

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENCH

✓ OA/TA/RA/CP/MA/PT 21 of 20-90

Mr. K. Singh.....Applicant(S)

Versus

W. O. G. A. Steury..... Respondent(S)

INDEX SHEET

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Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal, Hand

B. C. Brashears and W

17-612
Do by

for a 1st/rd

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.)

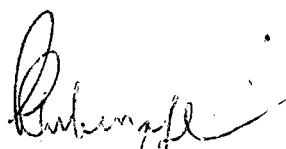
The applicabt who was appointed as Extra Departmental Post Master was suddenly removed from service and one Ram Prakash Gupta the respondent who was on work for some time has been appointed. He has challenged this termination by means of this application. It appears that the post of E.D.M.P. cum E.D.D.A. 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 ^{apprised} incumbent has been ~~apprised~~ 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 C/A 21/90 of 199

Name of the parties Y K Singh

Applicant.

Versus

Union of India

Respondents.

Part A.B.C.

Sl No.	Description of documents	Page.
①	Check list	A 4 + A 2
②	order sheet	A 3
③	Telex	A 4 + A 6
④	Petition copy with annex	A 7 to A 10
⑤	Panel	A 19
⑥	Case	A 20 to A 29
<u>B. File:</u>		
①	Petition copy	
②	Annexes	
③	Counter	
④	Replies	
⑤	Application for adj. of party	
⑥	Unserved Notice	<u>C. File</u>

B/1
41-6-2012

20/12/92

10/11/50
10/11/50
10/11/50

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 21 of 1950

APPLICANT(S)

G. K. Singh

RESPONDENT(S)

P. O. H.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ?	Y
2. a) Is the application in the prescribed form ?	Y
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 ?	Y
b) If not, by how many days it is beyond time ?	
c) Has sufficient cause for not making the application in time, been filed ?	
4. Has the document of authorisation / Vakalatnama been filed ?	Y
5. Is the application accompanied by B.D. / Postal Order for Rs. 5/-	Y
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?	Y
7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ?	Y
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Y
c) Are the documents referred to in (a) above neatly typed in double space ?	Y
8. Has the index of documents been filed and paging done properly ?	Y
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ?	Y
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?	NO

Endorsement as to result of examination

5

particulars to be Examined

11. Are the application/duplicate copy/ spare copies signed ? *Ys*
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 ? *Ys*
14. Are the given address the registered address ? *Ys*
15. Do the names of the parties stated in the copies tally with those indicated in the application ? *Ys*
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? *NA*
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 ? *Ys*
18. Have the particulars for interim order prayed for indicated with reasons ? *Ys*
19. Whether all the remedies have been exhausted. *Ys*

dinesh/

21/9/90 (U)

19.1.90

Hon. J. P. Sharma, J.M

S. Rakha Kaur for my per

Sri P.N. Bagaria AD.

Mr. V.K. Chaudhary counsel
to respondent has labored
whole.

Reply fee filed in
four weeks.

For interim relief
after the reply on 19.2.90

re

19.2.90

Hon. Justice K. Nali, VC
Hon Mr K. Obeyns A.B

Admit.

Issue notice to OP No 4
to file CA. within 4 weeks
and the case for order on
9.4.90.

mm

re

9/4/90

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

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

Fix for final hearing on

6/4/90

✓

PSH

J.M.

AM

5/4/90

No reply filed

S. F. order.

LG/L

6th U/c for the applicant has
incorporated amendment but
no copy to be served on the
OP No 4 has been filed.

Slp RA filed. on behalf
of 1 to 3.

S. F. O

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

ld. counsel for the

applicant.

S.F.O.

8
10/10/92

MANISH/-

19-10-92

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

M.P. 443/92 (u/g)
recalling order
dt. 19.10.92
has been filed
by applicant
date is fixed
for hearing on
18.11.92.

b
A.M.

18-11-92

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

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

b
A.M.

b
V.C.

S.F.O.

8

13/11/92

In the Central Administrative Tribunal, Additional Bench, Allahabad,

Central Administrative Tribunal Circuit Bench, Lucknow.

Circuit Bench

Date of Filing 7-10-92

Date of Receipt by Post

Application No. 883 of 1992

Deputy Registrar(U)

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

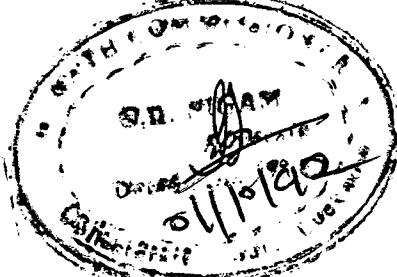
Union of India and others ... Opposite parties.

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 this Hon'ble Court the present applicant Ram Prakash Gupta was impledled 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.

