay.


7- WHETHER THE MATTER IS PENDING OR THE SAME WAS FILED PREVIOUSLY

Neither the matter is pending in any Court of law in India nor it was filed earlier before this Tribunal or any other Court of law.

8. RELIEFS SOUGHT.

The Applicant prays for the following reliefs:-

(1) That the order contained in Annexure-2 may be quashed and the Applicant may be allowed.



allowed to continue in service on the post of Dak Vahak of Branch Post Office Sandhana, Distt Sitapur without any effect of Annexure-2.

(ii) That the Opp. parties may be directed to pay the regular salary to the petitioner without any effect of order Annexure-2.

(iii) That the cost of the application may be awarded to the Applicant.

(iv) That any other relief which this Hon'ble Tribunal deems fit and proper may be allowed to the Applicant.

xxx 9. INTERIM RELIEF IF ANY

The Applicant prays for Stay of the order Annexure-2, during the pendency of the application.

10. PARTICULARS OF THE BANK DRAFT / POSTAL ORDER

1. Number of the Indian postal order. 2:02 409830
2. Name of the issuing post Office : High Court Branch
3. Date of issue of the postal order. 18/1/90
4. Post office at which payable. GPO LKO

In verification,

I, Girish Kumar Singh, S/O Sri Madhav Singh, employed as Dal Vahak, Branch Post Office, Sandhana, Distt. Sitapur. do hereby verify that the contents from para 1 to 10 are true to my personal knowledge and belief and that I have not suppressed any material fact.

Dated: 18.1.90

SIGNATURE OF THE APPLICANT

Before the Central Administrative Tribunal
Addl. Bench, Allahabad, Circuit
Bench, Lucknow.

Girish Kumar Singh .. Applicant.

Versus

The Union of India & others ... Respondants

Annexure No. 2

का कोलम अर्थात् आर आर, गीतापुर

फाइल नं० A, 347/20 गीतापुर दिनांक

8-1-90

विषय :- 20 अं० आर आर गीतापुर
नियुक्ति का आदेश

सेवा में :-

उप सहायक विद्युत
आर आर, गीतापुर
अं० 347/20

जिरीश आर आर गीतापुर की नियुक्ति
नियुक्ति करते हुए रात्र प्रकाश की
तद पर नियुक्ति का आदेश दिया
जाता है।

उप सहायक
अं० 347/20 आर आर
गीतापुर

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10/1/90

गीतापुर

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Before the Central Administrative Tribunal ,
Additional Bench, Allahabad
Circuit Bench, Lucknow.

O.A. No. of 1990 (L)

Girish Kumar Singh .. Applicant.
Versus
The Union of India & others ... Opp. Parties.

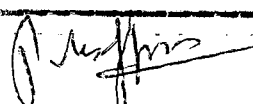
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S. No.	Particulars of papers and Annexure Nos.	Page No.
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1.	<u>Annexure No. 1</u> Appointment order	1
2.	Vakalatnama	2

Dated :-
18.1.1990


(P.N. Bajpai)
Advocate.
Counsel for the
applicant.

Before the Central Administrative Tribunal
Addl. Bench, Allahabad, Circuit Bench,
Lucknow.

Girish Kumar Singh ... Applicant
Versus
The Union of India ... Respondents.

Annexure No. 1

उप निदेशक विरीस्य जलपुर
जिला देवमण्डली सीतापुर - 261001
कार्यालय अधिष्ठाता कार्यालय सीतापुर जलपुर - 261001
आपने सं० २७ / सीतापुर दि० 26-5-87
SOUTH SUB-DIVISION SITAPUR- 261001

श्री ... गिरिश कुमार सिंह ... को स्तद्वारा अतिविभागीय नमक/सोडा
पद श्री ... को स्तद्वारा अतिविभागीय नमक/सोडा
उक्त पद पर नियुक्त किया जाता है। उन्हें समय
समय पर स्वीकृत दरी पर भत्ता देय होगा।

श्री ... गिरिश कुमार सिंह ... को यह सूझ
दिया जाता है, कि उनकी अतिविभागीय नमक/सोडा
पद की नियुक्ति एक सौदवा के रूप में है, जो अधोहस्ताक्षरी द्वारा किसी समय लिखित
सूचना देकर समाप्त किये जाने की शर्त पर की गयी है तथा इनका सेवा एवं आचरण
अतिवि० स्टेप्ट (नवा सर्व आचरण) नियमावली 1964 जैसा समक-समय पर संशोधित
हो, के द्वारा नियन्त्रित होगी।-

यदि उक्त सभी शर्तें उन्हें स्वीकार हो, तो वह सलग्न प्रारूप
पर अपनी स्वीकृति इस कार्यालय की भेजें।

श्री ... गिरिश कुमार सिंह
जिला देवमण्डली सीतापुर - 261001
कार्यालय अधिष्ठाता कार्यालय सीतापुर जलपुर - 261001

(निदेशक, अधिष्ठाता)
अतिवि० स्टेप्ट (नवा सर्व आचरण) नियमावली 1964
जिला देवमण्डली सीतापुर - 261001
SOUTH SUB-DIVISION SITAPUR- 261001

- प्रतिलिपि-: उपमण्डलीय निदेशक ... सीतापुर को सूचनार्थ एवं आवश्यक
कार्यवाही हेतु।
1. श्री ...
 2. श्री ...
 3. पीटन स्तर सीतापुर।
 4. कार्यालय प्रति।

आ.जी. /-20289/

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M. B. D. M. K.

Before the Chief & District Magistrate, District
Addl. Dist. Magistrate, Sahodra
क्र. का बकालतनामा १७
Sd/-



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बादो (अपीलान्ट)

The Union of India & others

यनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० सुकहमा

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्रो प्रयास नारायण 46 नं. 2

व. ~~आदि~~ ... ~~राजेश~~ ... ~~महोदय~~ ... ~~एच.के.ए.~~ ... ~~ए.बी.ए.~~ ...

नाम अक्षरान्त
मुक्तद्वयानं
नाम करीकन
.....

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 लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें या मुलहनाया 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 (फरीफसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई यह सब कार्यवाही हमको सर्वथा स्वीकार है और होया मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर... श्री शंकर प्रसाद

साक्षी (गवाह) साक्षी (गवाह)

दिपांठ १४ महीना - - - १ - - - सन १९९०

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(24)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. No.21 of 1989(L).

Grish Kumar Singh

... Applicant

-vs-

Union of India and others

.. Opp. parties

COUNTER AFFIDAVIT ON BEHALF OF OPP. PARTIES.


I, R.S. Gupta, aged about 51 years, son of
late Shri K.D. Gupta at present posted as
Supdt. of Post offices, Sitapur Division,
Sitapur do hereby solemnly affirm and state as
under:-

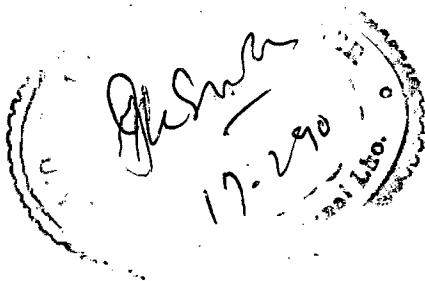
1. That the deponent is Respondent no.2 in the
above noted case and as such he is well conversant
with the facts of the case and he has been authorised
to file this counter affidavit on behalf of all the
Respondents.

