



22/12/13

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

Sri R.K. Yadav counsel  
for the applicant & Dr. D.  
Chandra counsel for the  
respondents are present.  
Counsel for the applicant  
has sought adjournment.  
List this case on 31/1/14 for  
hearing & disposal.

h  
A.M.

J.M.

G.D.  
CA & PA filed  
S.F.H.  
28/1/14

31-1-14 Hon. Mr. Justice D.K. Jaiswal, J.C.  
Hon. Mr. V.K. Seth, A.M.

Sri Anil Givartan, brief  
counsel of Dr. Dinesh Chandra,  
learned counsel for respondents  
states that Dr. Dinesh Chandra  
is unable to attend the court  
today due to certain personal  
difficulty and prays for  
adjournment. List this case  
on 8-2-14 for admission.

h  
A.M.

R.K.  
h

D-2 9/1/14 Can not be read only in 24-2-14

J  
D.K.

OP  
CA & RA  
have been already  
filed

S. for hearing  
OP

Submitted by  
[Signature]

21/1/14

2-19/90(L)

1-850

No. Sitting Adj. to 13/9/90

2

13/9/90

Hon. Mr. Justice K. Nath, VC.  
Hon. Mr. M. M. Singh, AM.

We have heard the learned counsel for the applicant. The petition does not clearly set out the nature of the CIMAP Departmental Canteen where he was appointed by Annexure-I. The applicant is called upon to file a Supplementary Affidavit to state whether or not the Canteen was run by the Govt. or by <sup>a</sup> Govt. Deptt. and whether the applicant was a Central Govt. employee by virtue of his employment in the Canteen. The case be listed for admission on 26/10/90.

M. M. L.  
AM

R.  
VC.

1/2

26.10.90

No. sitting Adj. to 7.11.90

OR

He for the applicant has not filed supplementary affidavit.

S. J. A.

6/11/90

01/2/2

219-90 ✓

18/9/91

Hon. Mr. Justice V.C. Swire, J.C.  
Hon. Mr. A.B. Gosthi, Am.

The learned counsel for the  
applicant requests for <sup>a week's</sup> time to file  
an amendment application.

Allowed. List for orders  
on 25/11/90.

Am

✓  
re

✓

2 11-91

No summons 11.12.91  
E

OR

No amendment Am.  
has been filed.

S.F. OR

L  
6/L

11.12.91

D.R.

Both the parties  
are absent today  
Applicant to file  
amendment appli-  
cation by 6/3/92.

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH.

LUCKNOW

ORIGINAL APPLICATION No. 219/90

Mohd. Shamim

Applicant

versus

Union of India, Ministry of  
Personnel and Pensions (Deptt.  
of Personnel and Trg.)  
New Delhi through its  
Secretary and others

Respondents.

Shri R.K. Yadava, Advocate

for Applicant

D. Dinesh Chandra, Advocate

for Respondents.

CORAM

HON. MR. S.N. PRASAD, JUDICIAL MEMBER

HON. MR. V.K. SETH, ADMN. MEMBER.

(Hon. Mr. S.N. Prasad, J.M.)

Briefly stated, the facts of this case inter alia, are that the applicant was appointed on regular basis against permanent post in clear vacancy on 15.1.82 and the appointment letter to this effect was issued to him (vide Annexure-1) and he also underwent probation for prescribed period (vide Annexure-2), and while he was discharging his duties satisfactorily, he fell seriously ill in the year 1987 and applied for medical leave and after being cured, when he came to join his duties, he was served with a charge sheet (Annexure -3) for being absent from duty ; and after service of the charge sheet on the applicant, no further action was proceeded by the respondents in regard to the aforesaid charge sheet and consequently the applicant remained out of service and despite his sincere efforts and requests to the authorities concerned, nothing materialised, hence he approached this Tribunal.