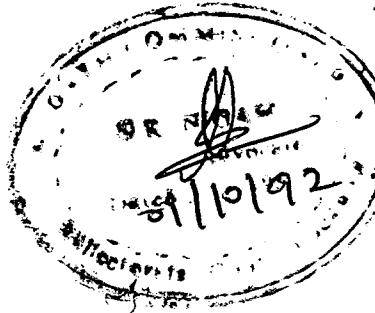
5. That the alleged allegations that the present applicant Ram Prakash Gupta is near relative to Shri R.S.Gupta, Superintendent of Post Office, Sitapur was held to be baseless and false in the enquiry proceedings conducted by the postal department.

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) *2 my encl* 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.

(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

ANNEXURE No 1

6

ITEM No.

8

COURT No. 3

SECTION

XX

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A.No.1
in Petition(s) for Special Leave to Appeal (Civil/Cd) No.(s) 110/92 (CC 17273)
(From the judgment and order dated 24.6.92 of the High Court of
Administrative Tribunal, Lucknow in O.A.No.21 of 1990
Petitioner (s)

Shri Ram Prakash Gupta

Versus

400303

Union of India & Ors.

Respondent (s)

(For permission to file SLP)

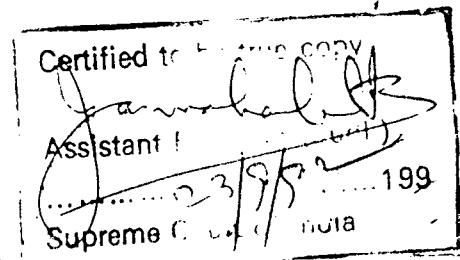
Date: 19-8-92 This/these petition (s) was/were called on for hearing today.

CORAM:

Hon'ble Mr. Justice M.N. Venkatachaliah
Hon'ble Mr. Justice P.B. Savant
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

to C. J. for filing
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

7

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

R. D. Dhangra
(R. D. Dhangra)
Court Master

T. C. Dhangra

1/18
27/8

A. J. Dhangra
27/8

8

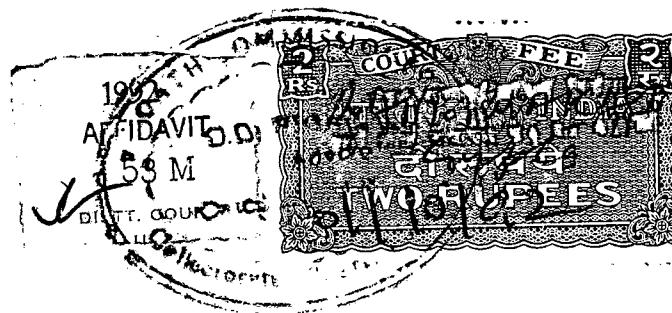
In the Central Administrative Tribunal, Additional Bench,

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.

John

Deponent

Verification

I, the above named deponent, do hereby verify that the contents of paras 1 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
~~September~~ October 1st 1992.

2171

Deponent

I identify the deponent who has signed before me.



Raisinide Advocate

11453 M
adults older or as
Horned Lizard
one is described as San Luis Spring
lizard to 30 mm

I have satisfied myself by examining the
representative that he understands the intent
of the affidavit which he has signed and
I claim it by the law.

01/10/96
1. Vocab
2. Deftn
3. missio
4. Full
5. 2nd

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

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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
Advocate*

Lucknow, dated,
30.9.1992

(Avadhesh Kumar)
Advocate.
Counsel for the applicant.

ब अदालत श्रीमान
वादी (मुद्रई)

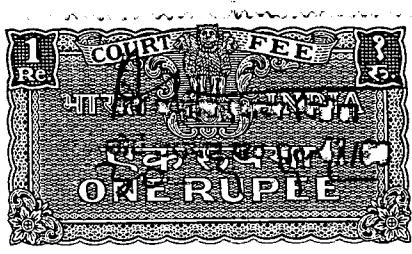
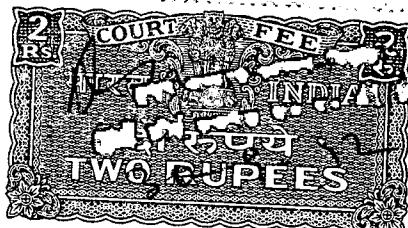
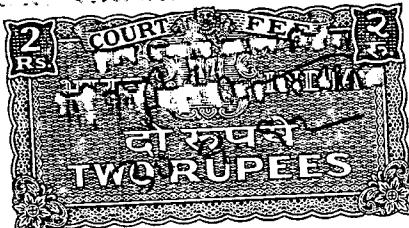
Central Administrative Tribunal

Lucknow

वकालतनामा

का
प्रतिवादी (मुद्राअलेह)