2. That before giving parawise comments
it is necessary to give brief history of the case
as detailed below:-

(a) That the Post of EDNC cum EDDA
Sandhana fell vacant due to retirement

of Shri Indra Bahadur Singh, Employment officer, Sitapur was addressed vide No.A/Sandhana dated 13.1.89. Eight applications were received through Employment officer vide his office letter No.Pikta/Runner/88-80 1323 dated 23.2.89. The comparative chart was prepared on 25.5.89 after obtaining required information from the candidates. Shri Ram Prakash was a working substitute on the said post. He was working since last 8 months. He has also all the equal qualifications as are with Sri Grirish Kumar Singh the applicant with experience of working over the post for over 240 days. Sri Ram Prakash Gupta was also nominated by Employment Exchange. He was already working since 240 days on which day appointment of ~~xxx~~ the applicant was ordered and the services of Sri Ram Prakash Gupta having experience of the post over 240 days were dispensed with by SDI(S) Sitapur, on the plea that Sri Ram Prakash Gupta is near relative of Sri Siya Ram Gupta who is Branch Postmaster Sandhana debarring Sri Ram Prakash Gupta from appointment working over the post of EDMP cum D EDD_a. Enquiries later on confirmed that though Sri Ram Prakash





Gupta and Sri Siya Ram Gupta BPM were both Guptas but they are not near relative for the purpose of debarring Sri Ram Prakash from appointment as EDMP/EDDA.

4. That the contents of para 1 to 3 are formal and as such needs no comment from the answering deponent.

5. That in reply to the contents of para 4(i) of the application it is submitted that only this much ^{passed} is admitted that the applicant is High School but he has not furnished the prescribed marksheet of High School. Rest of the contents of this para are not admitted.

6. That the contents of para 4(ii) of the application are incorrect hence denied and in reply it is submitted that ~~Shri~~ Ramprakash Gupta was working as EDMP/EDDA Sandhana for the last 240 days was wrongly displaced under a wrong notice of near relationship with branch postmaster.

5. That the contents of para 4(iii) of the application are incorrect, hence denied.

7. That in reply to the contents of para 4(~~ix~~)^(iv) of the application it is submitted that Sri Ram Prakash Gupta has taken over charge and is working as EDMP/EDDA

[Signature]

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17-2-90

- 4 -

Sandhana.

8. That the contents of para 4(v) of the application are incorrect as stated, hence denied and in reply it is submitted that Sri Ram Prakash Gupta was working over the post since October 1988 for more than 240 days and his displacement by the applicant is illegal.

9. That the contents of para 4(vi) of the application are incorrect as stated, hence denied and in reply it is submitted that the Sri Ramprakash Gupta is working as EDM^P/EDDA Sandhna.

10. That the contents of para 4(vii) of the application are incorrect as stated, hence denied and in reply it is submitted that Rule 6 of EDAs (Conduct and Services Rules) 1964 do not provide for issue of show cause notice and his services were rightly terminated under Rule 6 of EDAs (Conduct and Service) Rules, 1964.

11. That the contents of para 4(viii) of the application are incorrect as stated, hence denied and in reply it is submitted that there is no provision in rule 6 of EDAs (Conduct and Service) Rules 1964 for assigning any reason for termination of services, within three years without any show cause notice.

[Signature]


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12. That the contents of para 4(ix) of the application are incorrect as stated, hence denied, and in reply it is submitted that Sri Ram Prakash Gupta was already working over the post fulfilling all the conditions for appointment as EDMP/EDDA. He was not to be displaced. There was no need for the applicant's appointment.

13. That the contents of para (x) of the application ~~xxxxxxxxxxxxxxxx~~ are incorrect as stated, hence denied and in reply it is submitted that the irregularities were found in appointment order. Sri Ram Prakash was already working and having experience with requisite qualifications. The applicant's appointment by displacing Sri Ram Prakash Gupta was illegal.

14. That the contents of para 4(xi) of the application are incorrect as stated hence denied and in reply it is submitted that the opposite party no.2 ie. deponent is appellate authority and have full powers for review of orders of appointment. For this case Sri Ram Prakash Gupta was found irregularly displaced and as such he was provided the appointment

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after termination of services of applicant under Rule 6 of EDAs(Conduct & Services) Rules 1964.

15. That the contents of para 4(xii) of the application are incorrect as stated, hence denied and in reply it is submitted that there is no violation of the article 311 of Constitution of India in the instant case.

16. That in reply to the contents of para 4(xiii) of the application it is submitted that the applicant himself has admitted that he has not exhausted departmental remedies available.

17. That the contents of para 4(xiv) of the application are incorrect as stated, hence denied and in reply it is submitted that in inquiry Sri Ram Prakash was not found to be near relative of the EDBPM for the purposes of debarring him from appointment as EDMP/EDDA.

18. That the contents of para 4(xv) of the application are incorrect as stated, hence denied and in reply it is submitted that there is no rule for intimating the reason for termination of services within 3 years of temporary services.

19. That the contents of para 4(xvi) of the application are incorrect as stated, hence denied and in reply it is submitted that the services were terminated under Rule 6 of EDAS(Conduct & Services)

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[Signature]

Rules 1964 correctly.

20. That the contents of para 5(a) of the application are incorrect as stated, hence denied.

21. That the contents of para 5(b) of the application are incorrect as stated, hence denied and in reply it is submitted that the services were terminated during 3 years of temporary service under Rule 6 of EDAS(Conduct & Service) Rules 1964 ~~no~~ no show cause notice was required to be given.

22. That the contents of para 5(c) of the application are incorrect as stated, hence denied.

23. That the contents of para 5(d) of the application are incorrect as stated, hence denied.

24. That the contents of para 5(e) of the application are incorrect as stated, hence denied and in reply it is submitted that Sri Ram Prakash who was working over the post for the last 240 days was displaced by the applicant without any jurisdiction for such displacement.

25. That the contents of para 5(f) & (g) of the application are incorrect as stated, hence denied and in reply it is submitted that the services of the applicant have been terminated after 7 months within 3 years of temporary service under

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[Signature]

Rule 6 of EDAs (Conduct and services) Rules 1964
vide No.A/Sandhana dated 11.1.90 and there is
no violation of the provisions of article
311 of Constitution of India as he was purely
temporary having only seven months service.

The order of termination have already been imple-
mented and Sri Ram Prakash is working over the post.
Stay applied for may not be admitted.

26. That the contents of para 6 of the application
are incorrect as stated, hence denied. ~~and xxxxxx~~

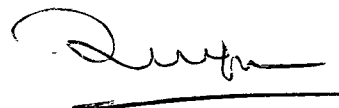
27. That the contents of para 7 of the
application ~~xxx~~ needs no comments.

28. That in reply to the contents of para 8
of the application it is submitted that the request of the
applicant is illegal and is liable to be dismissed.

29. That in reply to the contents of para 9
of the application it is submitted that the stay
applied for by the applicant is illegal and as such
it is liable to be rejected.

30. That the contents of para 10 of the
application needs no comments.

31. That in view of the facts and ~~xxxxxx~~



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circumstances as stated above, the application
filed by the applicant is liable to be dismissed with
costs against the applicant.

Deponent. *R. S. Gupta*

Lucknow,
Dated: 17th Feb. 1990.

17/2

Verification.

I, the above deponent do hereby verify that the
contents of paragraphs 1 is true to my personal knowledge
and those of para 2 to 30 are believed to be true ~~and~~
on the basis of records and information gathered and
those of para 31 is also believed by me to be true
on the basis of legal advice. Signed and verified this
day of 17th February 1990 at Lucknow.

Deponent. *R. S. Gupta*
17/2

Lucknow,
Dated: 17th Feb. 1990.

I identified the deponent who has signed
before me and is also personally known to me and signed
on _____ at _____ am/pm in the Court compound at
Lucknow.

(VK Chaudhari)
Addl Standing Counsel for
Central Government
(Counsel for Cpp. parties)

Dated: Feb. 90.

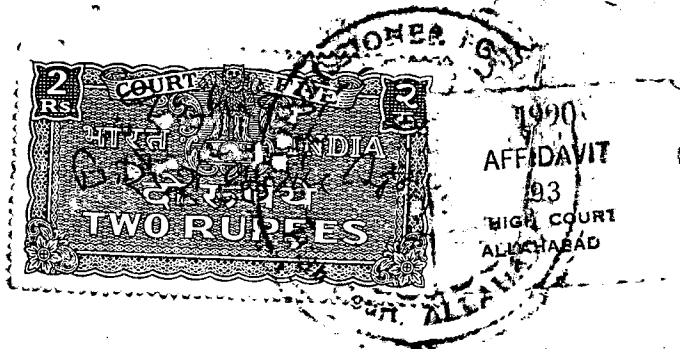
8:30 PM by *R. S. Gupta*
Govt. Counsel
Chaudhari

Jigal Kishore Kumar

Court Compound
Date: 17.2.90

In the Central Administrative Tribunal
Additional Bench -Allahabad
Circuit Bench - Lucknow

O.A. No.21 of 1990 (L)



Grish Kumar Singh ... Applicant
Vs.
Union of India & Others ... Respondents.