2. In the Counter affidavit filed by the respondents, it has inter alia, been pleaded that the C.I.M.A.P. departmental canteen is not registered with the Directorate of Canteen, New Delhi and as such its employees are not holder of a civil post under the State and as such the subject matter of this case is not within the jurisdiction of this Tribunal; and have further contended that no application for leave of the applicant on medical ground was received and he remained on unauthorised absence w.e.f. 6.4.1987 ; and even on issue <sup>of</sup> letter dated 13.4.87 and subsequent telegram dated 23.7.87 and reminder dated <sup>5.5.87</sup> ~~24.5.87~~, he did not turn up, and as such the applicant is not entitled to any relief.

3. We have heard the learned counsel for the parties, and have thoroughly gone through the records of case-

4. Rejoinder Affidavit and Supplementary Rejoinder Affidavit have been filed by the applicant, wherein he has reiterated almost all those very points as mentioned in Original Application.

5. After careful consideration of Annexures RA-1 and RA-2 and other materials on record, we have come to the conclusion that the matter involved in this case is cognizable by this Tribunal.

6. This is significant to point out that from the perusal of <sup>of</sup> Annexure R.A-1 which is letter from Under Secretary, Council of Scientific and Industrial Research, New Delhi dated 1.7.92 to the Joint Secretary((Administration), C.S.I.R. shows that the employees of the employees of non-statutory registered departmental <sup>~ Canteens/ Tiffin rooms ~</sup> Labs/Instts. of CSIR will be treated as regular non-technical employees of the

Council w.e.f. 1.10.1991. This is noteworthy that from the scrutiny of the entire material on record it becomes quite clear that the applicant has not been in service from 6.4.1987. <sup>As</sup> per Annexure -1, which is appointment letter and the pleadings of the parties show that he has been in service of the respondents on the basis of the appointment letter dated 11.1.82(Annexure -1). This is not disputed that he has been in service after his appointment ~~and~~<sup>2</sup> upto 5.4.87. Keeping in view the guidelines contained in the aforesaid letter dated 1.7.92(Annexure RA-1) as referred to above, the employees who were on the roll on 1.10.1991 in various canteens etc. of CSIR will be treated as regular non-technical employees of the Council w.e.f. 1.10.91 entitled to all benefits which a Council employee of comparable status is normally entitled to except GPF, Pension, Group Insurance Scheme.

7. Thus, this being so and keeping in view the fact that the applicant has not been in service of the respondents since 6.4.87 till date, and after considering all the view points and all aspects of the matter and the circumstances or the case, we find it expedient that the ends of justice would be met if the respondents are directed to take back the applicant in service within a period of one month from the date of receipt of the copy of the judgment ; and it is made clear that the applicant shall not be entitled to any back wages for the period from 6.4.87 till the date of his joining. <sup>~ and ~</sup> It is also made clear that the services <sup>of the</sup> ~~of~~

<sup>~ applicant ~</sup> shall notionally be deemed to be counted since 1.10.91, and we order accordingly.

2



7. The application of the applicant is disposed of  
as above. No order as to costs.

*W. K.*  
ADMN. MEMBER

*[Signature]*  
JUDICIAL MEMBER.

LUCKNOW: Dated; 24.2.94.

24.2.94

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

O. A. No. 219 of 1990 (2,

Mohd. Shamim

.....

Applicant.

Versus

The Union of India & others ... Respondants.

COMPI LATION - A

~~Complex~~

COMPI LATION - B

Dated :- 11.7.90

अनिल  
Applicant.

प. म. जोशी  
Counsel for applicant.

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

O. A. No. 219 of 1990 (2,

Mohd. Shamim ..... Applicant.  
Versus  
The Union of India & others .. Respondants.

COPILATION -A

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S. No. Particulars of documents relied Page No  
upon with annexure Nos.

---

1. Application Ups 19 Central 1-8  
Administrative Tribunals  
Act.

2.

*Filed today*

*sep  
11/7/90*

Dated :- 11.7.90

*May be put  
up on 1-8-90*

*P. S. Jha  
11-7-90*

*[Signature]*

Applicant.