OA No 21 of 1990



GIRISH KUMAR SINGH

VS

वादी (मुद्रई)

U. O. India,

बनाम

प्रतिवादी (मुद्राअलेह)

न० मुकदमा

सन् १९

पेशी की ता०

१९ ई०

ऊपर लिखे अभियोग में अपनी ओर से

श्री अवधेश कुमार

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 रूपया 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 रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा जो गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या अपने किसी पंरोकार को भेजता रहूंगा अगर मुकदमा अदाम पैरवी में एक तरफा मेरे खिलाफ फँसला 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

21st Jan 1990

साक्षी (गवाह)

साक्षी (गवाह)

LKO. Dated

Accepted
Ravi Singh

Accepted

Advocate LK
COUNSEL FOR.....Applicant

128
Before the Central Administrative Tribunal
Additional Bench, Allahabad,
Circuit Bench, Lucknow.

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

On

10/1/90

Date

Girish Kumar Singh

.... Applicant.

Versus

The Union of India & others ... Respondants.

COMPIRATION A

Compilation B

Dated :- 18.1.1990


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

Reed Shri P.N.
Bajpai
Advocate
18.1.1990

13

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

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

Central Administrative Tribunal

Date

Date of

18-1-90

Deputy Registrar (J)

Girish Kumar Singh

...

Applicant.

Versus

The Union of India & others ... Respondants.

COMPILATION A.

S. No.	Particulars of documents relied on	Page Nos.
1.	Application U.P.S. 19 of Central Administrative Act.	1-6
2.	Annexure No. 2 Order of cancellation of appointment.	7

Dated :- 18.1.1990

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

Noticed for
19-1-90
P.N.Bajpai
18-1-90

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.

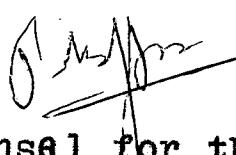
.... Applicant.

Versus

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

.... Respondents.

Dated :. 18.1.1990


Counsel for the
Applicant.

15
80

Before the Central Administrative Tribunal
Additional Bench Allahabad
Circuit Bench Lucknow
I.A. No. 2) of 1990(L)

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

... Applicant.

vs.

1. The Union of India, through the Secretary Ministry of post and Telecommunication, New Delhi.
2. The Supdt. ,Post Offices, Sitapur.
3. The Upmandalaya Nirikshak Dakghar, Sitapur.

Respondents.
4. Ram Prakash R/o Village Sandhana P.O
Application Under Section 19 of the Central
Administrative Tribunal Act.

*Ansabed under
order of 19-2-90
f.m.s
19/2/90*

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

(Signature)

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:-

(i) 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.



3.

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.

(xi) 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.

(xxxiv) 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 malafide 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



5.

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 allow.



6.

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. 8:02 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

Adjudication
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 ... Respondents

Annexure No. 2

मानविकी अधिकार विभाग, लखनऊ

कानून 60 A, 347/20 विधायिका विभाग
 9-1-90

पार्टी:- श्री श्री ज्ञानेश रावत
 प्रधानमंत्री

दोस्रा नं:-

34 विधायिका विभाग
 लखनऊ, 20 अक्टूबर 1990
 द्वितीय विधायिका

प्रधानमंत्री के द्वारा दिए गए अधिकार
 विवरण द्वारा कुल राज योग्यता का
 एवं दूसरा प्रयोग को विधायिका विभाग
 द्वारा की

क्र. 3446-114

श्री अमरजीत सिंह लखनऊ

प्रियतम

लखनऊ

प्रधानमंत्री

10/10/90

मानविकी अधिकार विभाग

22

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.

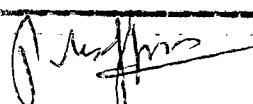
Compilation B.

&

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

8 9 10

Applicant

Versus

The Union of India

888

Respondents.

Annexure No. 1

पंचांग विरीच्छ लाकवर
लाला डेमाहला २६/००, सीतापुर
प्राप्तिय उप्रेषितक्षणां सीतापुर विहार, सीतापुर - २६१००१
शापने रु००५ सीतापुर दि०, २६-५-२७

..... श्री... शिवलक्ष्मीसुनारा शिंदे.....
 मुख्य श्री... भगवान्नद्वय शिंदे..... को स्तदत्वारा अतिरिक्तिभागीय नामदाता
 उन्हें उन्हें शिवलक्ष्मीशिंदे के पद पर नियुक्त किया जाता है। उन्हें समय
 समय पर स्वीकृत दरों पर फूला देय खोगा।