REJOINDER AFFIDAVIT.

I, Grish Kumar Singh, aged about 39 years S/O Sri Madhav Singh, R/O of Village & P.O. Sandhana, Distt. Sitapur, do hereby solemnly affirm as under:-

1. That the contents of para 1 of the C.A. are denied for want of knowledge.
2. That the contents of para 2 of the C.A. are denied. The irrelevant facts have been given. It is true that the posts fell vacant due to the retirement of Sri Indra Bahadur Singh. It is also correct that the names were called from the employment Exchange. The deponent applied being fully qualified. The post Master with collusion of the authorities engaged Sri Ram Prakash in an illegal manner. No proper procedure was adopted in giving the appointment to Sri Ram Prakash. It is wrong to say that Ram Prakash had worked 140 days. The actual date of appointment and the nature of



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appointment has not been given. It is wrong to say that Ram Prakash was selected according to the rules. The deponent was selected on merit. He was found suitable in comparison to ~~the~~ Sri Ram Prakash and was given the appointment against the clear vacancy while the appointment of Ram Prakash Gupta was on adhoc basis. Ram Prakash Gupta, was relative of Sri Shriya Ram Gupta, the Branch Post Master. It is wrong to say that the relationship could not be proved in the enquiry. In fact no enquiry has been held. It appears that some false reports have been submitted in favour of Sri Ram Prakash Gupta. No copy of enquiry report has been filed, to prove the contents. No proper reply is possible without the enquiry report. The Opp.p parties ~~xxxx~~ had tried to misguide the Hon'ble Court through the contents of para under reply.

3. That there is no para 3 in the C.A.

4. That the contents of para 4 of the C.A. needs no reply.

5. That the contents of para 5 of the C.A. are denied. The marksheet was submitted to the Department along with the application for appointment. The contents of para 4 (i) of the application are reiterated. The deponent was fully qualified for the post of DAK BAHAK.

6. That the contents of para 6 of the C.A. are denied. The contents of para 4 (ii) of the ~~xxxxxx~~ Application are reiterated. The date of appointment and the nature of appointment has not been given. Ram Prakash was certainly



1/10/30 JMS 183

relation of the Branch Post Master. The benefit of 240 days of working could not be given to ~~xxx~~ Sri Ram Prakash as the appointment was on adhoc basis.

7. That the contents of para 5^(repeated) of the C.A. are denied. The contents of para 4 (iii) of the Application are reiterated.

8. That the contents of para 7 of the C.A. are denied. The deponent has not handed over the charge till today.

9. That the contents of para 8 of the C.A. are denied. The contents of para 4 (v) of the Application are reiterated. As already stated above the date of actual appointment and the nature of appointment has not been disclosed. Hence proper reply is not possible. The appointment could not be cancelled.

10. That the contents of para 9 of the C.A. are denied. The contents of para 4 (vi) of the application are reiterated. The contents of para under reply are misleading. No proper reply has been given.

11. That the contents of para 10 of the C.A. are denied. The contents of para 4 (vii) of the application are reiterated. The services have not been terminated. The appointment has been cancelled. In these circumstances the show cause notice was necessary.

12. That the contents of para 11 of the C.A. are denied. The opportunity of hearing was necessary as the appointment was cancelled.



Subscribed & sworn to

4.

13. That the contents of para 12 of the C.A. are denied. The contents of para 4 (ix) of the application are reiterated. The appointment of Sri Gupta was illegal and was not made according to the rules. It was on Ad.hoc basis. The appointment of the petitioner was legal.

14. That the contents of para 12 of the C.A. are denied. The contents of para 4 (x) of the application are reiterated. There was no irregularity in the appointment of the petitioner. No irregularity have been disclosed in the appointment of the petitioner. Sri Ram Prakash could not be appointed being relation of ~~xxx~~ the Brnach Post Master. The deponent was more qualified than ~~the~~ Sri Ram Prakash Gupta.

15. That the contents of para 14 of the C.A. are denied. The contents of para 4 (xi) of the application are reiterated. The order could not be reviewed. It should be quashed by the Higher Authority. There is no provision of the review of the order. In fact it has been done with collusion of the Ram Prakash Gupta in an illegal. Opp. Parties have failed to file the copy of the enquiry report to show the truth. The successor could not review the orders of his predecessor.

16. That the contents of para 15 of the C.A. are denied. The contents of para 4 (xii) of the application are reiterated. The provisions of Art. 311 of the constitution of India have been violated.



Handwritten signature/initials

5.

17. That the contents of para 16 of the C.A. are denied. The contents of para 4 (xiii) of the application are reiterated.

18. That the contents of para 17 of the C.A. are denied. No enquiry was held as alleged. No report has been filed with the C.A. to ascertain the truth. In fact some fraud has been played with collusion of the authorities and Ram Prakash Gupta.

19. That the contents of para 18 of the C.A. are denied. The contents of para 4 (xiv) of the application are reiterated. The ~~real~~ reasons must be disclosed in the counter affidavit.

20. That the contents of para 19 of the C.A. are denied. The contents of para 4 (xv) of the application are reiterated. The order of termination cum cancellation of appointment is arbitrary.

21. That the contents of para 20 of the C.A. are denied. The contents para 5 (a) of the application are reiterated.

22. That the contents of para 21 of the C.A. are denied. The notice to show cause was necessary.

23. That the contents of para 22 of the C.A. are denied. The contents of para 5 (c) of the application are reiterated.

24. That the contents of para 23 of the C.A. are denied. The contents of para 5 (d) of the application are reiterated.



Adm. Secy 10/5/11

(39)

8/4/90

25. That the contents of para 24 of the C.A. are denied. The contents of para 5 (e) of the application are reiterated. The date of appointment and the nature of appointment has not been disclosed. He was terminated from the services in an illegal way.

26. That the contents of para 25 of the C.A. are denied. The contents of para 5 (f) and (g) of the application are reiterated. The services have been terminated in violation of the Art. 311 of the constitution of India. The services could not be terminated in an illegal manner.

27. That the contents of para 26 of the C.A. are denied. The contents of para 6 of the application are reiterated.

28. That the contents of para 28 and 29 of the C.A. are denied. The contents of para 8 and 9 of the application are reiterated.

29. That the contents of para 30 of the C.A. are ~~denied~~ admitted.

30. That the contents of para 31 of the C.A. are denied. The application is liable to be allowed with costs.

Dated :- 9.4.90

Deponent.

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 30 of the rejoinder affidavit are true to my knowledge and belief. Nothing has been concealed and so part of it is false so help me God.

Signed and verified today this 9th day



39

8/15

9.

D
1

of April 1990 in the compound of the Hon'ble
High Court at Lucknow.

[Signature]
Deponent.

I identify the deponent who has signed
before me.

[Signature]
(P.N. Bajpai)
Advocate.
9.4.90

Solemnly affirmed before me on 9.4.90
at 10-5 A.M. & P.M. by Sri G. K. Singh the
deponent who is identified by Sri P.N. Bajpai,
Advocate High Court Allahabad (Lucknow Bench)
Lucknow.

I have satisfied myself by examining the
deponent who understands the contents of this
Affidavit, which has been read over and
explained by me.



[Signature]
BY COMMISSIONER
High Court, Allahabad
93/12-5
9-4-90

40

Before the Central Administrative Tribunal, Lucknow.

Application No. 943 of 1992.

In re:

O.A.No.21 of 1990.