*[Signature]*  
Counsel for the  
applicant.

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

O. A. No. 219 of 1990xc 1990 (L)

Names of parties.

Mohd. Shamim aged about 30 years son of Mohd.  
Yusuf R/o Kothi No. 2 Sadar Bazar Hajpat Rai  
Marg, Cantt. Lucknow.

... Applicant.

Versus

1. The Union of India Ministry of Personnel  
P.O. and Pensions ( department of Personal and  
T Gr. ) new Delhi through its Secretary.
2. The Director of Canteen, New Delhi.
3. The Chairman Managing Committee, CIMAP  
Departmental canteen Post Bag No. 1 Ram Sagar  
Misra Nagar Lucknow

... Opp. Parties

*Shamim*

Dated : 11.7.90

Applicant.

In the Central Administrative Tribunal Addk.  
Bench, Aild. Circuit Bench, Lucknow.

O. A. No. of 1990

Mohamma-d Shamim aged about 30 years son of  
Mohd. Yusuf R/o Koshi No. 2 Sadar Bazar  
Lajpat Rai Marg Cantt. Lucknow .

...Applicant.

Versus

1. The Union of India Ministry of Personal P.O. and Pensions (department of Personal and T. gr.) new Delhi through its Secretary.
2. The director of Canteen, new Delhi.
3. The chairman, Managing Committee, CIMAP Departmental Canteen Post Bag No. 1 Ram Sagar Misra Nagar Lucknow.

.. Respondants.

Details of application:-

1. Particulars of order against which the application is made:

There is no impugned order but the applicant prays for the joining of his duties.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation

The applicant further declares that the application is within the Limitation prescribed in Section 21 of the CAT.

4. Facts of the case.

1. That the applicant was appointed on the

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2.

the post of Bearer in the year 1980 on daily wages. He had worked as such about two years.

2. That the petitioner was appointed on regular basis against the permanent post in clear vacancies. on 15.1.82. The appointment order dated 11.1.82 is filed herewith as annexur No. 1 to this petition.

3. That the petitioner was placed under probation period which he has completed successfully, which is clear from the order dated 26.9 .84. The copy of the order is filed herewith as Annexure-2 to this Petition.

4. That the work and conduct of the petitioner remained always satisfactory and there was no complaint against him from any corner. The character roll is blotless. He has received his increments on the due date. He was never served with any warning. Further no disciplinary proceedings took place against the petitioner.

5. That in the year 1987, the applicant fell seriously ill and he has applied for Medical leave duly supported with the Medical Certificate., issued by the Medical Officer, of Civil Officer, Lucknow where the Petitioner was performing the duties.

6. That the petitioner could not know the result of the leave applications whether it was granted or rejected. The salary of the leave period has not been paid to the Petitioner uptill now.

समीक्षा

7. That the petitioner was on leave since 6.4.1987. The leave availed upto 31.3.1987 was granted.

8. That the O.P.no. 3 treated the petitioner absent from duty since 6.4.1987. In this connection the O.P.no. 3 had decided to hold an inquiry against the petitioner and served a charge sheet dated 5.6.1987. The allegations of absence from duty since 6.4.1987 were made. The copy of the charge sheet alongwith annexures is filed herewith as Annexure 3 to this petition.

9. That the petitioner could not give the reply of the charge sheet as it was in english and the petitioner was not in position to understand and to submit the reply. He was trying to contact some english knowing persons who may explain the charges in Hindi but noone could be available. In the meantime the authorities had started the proceedings of inquiry.

10. That the petitioner was called for inquiry on 17.9.1987. He had actually attended the office on that date. Few papers were produced before ~~him~~ him and his signatures were obtained. The subject matter of the letters was not explained to the petitioner. Sri O.P.Virmanji disciplinary authority had verbally told that he will be reinstated soon.

समीक्षा

11. That the petitioner has come to know

4.

that the signatures were obtained on the alleged concocted statement of the petitioner.