श्री... श्रीलक्ष्मण निति को यह सुन
किया जाता है, कि उनका अतिरिक्त विभागीय नियम सम्बन्धीय नियमों के साथ सम्बन्धित है। इनका अधिकारी द्वारा किसी समय तिथि त
पद और नियुक्ति एक संकेता के स्थान में है, जो अधोदसांकेतिक द्वारा किसी समय तिथि त
एकत्र देकर समाज द्विध जने की धर्ता पर की गयी है तथा इनका सेवा स्वं आचरण
शीर्षित विषय (सेवा लक्ष्य आचरण) नियमावली 1964 जैसा समझ-समय पर संदीधित
हो, के द्वारा नियन्त्रित होगी। -

यदि उक्त सभी शर्तें उन्हें स्वीकार हों, तो वह संलग्न प्राप्ति पर अपनी स्वीकृति रस लायलिय को भेजें।

१८८५. अप्रैल. २३

प्रियोग विभाग
अधिकारी कार्यालय अधिकारी कार्यालय
मुख्य संचार भौतिक 26/10/01
SLS DIVISIONAL INSPECTOR OF POST OFFICES
MOUTH SUB-DIVISION SITAPUR 261101

प्रतिलिपि-४: उपमाद्वय निरूपक ४० उपाद ५०, सीतापुर के सूक्ष्मार्थ सर्व आवश्यक लापदार्हो देत्।

2. की विधिवत्तमानी विधिवत्तमानी विधिवत्तमानी विधिवत्तमानी
3. विधिवत्तमानी विधिवत्तमानी विधिवत्तमानी विधिवत्तमानी ।

४. लायसेय-प्रति

आर. बी. 1-23289/

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~~100~~ 18-1-90

Other Donors

द अदालत भीमाद
[बादो अपीलान्ट]
प्रतिवादी [रेस्पाडेन्ट]

Before the Circuit & Admiralty Tribunal
Addl. Dist. Collector अहोदय
Circuit B.C.T. का विवालतनामा



बादो (अपीलान्ट)

The Union of India & others

यनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकदमा

लन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकदमा में अपनी ओर से थी पुराणा नाट्याभ्युदय अहोदय

बकील

महोदय

एचोकेट

ट्रांसलेट काउन्सिल

नाम	अदालत	नं०	मुकदमा	नाम	फरीकेन्ट
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को अपना बकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकदमा में बकील अहोदय स्वयं अथवा अन्य बकील द्वारा यो कुछ पैरवी या जवाबदेही या प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रूपया लूपव दर्शावें या सुलहनामा व इक्वाल दावा तथा अपेक्षा निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकदमा उठावे या कोई रूपया पमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—बकील महोदय द्वारा की यई घह सब कार्यवाही हवको सर्वथा स्वीकार है और होया मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को मेलता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे लिलाफ फैलता हो जाता है उसकी जिम्मेदारी मेरे बकील पर नहीं होगी इसलिए यह घकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर १८/११/१९०८

विश्वासी (गवाह) लाक्षी (गवाह)
विधायक १८ सहीना — — — — — लन् १९१०५०
स्थीरुत्त

18/11/1908

W. K. A. C.
R. K. A. C.
18/11/1908

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:-

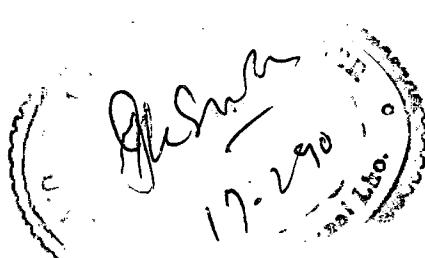
1. That the deponent is Respondent no.2 in the
above noted case and as such he is well conversant
with the facts of the case and he has been authorised
to file this counter affidavit on behalf of all the
Respondents.

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

(a) That the Post of EDMC 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/88-89 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 Girish 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 ~~was~~ 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 EDM cum D EDDa. 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.

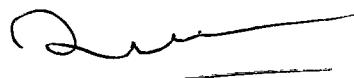
4. That the contents of para 1 to 3 are formal and as such needs no comment from the answering deponent.

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 Sri 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(iv) of the application it is submitted that Sri Ram Prakash Gupta has taken over charge and is working as EDMP/EDDA



- 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 Sandhana.

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 Serviees 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.

Dwarka

-5-

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 ~~xxx was submitted that~~ 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 applicants 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

*Ghosh
17/2/90*

Deshmukh

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

15. That the contents of para 4(xiii) 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.

*ghehar
17.2.10*

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)

ghehar

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 as 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

Reetu
4/2

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 Ramm 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 xixxx~~

27. That the contents of para 7 of the
application ~~are~~ 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 ~~oxxxxx~~

Rampr

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

R. S. Gupta
Deponent.

Lucknow,
Dated: 17th Feb. 1990.

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.

R. S. Gupta
Deponent.

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 Opp. parties)

Dated: Feb. 90.