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 22.10.92

Date of Receipt by Post X


Deputy Registrar(J)

Ram Prakash Gupta, son of Raja Ram,
resident of village Sadhana, P.O.Sadhana,
Pargana Kurauna, Tehsil Misrikh, Distt.Sitapur.

-----Petitioner

In re:

Girish Kumar Singh.

-----Applicant

Versus

Union of India and others.

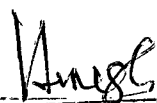
-----Opp-parties

Application for recalling back the order
dated 19.10.92, passed by Hon'ble Mr.Justice
U.C.Srivastava, V.C. and Hon'ble Mr.Justice
K.Obayya, A.M.

The petitioner begs to submit as under :-

1. That the petitioner who was opposite party No.4 in O.A.No.21 of 1990, had filed an application on 1.10.1992 for recalling back the order dated 24.6.92, passed by the Bench consisting of Hon'ble Mr.Justice U.C.Srivastava, V.C. and Hon'ble Mr.Justice K.Obayya, A.M.

2. That the said application was moved on the permission granted by the Hon'ble Supreme Court dated 19.8.92 and the said order of the Hon'ble


23/11/92

41

Supreme Court was also annexed alongwith the application. Again a photostat copy of the order of Hon'ble Supreme Court is being annexed herewith as Annexure No.1.

3. That the said application was listed for disposal on 19.10.1992 at Sl.No.28 of the cause list.

4. That on 19.10.1992, the counsel for the petitioner attended the Hon'ble Tribunal but he was bit late due to his engagement in other courts.

5. That on 19.10.92, this Hon'ble Tribunal was pleased to reject the said application and passed the following order :-

"This an application by the respondent No.4 for recalling back the order dated 24.6.92. The case was heard and disposed of on merit and as such no application for recalling our order is maintainable. Further no one is present. The application is rejected.

Sd/-
A.M.

Sd/-
V.C."

6. That the absence of the applicant on the date fixed is bonafide and accidental as he was busy in other courts and was a bit late.

V. Singh
23/10/92

42

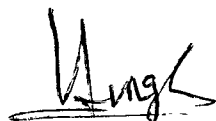
3..

- P r a y e r *

Under the above said circumstances, it is
respectfully prayed that in the interest of
justice the order dated 19.10.1992 passed by
the Hon'ble Bench may be recalled and the
application of the petitioner may be heard on
merits.

Lucknow;

23.10.92.



23/10/92
(Vishambhar Singh)
Advocate

Counsel for the Petitioner.



43

Annexure No. 1

ITEM No. 8

COURT No. 3

SECTION

XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A.No. 1

in

Petition(s) for Special Leave to Appeal (Civil/Cd) No.(s) 11055/92 (CC 17273)

(From the judgment and order dated 24.6.92

of the High Court of ~~xxxxxxx~~ Central

Administrative Tribunal, Lucknow in O.A.No.21 of 1990

Petitioner (s)

Shri Ram Prakash Gupta

Versus

400300

Union of India & Ors.

Respondent (s)

(For permission to file SLP)

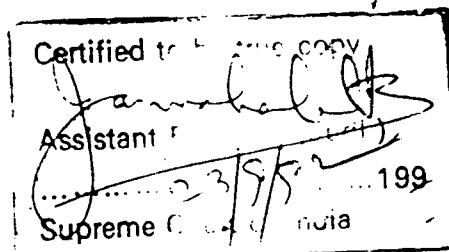
Date: 19-8-92 This/these petition (s) was/were called on for hearing today.

CORAM:

Hon'ble Mr. Justice M.N.Venkatachaliah
Hon'ble Mr. Justice P.B.Sawant
Hon'ble Mr. Justice N.P.Singh

For the petitioner (s)

Mr.D.K.Gaige, Adv.



For the respondent (s)



UPON hearing counsel the Court made the following
ORDER

Learned counsel for the petitioner states that the petitioner was not heard before the Tribunal and that on principles laid down in Shivdeo Singh and Ors. v. State of Punjab and Ors. (AIR 1963 SC 1909) he is entitled to move the Tribunal to recall the order which affects him adversely and which has been made without an opportunity to the petitioner of being heard. Accordingly, learned

counsel seeks leave to withdraw the petition with liberty to move the Tribunal.

We abstain from making any comments on the merits.

Petitioner is at liberty to pursue such other remedies as may be open to him at law. Special Leave Petition is dismissed as withdrawn with liberty to move the Tribunal.

Court Master

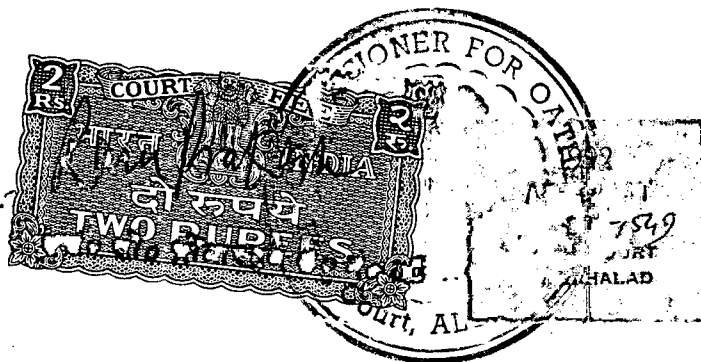
(I.L.Dhingra)
Court Master

27/8

27/8

Before the Central Administrative Tribunal, Lucknow.

O.A. No.21 of 1990.



Affidavit

in re:

Application No. of 1992.

Ram Prakash Gupta. .. Petitioner

in

Girish Kumar Singh. .. Applicant

versus

Union of India and others. .. Opp. Parties.

..



I, Ram Prakash Gupta aged about 27 yrs.
son of Raja Ram, resident of village Sadhana, P.O.
Sadhana, Pergana Kurauna, Tehsil Misrikh, District
Sitapur, do hereby solemnly affirm as under :-

1. That the deponent is petitioner/opp.party
no.4 in the above noted case, as such is well
conversant with the facts of the case.

contd...2..

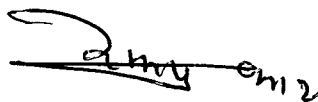
2..

2. That the contents of paras 1 to 6 of the accompanying application for recalling back the order dated 19.10.1992, are true to my own knowledge.

Lucknow;

23.10.92.

Deponent.


Ram Prakash Gupta.

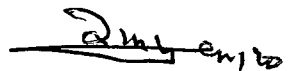
Verification

I, the abovedamed deponent do hereby verify that the contents of paras 1 and 2 of this affidavit are true to my own knowledge and no part of it is false, and nothing material has been concealed so help me God.

Signed and verified this 23rd day of Oct. 1992

at Lucknow.


Deponent.


Ram Prakash Gupta.




I identify the deponent who has signed before me.

Advocate.


23/10/92

Solemnly affirmed before me on 23/10/92 at 11 am/pm by the deponent who is identified by Sri Bishambhar Singh Adv. High Court at Alld. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been readout and explained by me to him.


OATH COMMISSIONER
High Court, Allahabad
Lucknow Bench.