12. That the petitioner was neither prayed under suspension nor he was been allowed to join the duties. The orders if any passed in the inquiry has now been communicated and served on the petitioner till today.

13. That the petitioner was ~~xxxxxx~~ verbally told that he will be allowed to resume the duties after the final decision of the inquiry proceedings .

14. That the petitioner is pressing the opp. parties regularly by ~~xxxxx~~ making the repeated representations but he has not been told with the final orders of the inquiry proceedings and he he has not been allowed to resume the duties.

15. That the inquiry was not been held against the petitioner according to the rule.

16. That the inquiry officer has failed to examine the any witnesses in support of the charges and to give an opportunity to the petitioner to cross examine them. The opportunity of defence and personal hearing has also been denied.

समीक्षा

17. That the petitioner could not know the report of the inquiry officer as it has not been supplied at any stage to the



Petitioner. The Petitioner could not know whether the charges have been found as proved or not.

18. That the Petitioner was a permanent employee, hence he could not be ousted from the ~~xx~~ services in the manners adopted by the Opp.pa rties.

19. That the order of punishment if passed must be communicated to the Petitioner. It could not be operative in the eye of law, till it is not communicated to the Petitioner,

20. That the Petitioner being aggrieved from the action of the Opp.pa rties. moved an application to the O.P.No.2 , but no attention has been paid and the petitioner could not be reinstated on his post. The copy of the application is filed herewith as Annexure-4 to this Petition.

21. That the Petitioner in the last served a notice through Counsel to the O.P.No.2 on 21.5.1990, but to no result. The copy of the notice is filed herewith as Annexure-5 to this Petition.

22. That the provisions of Art.311(2) of the Constitution of India have been violated.

23. That the principles of natural justice have not been followed in case of the Petitioner.

24. That the Petitioner has a right to resume the duties under the opp.parties.

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6. GROUND FOR RELIEF WITH LEGAL PROVISIONS

(i) That the applicant is a permanent employee hence he could not be ousted from the services in the manners adopted by the Oppol parties.

(ii) That the Applicant has not been served with any order of dismissal or removal uptill now. He is still in service in the eyes of law and is entitled to get the salary according.

(iii) That the allegations of absent from duties were wrong. The applicant was ill and was on Medical leave. The leave applications alongwith the medical certificates were submitted in time.

(iv) That the Petitioner has a right to continue in service and to resume the duties.

(v) That the proper procedure of enquiry has not been adopted by the disciplinary authority. No witness in support of the charges was examined and no opportunity of defence was given. The orgal enquiry has not been held.

(vi) That the statement of the applicant was illegally recorded in a fraudulent way. The signatures of the applicant were obtained on the pre-prepared statement.

(vii) That the report of the Enquiry officer has not been brought in the knowledge of the applicant at any stage

समाप्त

(viii) That the order of punishment must be communicated to the applicant.

(ix) That the provisions of Art. 311 of the Constitution of India have been violated.

(x) That the principles of natural justice has been violated.

(xi) That the applicant is entitled to get the salary regularly.

#### 7.6. DETAILS OF THE REMEDIES EX HAUSTED.

That the representations have been made but they have not been decided and are pending.

#### 7. Matter previously filed or pending with any other court :-

The applicant further declares that he had not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application writ petition or suit is pending before any of them.

#### 8. Reliefs Sought.

In view of the facts mentioned in para 4 above the applicant prays for the following reliefs :-

(a) That the applicant may be declared in continuous services uptill now and is entitled to get the salary accordingly from the date it is in time i.e. one year before the date of filing of the application.

*2/2/81*

(b) That if any order of removal or dismissal is found to have been passed, the same may be summoned from the Opp. Parties and may be quashed. The applicant may be deemed in the continuous services and entitled to get the reliefs.

(c) That the costs of the application may be awarded to the petitioner.