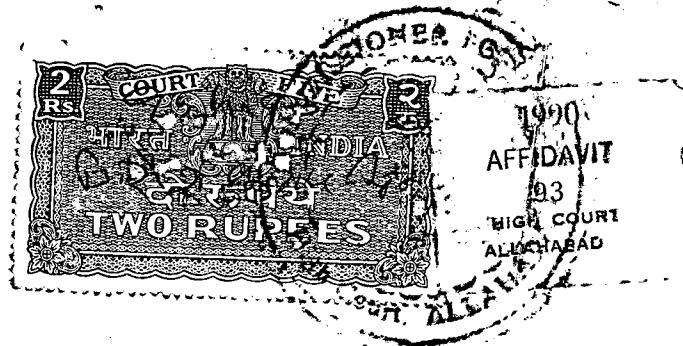
8.30 P.M. by Mr. R. S. Gupta
En. V. K. Chaudhary, Advocate
High Court

Jugal Kishore Kumar

Court Commissioner
Date: 17.2.1990

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 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 appointing 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



14/4/90
P.T.

2.

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 Shiya 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. party ~~xxx~~ 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 marksheets were submitted to the Department alongwith the application for appointment. The contents of para 4 (1) 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 ~~ExXXX~~ Application are reiterated. The date of appointment and the nature of appointment has not been given. Ram Prakash was certainly



1/10/65/163

3.

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

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

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.



Sub B M A

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 13 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 Branch Post Master. The deponent was more qualified than ~~xxx~~ Sri Ram Prakash Gupta.

15. That the contents of para 14 of the C.A. 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.



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 ~~xviii~~ 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 (xvi) 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 of 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.



38

8.

25. That the contents of para 25 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. denied. The application is liable to be allowed with costs.

Dated :- 9.4.90

21/4/90
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 no part of it is false so help me God.

Signed and verified today this 9th day



39

8/5

9.

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

Sri G. K. Singh
Deponent.

I identify the deponent who has signed before me.

P. N. Bajpai
(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.



For me
COMMISSIONER
REGISTRATION AND STAMPS
LUCKNOW
9.4.90
93/123
G. K. Singh

Before the Central Administrative Tribunal, Lucknow.

Application No. 943 of 1992.

In re:

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 22.10.92

Date of Receipt by Part. X

O.A.No.21 of 1990.

Deputy Registrar(JP)

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

Hungal
23/11/92

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.

Wagh
23/10/92

42

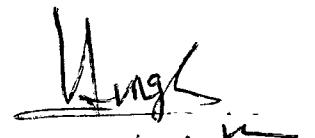
3..

- Prayer

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 PROCEEDINGSin I.A.No.1
Petition(s) for Special Leave to Appeal (Civil/Cd) No.(s) 11057/92 (CC 17273)

(From the judgment and order dated 24.6.92

of the High Court of ~~xxxxxx~~ Central

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

Petitioner (s)

Shri Ram Prakash Gupta

Versus

400305

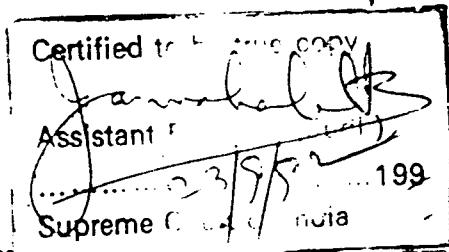
Union of India & Ors.

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

44

2

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

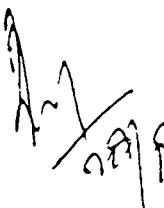
We abstain from making any comments on the merits.

~~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

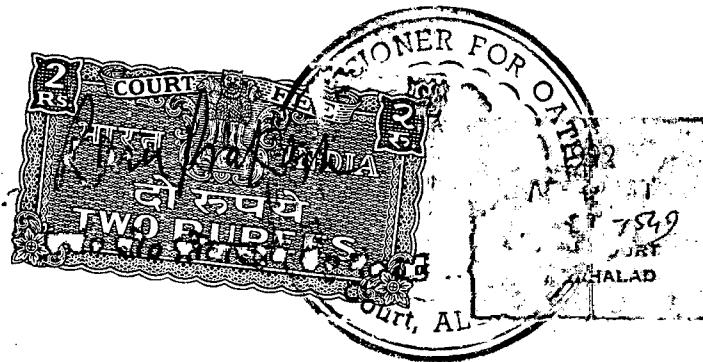

(I.L.Dhangra)
Court Master

11/27/8


A.J. Dhangra

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.

Depon. en 20

contd..2..

46

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.

Solemnly affirmed before me on 23/10/92 at 11 am/pm by the deponent who is identified by Sri Bishambhu 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.
Date.