No. 23/10/92
Date 23/10/92



Honble Court Admlr

व जलपत जोपाप

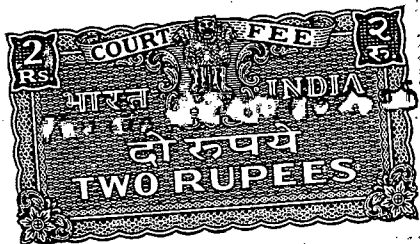
महोदय

(पानी पपीपम)

Raw Bricks

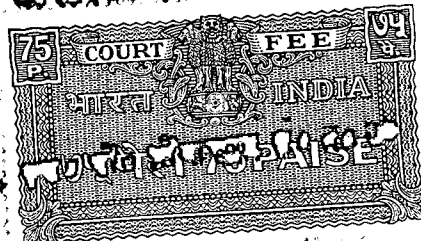
बकालमनाम

रिपार्टी [रिपार्टी]



टिकट

तनाम



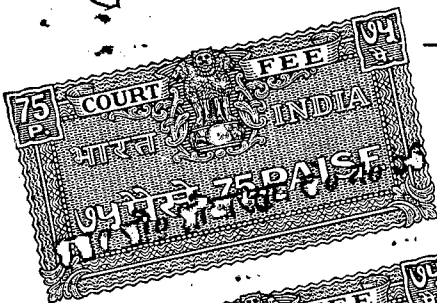
पं० मुफदना

जन

पेनी जी

एपर लिखे मुफदना में जपनी ओर से श्री

1/2



बकील

महोदय

एडवोकेट

नियुक्त फरके प्रतिज्ञा (इकरार) करता हूं और लिखे
 एकदमा में बकील महोदय स्वयं अथवा अन्य बकील
 व जवाब देही व प्रश्नोंत्तर करें या कोई फागज बाखिल
 हमारी ओर से डिगरी जारी करावे और रुपया वसूल
 व इकबाल दावा तथा अपील निगरानी हमारी ओर
 हस्ताक्षर से बाखिल करें और तसदीक करें मुफदना
 रुपया जमा करें या हमारी बिपक्षी (फरीकसानी) का
 बाखिल दिया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (बस्तखती)
 एसीब से लेवे या पंच नियुक्त करें—बकील महोदय द्वारा की गई पण
 सप कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार
 करता हूं कि मैं हर पेसी पर स्वयं या किसी अपने परोकार को भेजता
 रहूंगा अगर मुफदना अवस पंरवी में एक तरफा मेरे खिलाफ फैसला हो
 जाता है उसकी जिम्मेदारी मेरे बकील पर नहीं होगी इसलिए यह
 पदासनामा लिख दिया प्रमाण रहे और समय पर जाम आवे।

नाम बकालत
 मुफदना न
 नाम फरीकेन

Accept
 23/4/92

हस्ताक्षर

पानी (नकाश)

ताली (नकाश)

23/4/92

दिनांक

पहोना

सन १९

ई०

मोफत

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 5th day of Oct., 1994.

Review Application No. 1081/92

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

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

Ram Prakash Gupta son of Sri Raja Ram, resident of village Sadhana, P.O. Sadhana, pargana Kurauna, Tehsil Misrikh, District Sitapur.

Applicant

None for applicant.

versus

Union of India and others

Respondents.

By Advocate Dr. Dinesh Chandra.

O R D E R

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

The learned counsel for the applicant is not present. We have heard Dr. Dinesh Chandra, the learned counsel for the respondents.

2. From the facts it appears that Girish Kumar Singh had filed O.A. No. 21/90. Subsequently, the present Ram Prakash Gupta was impleaded as opposite party No. 4. No notice was issued to Ram Prakash Gupta. However, while deciding the O.A. No. 21/90 filed by Girish Kumar Singh, the Division Bench of this Tribunal quashed the order cancelling/terminating the appointment of Girish Kumar Singh as also the order appointing Ram Prakash Gupta. Ram Prakash Gupta, aggrieved by the order passed in the O.A. filed S.L.P. in the Hon'ble Supreme Court. The apex court by order dated 19.8.92 held that on the principle laid down in AIR 1963, SC 1909 the applicant was entitled to move the Tribunal to recall the order which affects him adversely and it has been made without opportunity to

1
bs

him of being heard. Pursuant to the order passed by the Hon'ble Supreme Court, the applicant Ram. Prakash Gupta filed application for recalling of the order dated 24.6.92. On 19.10.92 the Division bench of this Tribunal rejected the said application holding that it was not maintainable since the case was heard and disposed of on merits. Subsequently, applicant Ram Prakash Gupta again filed an application on 23.10.92 for recalling of the order dated 19.10.92.

3. It is stated that when the said application came up for orders, the Tribunal directed the applicant to file Review application. He, accordingly filed the present review application. In the facts of the case we would have been inclined to allow the review application exercising powers suo moto, since the order passed by the Tribunal on 24.6.92 clearly violates cardinal principles of natural justice. The order of appointment of Ram Prakash Gupta the present applicant had been set aside without hearing him. The difficulty, in our way in exercising suo moto power is the order dated 19.10.92, by which the Division Bench had rejected the application for recalling the order dated 24.6.92. We are exercising ^{Concurrent} ~~co-ordinate~~ jurisdiction. That order has become final between the parties and it would not be proper exercise of jurisdiction by us to allow the review application.

4. In view of what has been indicated hereinabove, the Review application is disposed of.

h v
ADMN. MEMBER

Bcl
VICE CHAIRMAN

LUCKNOW; Dated: 5.10.94

Shakeel/

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

2
A. M.

V.C.

Honble Mr. Justice U.C. Srivastava, v.c
Honble Mr. K. Ojha, J.M.

Give notice returnable at
an early date. List it on B.2. 93.
A.M. W.C.

02
माननीय उपाध्यक्ष महोदय
श्री ०२ एचएल के हॉटेल
जंमिओ स्टेशन नजीब
नई दिल्ली-११००५४
आपके पत्र का जवाब है।
रामेश्वर
22/1/93

29 sub. Mr. Justice V.C. Mervin V.C.
29 sub. Mr. K. obayya Ram

OR
Notice issued
on 27/1/93
N

delivered - Mr. Case on 23.2.93

Ans

سہ

23-2-93 Hon Mr Justice V. G. Girdhar, VC.
Hon Mr K. G. Bhatt, DM

~~Dr~~ Shri V. K. Chaudhary
who appeared in this case
earlier has been asked to
take notice in this case.
The learned counsel for the applicant
will supply copy of this revision
Application to him, within
one day & file it with me & will be
heard on 3-4-73. V

0 on
 notes, not need pack
 S.F.H
 2
 29/1/93

oil
not recoverable
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24243

Rev 1081/92 in O.A. No. 21/90. (3)

20/9/93

Hon. Mr. Justice R.K. Verma, V.C.
Hon. Mr. V.K. Seth, A.M.

Counsel for the applicant has
sought adjournment. List this
case on 6/10/93.

V.K.
A.M.

R.K.V.
V.C.

6.10.93

Dir to Mr. Call - as lawyers
adj to 7.10.93

Prac

7.10.93

Cum-rec'd only
to 23.11.93

23.11.93

Prac

No sitting of D.M.
adj to 7.1.94

Prac

7.1.94

No sitting of D.M. adj
to 28.2.94

Prac

OR
RA 2WS filed
S.P.H.
6/10

OR
RA 2WS filed
S.P.H.
19/11

OR
RA 2WS Encl
S.P.H.
7/11/94

28-1-94

Hon. Mr.S.N.Prasad, J.M.
Hon. Mr.V.K. Seth, A.M.

Put up before the Hon'ble V.C.
for constitution of appropriate Bench
as the Review application has been
moved against the impugned order
dated 24-6-92 ^{in O.A. No. 21 of 1990} passed by the Bench
comprising of Hon.Mr.Justice U.C.
Srivastava, V.C. and Hon. Mr. K.Obayya, A.M.,
and as both of them have retired.

A.M.

J.M

O/R

Vide order dt 24.5.99
of Hon.V.C.; the Bench
of Hon. Mr Justice B.C. Saksena V.C.
and Hon. Mr V.K. Seth has
already been constituted.

Submitted before the
Hon Bench for order on
6.7.99. W.S. has been filed.

1/6/99
S-2-94

6/7/94

Hon. Mr. Justice B.C. Saksena,
V.C.
Hon. Mr. V.K. Seth, A.M.

On the request of
Dr. Dinesh Chandra, learned
counsel for the respondents
put up to narrow i.e.
on 7/7/94 for hearing.

(LT674)

in
H.M.

Boh
V.C.