(d) That any other relief which this Hon'ble Tribunal deems fit and proper may be awarded to the petitioner-applicant.

9. Interim relief if any prayed for :

Pending final decision of the application the applicant seeks the following interim reliefs :-

It is respectfully prayed that the respondents may be directed to allow the applicant to resume his duties on his post of bearer and to pay him the regular salary at once without any further delay.

10. Particulars of Postal Order.

1. Number of Postal Order. B 02 436885
2. Name of issuing Postal Order. Aminabad
3. Date of issue of postal order 3.7.90
4. Post office at which payable. G.P.O.Lko.

11. In verification

I, Mohd. Saleem aged about 30 years son of Mohd. Yousuf Rpo Kotni No. 2 Lakhpat Rai Mari Cantt Lucknow do hereby verify that the contents of paras 1 to 7 are true to my knowledge and belief. & I have not suppressed any material fact.

Lucknow Dated  
14th July 1990

समीप  
Applicant.

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

O. A. No. 219 of 1990 (2)

Mohd. Shamim ... Applicant.  
Versus  
The Union of India & others ... Respondants.

COMPILATION - B

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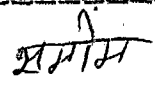
S. No. Particulars of documents relied upon alongwith annexure No. Page No

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1.	Appointment order Dated 11.1.82 <u>Annexure No. 1</u>	1
2.	Order completion probation period <u>Annexure No. 2.</u>	2
3.	Copy of Charge sheet with annexures. <u>Annexure No. 3</u>	3-8
4.	Copy of application by way of representation <u>Annexure No. 4</u>	9 10-11
5.	Copy of Notice through counsel <u>Annexure No. 5</u>	
6.	Vakalatnama	12

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Dated 11.7.90

  
Applicant.

Counsel for applicant.

In the Central Adm. where Includ  
Addl. Bech. Ashra  
Credit Bech. Lucknow  
Mohd. Shamim  
The Board of the Central Adm. & other  
Union of 2-10 + other

9  
Petitioner  
Appointee

C.I.M.A.P. DEPARTMENTAL CANTEEN

CENTRAL INSTITUTE OF MEDICINAL & AROMATIC PLANTS  
P.O. FARI DINAGAR, NEAR KUKRAIL PICNIC SPOT, LUCKNOW-226010

No. 2/122/81-MP(Adm)

Dated: 11.1.1982

OFFICE MEMORANDUM

On the recommendation of the Management Committee which met on 11.1.1982 to interview the existing daily wagers working in the departmental canteen of the Institute, the chairman of the committee has approved, purely on temporary basis, the appointment of the following persons to the posts, in the scale of, and on a basic pay mentioned against their names:

<u>Name</u>	<u>Designation</u>	<u>Scale of pay</u>	<u>Pay recommended.</u>
1. Shri Y. Thankappan	Tea/Coffee maker	Rs.160-5-170-6-200-7-235-8-275	Rs. 170/-
2. Shri Mohd. Shamim	Bearer	Rs.160-5-170-6-200-7-235-8-275	Rs. 160/-
3. Shri Shamiullah	Bearer	Rs.160-5-170-6-200-7-235-8-275	Rs. 160/-

These posts carry usual dearness relief, medical, washing, and other facilities, as applicable from time to time to the departmental canteen of the CSIR. All the incumbents will be on probation for one year from the date of their joining, and their further continuance will be considered after successful completion of one year probationary period. The Management Committee can dismiss all or any of the employees without assigning any reason and without giving any prior notice thereof.

They will be entitled to avail 10 days casual leave and 20 days earned leave in a calendar year. They have to furnish a medical certificate of fitness from the authorised medical attendant.

The expenditure will be met 70% out of CSIR subsidy and 30% out of canteen funds.