Hospital Central - Adenbukh
प्रबोध

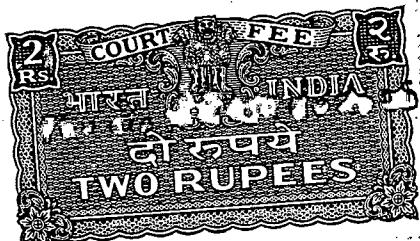
पं अपाप्त लोपाप्त

पापी व्याप्ति

विवाह [रेखांच्छ]

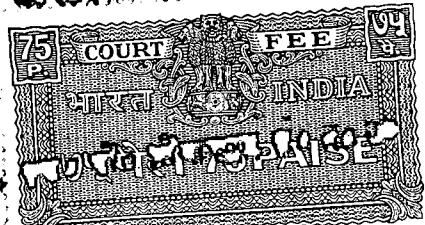
R. B. Bokay

द्वाक्षात्त्वक्षाप्ति



टिकट

ताम



पं० मुपुद्दा

लम

पेनी जो

पर निधे मुपुद्दा में अपनी ओर से थो ... 1/2 लाल



दक्ष

महोदय

एडबोकट



नियुपत्त करके प्रतिज्ञा (इच्छार) परता हूं और निधे एकदमा में बकील महोदय स्वयं अपना अन्य वकील व जवाब देही व प्रश्नोत्तर करें या कोई फायद वाला हमारी ओर से डिगरी वारी करावे और उपया बदूल व इकबाल दावा तथा अपोल निगरानी हमारी ओर स्ताक्षर से वालिल करें और ससदीक फरे मुकद्दमा उपयो जमा करें या हमारी विपक्षी (फरीकसानी) का वालिल प्रिया हुआ उपया अपने या हमारे हस्ताक्षर पुष्ट (दस्तखती) एसीब से लेये या वंक नियुक्त करें—बकील महोदय हारा की पर्ह घु सप कार्यवाही हमलो सर्वथा स्वीकार है और होगा में यह मी स्वीपाए जरता हूं फि मैं हर पेशी पर स्वयं या किसी अपने परेकार को मेजस्ता रहंगा अगर मुकद्दमा अदम पेरवी में एक तरफा मेरे लिलाक फंसला हो जाता है उसलो जिम्मेदारी मेरे बकील पर मही होगी इसलिए यह दालालसामा लिघ दिया प्रमाप एहे और समय पर जाम आये।

Accept/2

कृष्ण
अपनी

21/2/1972
प्रमाप

हस्ताक्षर

पापी (प्रमाप)

प्रमाप (प्रमाप)

23/4/92

दिनांक

महीना

पं १५ ६०

प्रीप्राप्त

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

Ram Prakash Gupta.....Applicant(S)

Versus
U. S. of America, Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE	
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2 -	order Sheets	-	3 x 43
	012 - file -		21A - 421

Certified that the file is complete in all respects.

A. ~~file~~ of ~~Page~~

Signature of S.O.

Signature of Deal. Hand

11-6-2012

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feyer an der Par

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 heared 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

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 Divisionbench 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 Tribnunal 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 ~~co-ordinate~~^{concurrent} 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.

ADMN. MEMBER

LUCKNOW; Dated: 5.10.94

Shakeel/

VICE CHAIRMAN

Bch

Rev. No. 1081/92

in

D.A. No. 21/90

①

27-11-92 Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

This case has been wrongly listed.

This being review application, it should be sent for circulation.

K
A.M.

K
V.C.

Date
11.1.93

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

Same notice returnable at
earliest date. List it on 2.2.93.

K
A.M.

K
V.C.

OR
Notice issued on 27-11-92
to Mr. Justice U.C. Srivastava
and Mr. K. Obayya A.M.
27-11-93 2.2.93

OR
Notice issued
on 27/11/93
N

list - the case on 23.2.93

K
A.M.

K
V.C.

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

Shri R.K. Chaudhary
who appeared in this case
earlier has been asked to
take notice in this case.
The learned Counsel with applicant
will supply copy of this review
application to him, within
one reply to file within 2 weeks
from on 24-2-93. V.C.

OR
Notice issued
to Mr. Justice U.C. Srivastava
and Mr. K. Obayya A.M.
27-11-93

OR
Notice issued
to Mr. Justice U.C. Srivastava
and Mr. K. Obayya A.M.
27-11-93

Rev 10.81/92 in O.A. No. 21/92. 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.

W.K.
A.M.

R.K.V.
V.C.

6.10.93 Disc in Reg. Call-as Lawyer
adj to 7.10.93
Boyc

7.10.93 Counsel rec'd D.O.L.Y.
to 23.11.93

23.11.93

W.K.