7.7.94 Lawyers abstain from trial. will
appear on 8.7.94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADD. BENCH ALMABAD, CIRCUIT BENCH, LUCKNOW

REVIEW PETITION NO. 108/ OF 1992

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 24-11-92
Date of Receipt by Post

Duty Engineer

Ram Prakash Gupta S/o Sri Raja Ram,
R/o Village-Sachhanna, P.O. Sachhanna,
Pargana-Murauna, Tehsil-Mishriakh,
Distt. Sitapur ... Applicant

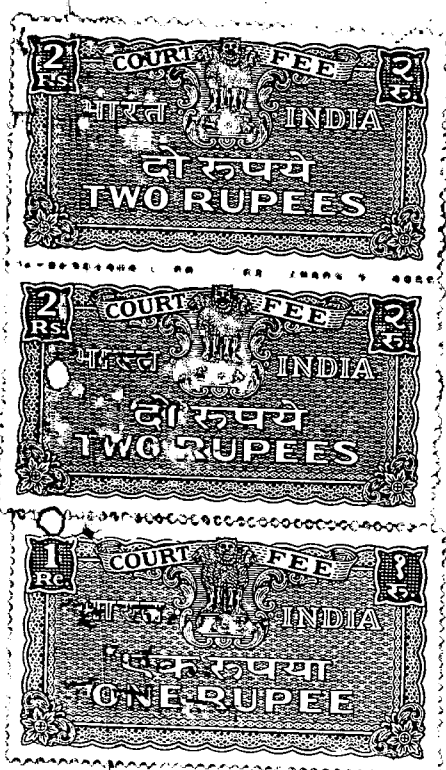
In Re: J.A. No. 21 of 1990

Girish Kumar Singh ... Applicant
Vs.
Union of India & Others ... Opp. Parties

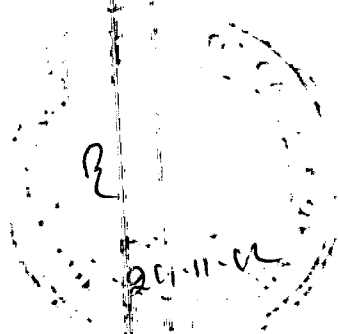
Review Petition under section 17 of the
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985
the order dated 24-6-1992, passed by
Hon'ble Mr. U.J. Srivastava, V.J. and
Hon'ble Mr. K. Subbayya A.M., on the
following facts and grounds :

1. That the applicant, Ram Prakash Gupta was appointed as a postman with effect from 8-1-1990 and since then, he is continuing in the said post.
2. That by the said order of appointment dated 8-1-1990, Girish Kumar Singh was cancelled and on that place, applicant Ram Prakash Gupta was appointed

24-11-92



24-11-92
D.R.
This before the Hon.
Concerned members
for a class



3. That earlier, the original application dated No. 21 of 1990 (Girish Kumar Singh Vs. Union of India & Others.) filed by Girish Kumar Singh. The applicant Ram Prakash Gupta was not a party in the above mentioned case.

4. That no notice was issued by the Tribunal calling upon Ram Prakash Gupta.

5. That the earlier applicant, Ram Prakash Gupta, was not impleaded in the said case but later on by order dated 19-2-1990, which was passed very late by this Hon'ble Court and then, the applicant was impleaded as opposite party no. 4.

6. That after the said impleadment order dated 19-2-90, passed by the Tribunal, Ram Prakash Gupta has neither been issued nor served any notice.

7. That in the above circumstances, no opportunity has been given to the applicant to contest the case and even no counter-affidavit was filed by him and the present case was allowed ex-parte on 24-6-92.

8. That the applicant came to know of the order dated 24-6-92 when it was submitted by Sri Girish Kumar Singh.

9. That after coming to know the instant case, the applicant came to the Central Administrative Tribunal-Office and inspected the case file. The inspection revealed that the case has been allowed in favour of Sri Girish Kumar Singh vide order

21/11/92

Dated 26-4-02.

10. That the petitioner/applicant applied for a certified copy of the order dated 26-4-02 which was received on 29-6-02.

11. That thereafter, the petitioner/applicant went to the Hon'ble Supreme Court and challenged the order dated 26-4-02 passed by the Hon'ble Tribunal by a Special Leave Appeal No. 11077 of 1002 (CC 17273) which was decided by the Hon'ble Supreme Court on 10-8-02. The copy of order passed by the Hon'ble Supreme Court is being marked and annexed herewith as ANNEXURE NO. 1 to this petition.

12. That after getting a direction of the Hon'ble Supreme Court, the applicant has filed an application for recalling the order dated 26-4-02, on 30-9-02 which was fixed for orders on 19-10-02.

13. That on 19-10-02, this Hon'ble Tribunal was pleased to reject the said application and passed the following orders :

" This is an application by the respondent no. 4 for recalling back the order dated 24-6-02. The case was heard the disposed off on merits and as such no application for recalling our order is maintainable. Further, no one is present. The application is rejected. "

Sd/-
A.M.

Sd/-
V.C.

21/11/02

14. That the applicant again filed an application on 23-10-02 for recalling the order dated 10-10-02 which was fixed for hearing on 18-11-02.

15. That on the date fixed for hearing the Hon'ble Tribunal was pleased to direct the applicant to file a Review Application within a week, because the case has been decided on merits, in purview of above direction, the applicant is filing the Review Application on the following grounds:

Grounds

- a) Because the order dated 24-6-1002 passed by this Hon'ble Court is contrary to the principles of natural justice as it was passed without affording any opportunity to the present applicant.
- b) Because the Tribunal has wrongly held that the appointment of the applicant Ram Prakash Gupta is manifestly illegal and the same is passed without hearing the applicant, Ram Prakash Gupta.

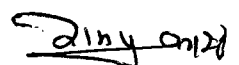
Wherefore, it is most respectfully prayed that the order dated 24-6-1002 may be reviewed and after hearing the present applicant, Ram Prakash Gupta and the other side, the case may be decided on merits.

WITNESSETH

DATED: 24/11/92


(VISHAL BHAN SINGH)
ADVOCATE

COUNSEL FOR THE APPLICANT.



ITEM No. 8

COURT No. 3

SECTION

XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A.No.1

Petition(s) for Special Leave to Appeal (Civil/Cd) No.(s) **11055/92 (CC 17273)**

From the judgment and order dated **24.6.92**

of the High Court of **Central**

Administrative Tribunal, Lucknow in O.A.No.21 of 1990

Petitioner (s)

Shri Ram Prakash Gupta

Versus

400365

Union of India & Ors.

Respondent (s)

(For permission to file SLP)

Date: **19-8-92** This/these petition (s) was/were called on for hearing today.

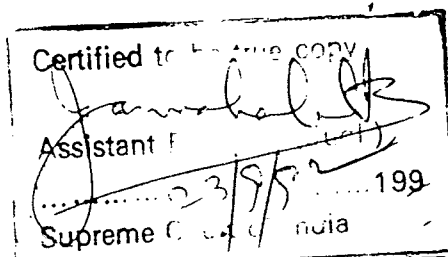
CORAM:

Hon'ble Mr. Justice **M.N.Venkatachaliah**
Hon'ble Mr. Justice **P.B.Sawant**
Hon'ble Mr. Justice **N.P.Singh**

For the petitioner (s)

Mr.D.K.Garg, Adv.

For the respondent (s)



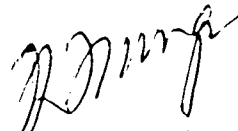
UPON hearing counsel the Court made the following
ORDER

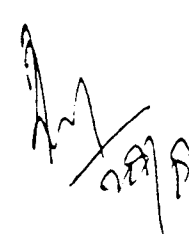
Learned counsel for the petitioner states that the petitioner was not heard before the Tribunal and that on principles laid down in Shivdeo Singh and Ors. v. State of Punjab and Ors. (AIR 1963 SC 1909) he is entitled to move the Tribunal to recall the order which affects him adversely and which has been made without an opportunity to the petitioner of being heard. Accordingly, learned

counsel seeks leave to withdraw the petition with liberty to move the Tribunal.