( K.D. VERMA )  
HON. SECRETARY

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1. Mr. Y. Thankappan,  
CIMAP Canteen, Lucknow
2. Mr. Mohd. Shamim,  
CIMAP Canteen, Lucknow
3. Mr. Shamiullah,  
CIMAP Canteen, Lucknow

True copy  
11.7.90

श्री

In the Central Administration Building  
Additional Secy, Allahabad  
Circular Bearer Lucknow.  
Mohd. Shamim  
The Bearer of Probationary Period  
The Union of India  
2

CENTRAL INSTITUTE OF MEDICINAL & AROMATIC PLANTS  
LUCKNOW

No. 6/577/83-MP(Adm.)

Dated: 26-9-1984

OFFICE MEMORANDUM

Sub: Completion of Probationary Period  
of Shri Mohd. Shamim, Bearer

The Chairman Canteen Committee, CIMAP,  
Lucknow has been pleased to approve that :-

1. The work of Shri Mohd. Shamim, Bearer during the probationary period has been found satisfactory.
2. Shri Mohd. Shamim should now continue as Bearer under the existing terms and conditions of service beyond 14-1-1983.

(A.W. FARIDI)  
HONY. SECRETARY

To,

Shri Mohd. Shamim,  
Bearer,  
CIMAP, Lucknow.

Copy to :-

1. Chairman Canteen Committee, CIMAP, Lucknow.
2. Finance & Accounts Officer, CIMAP, Lucknow.
3. Bill Section
4. Office Copy.

From copy  
attached  
P. M. Sharma  
11-7-90

समाप्त

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW.  
Shri. Shamim ...

3

Versus

Union of India & Others ...

ANNEXURE NO. 3

CIMAP DEPARTMENTAL CANTEN  
CENTRAL INSTITUTE OF MEDICINAL AND AROMATIC PLANTS  
( Council of Scientific & Industrial Research )  
Post Bag No.1, P.O. Ram Sagar Misra Nagar, Lucknow.

No:6/577/83-Mp (Adm)

dated 5.6.1987

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri Mohd. Shamim under Conduct Rule 17 (Schedule-D) enshrined in GSR-54. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV ).

2. Shri Mohd Shamim is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri Mohd Shamim is further informed that if he does not submit his written statement of defence, on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of the Conduct Rule 17(Schedule-D) enshrined in GSR-54 or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry against him ex parte.

श्रीशमिम

Tam copy  
P. Singh  
11-7-87

Contd..2/-



The receipt of the Memorandum may  
be acknowledged.

Chairman  
Managing Committee,  
CIMAP Departmental Canteen.

To

Shri Mohd. Shamim,  
Bearer,  
Kothi No.2,  
Sadar Bazar Cantt.,  
Lajpat Rai Marg,  
Lucknow.

True copy  
Submitted.  
P. Singh  
11.7.90

20/7/90

ARTICLE OF CHARGE FRAMED AGAINST SHRI MOHD SHAMIM  
BEARER, CIMAP DEPARTMENTAL CANTEEN, LUCKNOW.

ARTICLE OF CHARGE-I

That the said Mohd Shamim while functioning as Bearer of the CIMAP Departmental Canteen, Lucknow committed misconduct inasmuch as he has been absconding from duty with effect from 6th April, 1987 and despite orders having been issued to him to report for duty immediately, he neither reported for duty nor responded.

Thus, Shri Mohd Shamim by his above acts failed to maintain devotion to duty and acted in a manner unbecoming of the Canteen employee and thereby contravened sub-Rule (ii) and (iii) of Rule-17 (1) (Schedule-D) of the Conduct Rules enshrined in GSR 54 as made applicable to the employees of the Departmental Canteen/ Tiffin Rooms of CSIR.

2/11/81

True copy  
Submitted  
P. S. S. /  
11-7-90

STATEMENT OF IMPUTATION OF MISCONDUCT OR MISBEHAVIOUR  
IN SUPPORT OF THE ARTICLES OF CHARGE FRAMED AGAINST  
SHRI MOHD SHAMIM, BEARER, CIMAP DEPARTMENTAL CANTEEN  
LUCKNOW.