No hearing at D.M.
adj to 7.1.94

Boyc

No hearing at D.B. adj
to 20.2.94

Boyc

7.1.94

OR
S.P. & P.C.
6/10

OR
R.A. & P.C.
S.P. & P.C.

19/11

OR
R.A. & P.C.
S.P. & P.C.
2/11/93

in

O.A. No. 21/90

(5)

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. 21/90} 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 24.5.93
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'ble Bench for order on
Hon'ble Bench for order on
6.7.94. W.S. has been filed.

~~14/7/94~~ 6/7/94
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 tomorrow i.e.
on 7/7/94 for hearing.

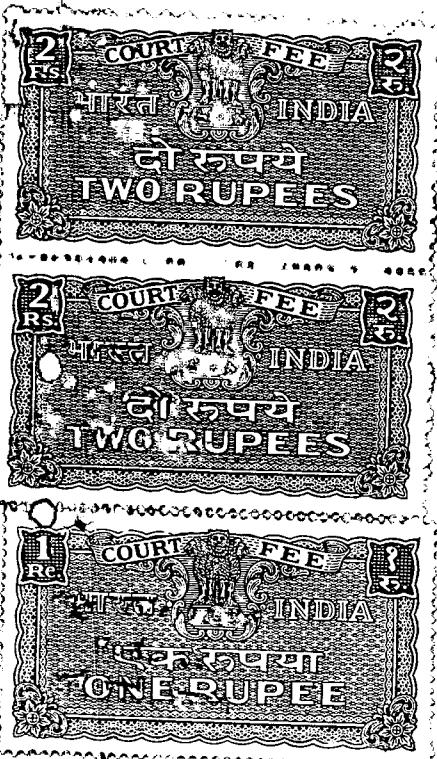
(LTDN)

A.M.

B.C.
V.C.7.7.94 Lawyer abstain from Jud. rule
conform to O.A. 21/94

IN THE GENERAL ADMINISTRATIVE TRIBUNAL,
ALB.-. BENCH ALI-HABIB, CIRCUIT BENCH, ALB.-.

REVIEW PETITION NO. 108/ OF 1992



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

24-11-92
Duly Registered

Ram Prakash Gupta S/o Sri Raja Ram,
R/o Village-Sadhanna, P.O. Sadhanna,
Pargana-Kurauna, Tehsil-Mishrikh,
Distt. Sitapur Applicant

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

Girish Kumar Singh ... Applicant

Vs.

Union of India & Others ... Open. Parties

A

Review Petition under section 17 of the
GENERAL ADMINISTRATIVE TRIBUNAL ACT, 1985

the order dated 24-6-1992, passed by

Hon'ble Mr. L.J. Srivastava, V.C. and

Hon'ble Mr. K. Subbaya 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

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

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 1992 (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.

26/10/02

14. That the applicant again filed an application on 23-10-92 for recalling the order dated 10-10-92 which was fixed for hearing on 18-11-92.

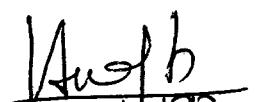
15. That on the date fixed for hearing the Hon'ble Tribunal was pleased to direct the applicant to file a Review Application within a week, because the case has been decided on merits, in purview of above direction, the applicant is filing the Review Application on the following grounds:

Grounds

a) Because the order dated 24-6-1992 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.

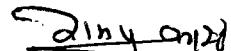
b) Because the Tribunal has wrongly held that the appointment of the applicant Ram Prakash Gupta is manifestly illegal and the same is passed without hearing the applicant, Ram Prakash Gupta.

Wherefore, it is most respectfully prayed that the order dated 24-6-1992 may be reviewed and after hearing the present applicant, Ram Prakash Gupta and the other side, the case may be decided on merits.


(VISHALBHAN SINGH)
ADVOCATE

LUCKNOW
DATED: 24/11/92

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/Crl) No.(s) 11057/92 (CC 17273)

From the judgment and order dated 24.6.92 of the High Court of ~~xxxxxxxxxx~~ Central Administrative Tribunal, Lucknow in O.A.No.21 of 1990 Petitioner (s)

Shri Ram Prakash Gupta

Versus

400303

Union of India & Ors.

Respondent (s)

(For permission to file SLP)

Date: 19-8-92

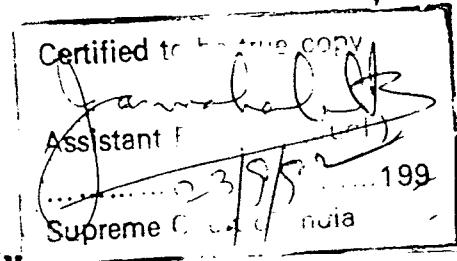
This/these petition (s) was/were called on for hearing today.

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)

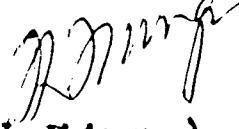
UPON hearing counsel the Court made the following
ORDER

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.