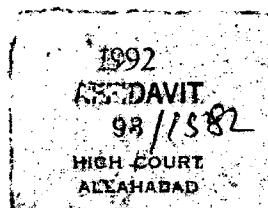
We abstain from making any comments on the merits. Petitioner is at liberty to pursue such other remedies as may be open to him at law. Special Leave Petition is dismissed as withdrawn with liberty to move the Tribunal.

Court Master


(I.L. Dhillon)
Court Master


27/8

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



Ram Prakash Gupta ... Applicant

a IN RE: O.A. No. 21 OF 1990

Girish Kumar Singh ... Applicant

Vs.

Union of India & Others ... Opp. Parties

Affidavit

I, RAM PRAKASH GUPTA aged about 27 years,
S/o Sri Raja Ram, R/o Village-Sadhanna, P.O. Sadhanna,
Pargana-Kurauna, Tehsil-Mishriakh, Distt. Sitapur, do
hereby solemnly affirm and state on oath as under :-

1. That the deponent is the applicant in the above
noted application for Review, and as such, he is fully
conversant with the facts and circumstances of the case,
deposed hereto.

2. That the contents of paragraphs 1 to 15 of
the accompanying application for review are true and
correct to the personal knowledge of the deponent.



Lucknow

Dated: 24.11.91

Deponent ...

I have satisfied myself by examining the
documents that he was duly appointed as the
Magistrate at Lucknow, which has been received and
accepted by me. For Clearance. Sd/-

No. 98/1582
Date 24-11-82

24-11-82 Akmal/Saeed

24-11-82

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW

Misc. Application No.

of 1992

Ram Prakash Gupta

... Applicant

In Re: O.A. No. 21 of 1990

Girish Kumar Singh

... Applicant

Vs.

Union of India & Others

... Opp. Parties

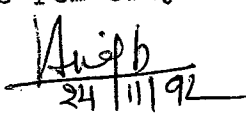
Application for Stay

The applicant most humbly submits as under :-

1. That the applicant is moving an application for recalling back the order dated 24-6-92, passed by the Hon'ble Mr. Justice U.C. Srivasta, V.C. and Hon'ble Mr. K. Obayya, A.M.
2. That the order dated 24-6-92, passed by this Hon'ble Court has not been implemented so far and the applicant Ram Prakash Gupta, has still been working on the said post and charge has not been taken from him so far.
3. That by the order dated 24-6-92, passed by this hon'ble court, the O.A. Girish Kumar Singh was allowed and the appointment of present applicant, Ram Prakash Gupta, was declared to be manifestly illegal.
4. That the applicant would suffer an irreparable loss if the operation of the order dated 24-6-1992, passed by this Hon'ble Court is not stayed.

Prayer

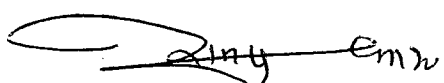
Wherefore, it is most respectfully prayed that the operation of the order dated 24-6-1992 passed by this Hon'ble Tribunal may be stayed during the pendency of this application.


(Bishambhar Singh)
Advocate

Lucknow

Counsel for the Applicant

Dated: 24/11/92



THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

O.A. No. 21 of 1990

Girish Kumar Singh ... Applicant

Vs.

Union of India & Others ... Respondents

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

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

The applicant who was appointed as Extra Departmental Post Master was suddenly removed from service and one Ram Prakash Gupta the respondent who was on work for some time has been appointed. He has challenged this termination by means of this application. It appears that the post of E.D. .P. cum E.D.D.A. was vacant because of the retirement of the permanent incumbent. The Employment Exchange was asked to sponsor names, accordingly, 8 names was sponsored by the Employment Exchange. After the death of previous incumbent Shri Ram Prakash Gupta regarding whom it is said that he was related to the Superintendent of Post Office, Shri R.D. Gupta^{who} has filed a Counter Affidavit in this case was working as substitute and worked for 8 months. Although it is stated by the respondents that his name was also sponsored by the Employment Exchange but his services were terminated on the ground that he was related to one Shri Siyaram Gupta, who was Branch Post Master of Sandhana. But later on inquiry revealed that he was not related.

From out of those persons whose names were recommended by the Employment Exchange, the applicant was considered to be better than others and consequently he was appointed. Shri Gupta was appointed as Superintendent of Post Office who has stated that it was not necessary for him to assign the reasons or issue notice within a period of 3 years to the applicant. The applicant has contended that no enquiry whatever regarding relationship has been made and that from the evidence indicated it is clear that Shri Ram Prakash Gupta was also sponsored from Employment Exchange, but he was not selected. The appointment of the applicant was not cancelled by the Director of Postal Services. The Superintendent of Post Office has no right to terminate the services of regularly appointed employee by this manner in order to give appointment to other persons. In case his appointment would have been cancelled, fresh selection could have been made by the procedure which has been adopted by the Superintendent of Post Office for appointment of Shri Ram Prakash Gupta is against the principles of natural justice. Even if there is some irregularity, the services of the applicant should not have been terminated unless an opportunity of hearing was given to him or the incumbent has been ^{apprised} ~~apprised~~ of so called irregularity. The order of cancellation/terminating the appointment and the appointment of Shri Ram Prakash Gupta is manifestly illegal and can not be sustained.

accordingly this application is allowed and both the orders are quashed and the applicant shall be restored back in the office and he will be heard to be continued. However, it is open for the authority to proceed in the manner in accordance with law. No order as to costs.

MEMBER (A)

VICE CHAIRMAN

General

Lucknow
Dated 24.6.92

Lucknow

Lucknow

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH.

M.P. No 419/93

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS.

In

Review Application No.1081/92.

(O.A.No.21/90)

Ram Prakash Gupta Applicant.

Versus

Union of India & Others Respondents.

I, Shiva Nath, Superintendent of Post Offices, Sitapur do hereby solemnly affirm and state as under :-

1. That the deponent has read the review application filed by Shri Ram Prakash Gupta in O.A.No.21/90 and has understood the contents thereof.

2. That the deponent is well conversant with the facts of the case deposed hereinafter and is filing this Written Statement on behalf of all the respondents.

3. That the contents of para 1 are denied and in reply it is stated that the applicant ceased to work on the post of E.D.M.C./ E.D.D.A., Sadhane w.e.f. 22-9-92. Shri Girish Kumar Singh was restored back to the said post in compliance of the judgement and order dt.24-6-92 of the Hon'ble Tribunal in O.A.No.21/90.

Contd....2/-

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F.F. 29.4.93
D.O. 24.6.92

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23/4/93

20-9-92

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with file

21/9

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29/4/93
21393

// 2 //

4. That in reply to para 2 it is stated that the appointment of Shri Girish Kumar Singh was reviewed by the Supdt. of Post Offices, Sitapur who is the competent authority for the purpose and the applicant namely Shri Ram Prakash Gupta was ordered to be appointed on the post of E.D.M.C./E.D.D.A., Sadhana in place of Shri Girish Kumar. Accordingly Shri Ram Prakash Gupta was appointed on the said by the Supdt. of Post Offices, Sitapur while terminating the appointment of Shri Girish Kumar vide order dt. 8-1-90.

5. That the contents of para 3 are admitted.

6. That the contents of paras 4 to 7 need no comments. It is, however, submitted that O.A.No. 21/90 was decided on merits by the Hon'ble Tribunal vide its judgement and order dt. 24-6-92.

7. That the contents of paras 8 to 11 need no comments.

8. That in reply to para 12 it is stated that the Counsel for Shri Ram Prakash Gupta sought leave to withdraw the Special Leave Petition (S.L.P.) filed before the Hon'ble Supreme Court with liberty move the Tribunal and accordingly the S.L.P. was dismissed as withdrawn with the following observations :-

" We abstain from making any comments on the merits. Petitioner is at liberty to pursue such other remedies as may be open to him at law."

The above S.L.P. was withdrawn with malafide intention to save limitation for filing review application against the judgement and order dt. 24-6-92 of the Hon'ble Tribunal.