IN SUPPORT OF ARTICLE OF CHARGE-I

Shri Mohd Shamim while performing the duties of Bearer in CIMAP Departmental Canteen at CIMAP Headquarters at Lucknow, was absenting himself from duty w.e.f. 6th April, 1987 without any application or permission for his absence. He was directed to join duty immediately failing which action would be initiated against him vide Memorandum No. 6/577/83-Mp (Adm) dated 13.4.1987. Shri Shamim did not report for duty and continued to absent without any information or permission. He was telegraphically informed on 23.4.1987 that he was absenting unauthorizedly from 6.4.1987 and ordered to report for duty immediately failing which disciplinary action would be initiated against him. A confirmatory copy of the telegram dated 23.4.1987 was also sent by registered post on his house address at Kothi No.2, Sadar Bazar Cantt., Lajpat Rai Marg, Lucknow. Shri Shamim neither reported for duty nor responded to the telegram. He was further directed to report for duty latest by 14th May, 1987 failing which disciplinary action would be initiated against him for his unauthorized absence and defiance of orders. Shri Shamim continued to absent himself from duty unauthorizedly in spite of the aforesaid directions having been issued to him.

Thus, Shri Mohd Shamim by his above acts, failed to maintain devotion to duty and acted in a manner unbecoming of the canteen employee and thereby contravened sub rule (ii) and (iii) of Rule 17 (1) of Conduct Rules (Schedule-D) of the Conduct Rules enshrined in GSR 54 as made applicable to the employees of the Departmental Canteen/Tiffin Rooms of CSIR.

समीक्षा

True copy  
Attested  
11-7-87

7

ANNEXURE-III

LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE  
FRAMED AGAINST SHRI MOHD SHAMIM BEARER DEPARTMENTAL  
CANTEN CIMAP LUCKNOW ARE PROPOSED TO BE SUSTAINED

1. Reports dated 10.4.1987 and 21.4.1987.
2. Memorandum No. 6/577/83-Mp (Adm) dated 13.4.1987.
3. Telegram No. 6/577/83-Mp (Adm) dated 23.4.1987.
4. Memorandum No. 6/577/83-Mp (Adm) dated 5.5.1987.

True copy  
Attested  
P. de J. J.  
11-7-90

28/7/87

8

ANNEXURE-IV

LIST OF WITNESSES BY WHOM THE ARTICLES OF CHARGE  
FRAMED AGAINST SHRI MOHD SHAMIM BEARER DEPARTMENTAL  
CANTEEN CIMAP LUCKNOW ARE PROPOSED TO BE SUSTAINED.

1. Dr. A.K. Singh, Hon. Secretary, CIMAP Canteen Committee, CIMAP, Lucknow.
2. Shri K.D. Verma, Hon. Secretary, CIMAP Departmental Canteen, CIMAP, Lucknow.

2/4/71

True copy  
Attested

*[Signature]*  
11-7-71

Shri. Shyam

Versus

Applicant.

The Union of India & Others

Respondent.