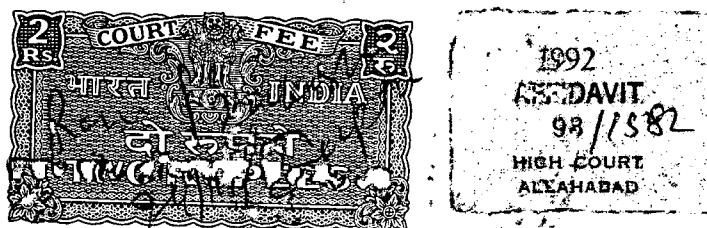
Court Master


(I.L. Dhingra)
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-Kuraura, 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, deposed hereto.

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



Fucknow

Dated: 24.11.82

2nd day Ch 12/1
Depone nt ...

Verification.

I, the above named deponent, do hereby verify

that the contents of paras 1 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.

Signed and verified this affidavit on this the
day of November, 1992.

Lucknow:

Dated: 24/11/92

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I identify the deponent, Ram Prakash Gupta,
who has signed before me. ^{and I personally know} 11 N

Bucknow

Dated: 24/11/92

Advocate.

4-11-82	Akhona/Sececl
ADM. & SALES	
District Commissioner	
High Court, Allahabad	
Lucknow, Branch	
No. 981582	
Date 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
24/11/92

Advocate

Counsel for the Applicant

Dated: 24/11/92

D. Singh
Emm

THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

D.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.L.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.

424

From out of these persons whose names were registered 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 give 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 elicited it is clear that Shri Ram Frakash 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 Frakash 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 ~~applied~~ incumbent has been ~~appointed~~ of so called irregularity. The order of cancellation/terminating the appointment and the appointment of Shri Ram Frakash 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 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 (H)

vice Chairman

General

Member (I)

Lucknow

Lucknow
Dated 24.6.92

Lucknow

Lucknow

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

490

LUCKNOW BENCH.

M.P.WO 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 :-

Put up
with file
21/4/93

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., Sadhana 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.

21/4/93

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.

21393

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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.

Shanu Q
29/3/93
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) 91393

-: 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) 91393

In the Central Administrative Tribunal, Lucknow Benchl.

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.C. 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 are re-affirmed.

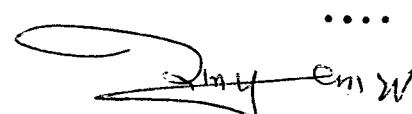
8. That in reply to para 10 of the written statement, it is reaffirmed that the applicant Ram Prakash Gupta was never given or served with any notice pertaining to the aforesaid

O.A. No. 21/1990 which was filed by Girish Kumar Singh against

i.e. 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

....

Smt. Cm. W

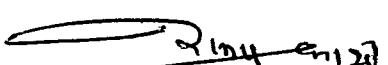
3.

providing him an opportunity to defend the order of his reappointment and also to controvert the footings and ~~saxxxxxxxxx~~ 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 provide~~ an opportunity of being heard before passing the impugned order, which he was not given.

9. That the grounds set 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

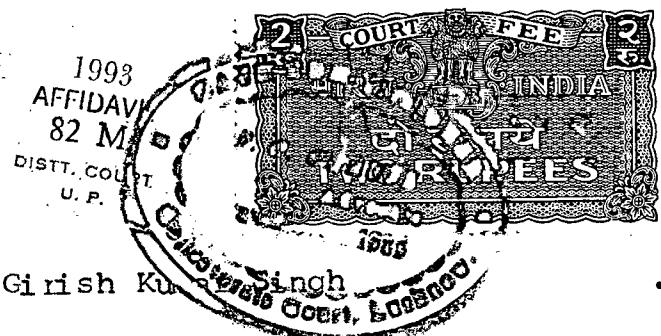

(Ram Prakash Gupta)

Applicant.

In the Central Administrative Tribunal, Lucknow Bench.

Ram Prakash Gupta Applicant.

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



Versus

Union of India and others Opp. parties.

REJOINDER AFFIDAVIT

I, Ram Prakash Gupta, aged about 27 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

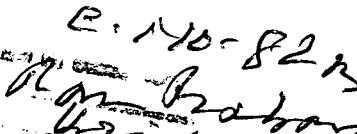


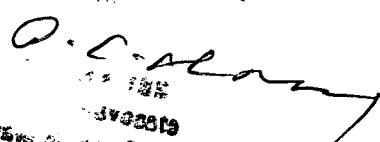
Deponent.

I identify the deponent who has signed before me.


K. K. Mehta
Advocate. 14.5.93




R. K. Babbar
District Magistrate
14-5-93


O. S. Shetty
District Magistrate
14-5-93