27/2/98
21393

Contd.....3/-

// 3 //

9. That the contents of paras 13 to 15 need no comments.

10. That in reply to Grounds indicated in the review petition it is stated that the O.A. was decided on merits. The judgement and order of the Hon'ble Tribunal is a speaking order in which all aspects of the case have been adequately discussed before passing the relevant orders.

27/04/20
21393
For Respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH.

-: AFFIDAVIT :-

In

Review Application No.1081/92.

Ram Prakash Gupta..... Applicant.

Versus

Union of India & Others Respondents.

I, Shiva Nath, Supdt. of Post Offices, Sitapur do hereby solemnly affirm and state on oath as under :-

1. That the deponent is well conversant with the facts of the case and is filing the accompanying Written Statement on behalf of all the respondents.
2. That the contents of para 1 and 2 of the accompanying Written Statement are true to my personal knowledge.
3. That the contents of paras 3 to 10 of the accompanying Written Statement are based on records and legal advice.

Shiva Nath
(DEPONENT) 21393

-: VERIFICATION :-

I, the deponent above named do hereby verify that the contents of paras 1 & 2 of the affidavit are true to my personal knowledge and those of paras 3 are based on records and legal advice which I believe to be true. No part of it is false and nothing material has been suppressed. So help me God.

Shiva Nath
(DEPONENT) 21393

In the Central Administrative Tribunal, Lucknow Bench I.

Rejoinder on behalf of applicant Ram Prakash Gupta.

in

Review application No.1081/92

(O.A.No.21/90)

Ram Prakash Gupta

.... Applicant.

Versus

Union of India and others

..... Respondents.

I, Ram Prakash Gupta son of Shri Raja Ram Gupta , resident of village Sadhanna P.O.Sadhanna, Pargana Kurauna, Tehsil Misrikh Distt. Sitapur affirm and state as under:-

- 1 That the contents of para 1 of the review petition are reaffirmed and those of para 3 of written statement are denied in as much as they are against the contents of para 1 of the review petition.
2. That the contents of para 2 of the review petition are re-affirmed and those of para 4 of the written statement are denied in as much as they contravene the contents of para 2 of the review petition.
3. That the contents of para 3 of the review petition are re-affirmed.



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2.

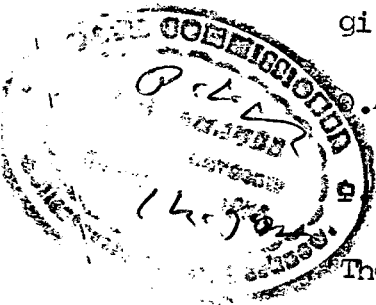
4. That in reply to para 6 of the written statement the contents of paras 4 to 7 of the review petition are reaffirmed. It is further submitted that the applicant was not afforded an opportunity of being heard in O.A.No.21/90 decided on 24.6.92, which is against the principles of natural justice, and the case must be reviewed and the applicant Ram Prakash Gupta must be given an opportunity of being heard.

5. That the contents of paras 8 to 11 of the review petition are re-affirmed.

6 That in reply to para 8 of the written statement it is denied that the S.L.P. filed before the Hon'ble Supreme court was withdrawn with any malicious intention. The contents of para 12 of the review petition are re-affirmed.

7. That the contents of para 13 to 15 ^{of the review petition} are re-affirmed.

8. That in reply to para 10 of the written statement, it is reaffirmed that the applicant Ram Prakash Gupta was never given or served with any notice pertaining to the aforesaid ^{his} O.A.No.21/1990 which was filed by Girish Kumar Singh against the re-appointment of the applicant Ram Prakash Gupta. The impugned order dated 24.6.1992 has been passed against the re-appointment of the applicant, Ram Prakash Gupta without



....
[Signature]

3.

providing him an opportunity to defend the order of his reappointment and also to controvert the footings and ~~also~~ fabricated averments which were made by Girish Kumar Singh, the applicant in O.A.No.21/1990 filed by him in the Central Administrative Tribunal, Circuit Bench, Lucknow challenging the re-appointment order of Ram Prakash Gupta, the applicant, on the post of Post man. It is a settled principle of law that a person must be apprised of the material appearing against him. It was therefore essential to provide the applicant Ram Prakash Gupta ^{to} ~~to provide~~ an opportunity of being heard before passing the impugned order, which he was not given.

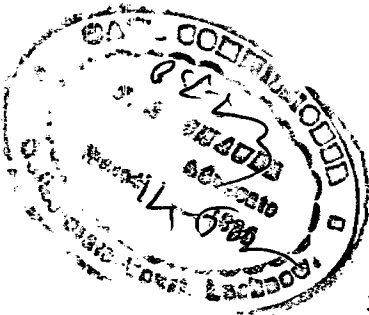
9. That the grounds set in ⁱⁿ the review petition are genuine and deserve consideration of the Hon'ble Central Administrative Tribunal. The review petition deserves to be allowed.

Lucknow

Dated: 14.5.93



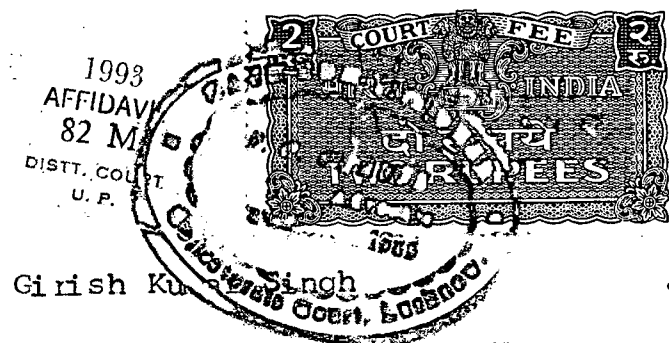
(Ram Prakash Gupta)
Applicant.



In the Central Administrative Tribunal, Lucknow Bench.

Ram Prakash Gupta Applicant.

In re: O.A.No.21/1990.



Girish Kumar Singh Applicant.

Versus

Union of India and others Opp. parties.

REJOINDER AFFIDAVIT

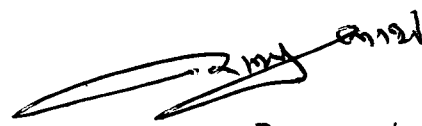
I, Ram Prakash Gupta, aged about 27² years, son of Sri Raja Ram, resident of village Sadhanna Pargana Kurauna Tehsil Mishrikh, Distt. Sitapur, do hereby solemnly affirm and state on oath as under:-

1 That the deponent is the applicant in the above noted application for review, and as such he is fully conversant with the facts and circumstances of the case.

2. That the contents of paras 1 to 9 of the accompanying rejoinder are true and correct to the personal knowledge of the deponent.

Lucknow

Dated: 14.5.93


Deponent.

...

2.

Verification

I, the above named deponent do hereby verify
that the contents of paras 1 and 2 of this rejoinder
affidavit are true to my personal knowledge.

Signed and verified this the 14th day of May 1993
at Lucknow.

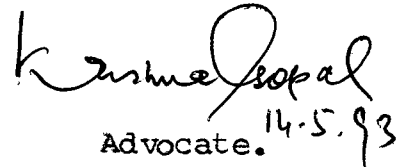
Lucknow

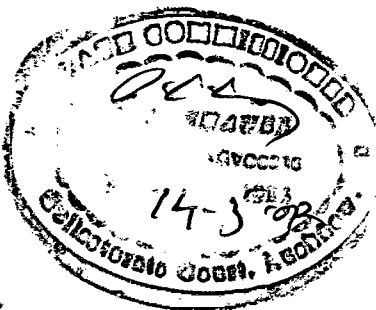
Dated: 14.5.93



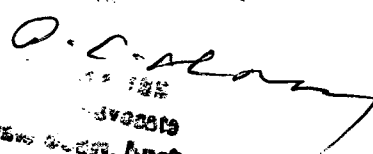
Deponent.

I identify the deponent who has signed before me.


Advocate. 14.5.93



E. 140-823
12.02
To identify
Date to be
I have
Advocate
14-5-93


Advocate
14-5-93