Appendix No. 4

सेवा में,

श्रीमान निदेशक  
सीमा कुकुरेल,  
फरीदी नगर, लखनऊ।

महोदय,

सविनय निवेदन है कि प्रार्थी एक बीमार व्यक्ति हैं जो गेट हाउस में काम नहीं कर रहा है। 19.3.87 को प्रार्थी ने अपना कार्यभार सम्भाला और 31.3.87 तक किया उसके बाद घेयर में साहब ने कहा कि आप गेट हाउस में कार्य करें तो मैंने कहा कि साहब मैं पढ़ा लिखा नहीं हूँ। गेट हाउस का कार्य मैं नहीं कर सकता हूँ। तो घेयर में साहब ने कहा कि काम करना है तो गेट हाउस में करी। वरना गेट के अन्दर नहीं आने दिया जायेगा। 1.4.84 को मैं अपनी नौकरी पर गया मगर सुबे 11.30 बजे तक गेट के अन्दर नहीं जाने दिया। 11.30 बजे चेया में साहब फिर गेट पर आये और कहने लगे कि जब तक बड़े साहब नहीं आ जाते तब तक आप गेट हाउस में करी इस बात मैं राजी होगया। मैं गेट हाउस में काम करने लगा और फिर 3.4.87 को घेयर में साहब ने कहा कि आप पूरे गेट हाउस का चार्ज लेकर इस रजिस्टर पर हस्ताक्षर करें। इस पर हमने कहा कि जब तक बड़े साहब नहीं आते है तब तक हम हस्ताक्षर नहीं करेंगे। हम बड़े साहब से बात कर लेंगे। तब उस पर घेयर में साहब ने कहा कि अगर तुम इस रजिस्टर अपने हस्ताक्षर नहीं करोगे तो तुम्हें गेट के अन्दर नहीं आने दिया जायेगा। इसी कारण मैं अपनी नौकरी पर/आ पा रहा हूँ।

हमने अपनी विमारी का प्रार्थना पत्र सिविल अस्पताल का अवकाश प्रार्थना पत्र के साथ प्रस्तुत करने के बाद भी मेरे पूरे महीने का वेतन काट दिया गया। साहब मैं बहुत ही निर्धन व्यक्ति हूँ। जब मेरे पूरे महीने का वेतन काट दिया जायेगा तो मैं क्या खाऊंगा और क्या अपने बच्चों को खिलाऊंगा।

श्रीमान जी से प्रार्थना है कि प्रार्थी के साथ न्याय किया जाये। जिससे कि प्रार्थी को आर्थिक कठिनाईयों का सामना न करना पड़े।

यदि प्रार्थी को प्रार्थी को न्याय नहीं मिला तो प्रार्थी अनपट होने के कारण प्रार्थी गेट हाउस में कार्य करने में असमर्थ रह कर वह अपनी सेवा से मुक्ति चाहेगा।

अन्त में श्रीमान जी से पुनः प्रार्थना है कि उसे अपनी/पुरानी जगह पर कार्य करने की अनुमति प्रदान करने का कष्ट करें।

प्रार्थी एवं उसका परिवार आप का आजीवन आभारी रहेगा।

प्रार्थी,

मो० शमीम बेहरा।

शमीम

True copy  
Attested  
11.7.97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH, ALLAHABAD  
CIRCUIT OFFICE, LUCKNOW  
Case No. 10

IN THE COURT OF INQUEST AND INQUIRY  
Case No. 5

P. C. Sonkar  
Advocate

Sadar Bazar Cantt  
Lucknow.

Ref.

Date.....

To,  
The Director Of Canteen,  
New Delhi.

Sir,

under instruction from my client Shri  
Mohammad Shamim R/O Rajpat Rai Marg Kothi No.  
2, Sadar Bazar, Lucknow Cantt. I hereby give  
you the following notice:

That my client was initially appointed  
on the post of Bearer in the year 1980 on  
ad-hock basis and my client also appeared in  
interview and was appointed existing and clear  
vacancy in the year 1982 was placed on the  
post of Bearer on permanent basis.

That in the year 1987 my client fell  
seriously ill and also applied for medical  
leave supported by medical certificate issued  
by doctor of Civil Hospital Lucknow, the  
applied leave was not granted and salary of  
month of April 87 was not paid to him.

That my client receiving a memorandum  
dated 5.6.1987 proposing to hold an enquiry  
against him under Conduct Rules 17 (Schedule-B)  
and a reply was also submitted by my client.

That my client also approached to the  
Director and explained his position but all in  
vain and my client from April 1987 till this  
date ~~nothing~~ ~~any~~ ~~enquiry~~ ~~has~~ ~~been~~ ~~conducted~~  
~~efforts~~ ~~called~~ ~~into~~ ~~the~~ ~~enquiry~~ ~~not~~ ~~witnesses~~  
named in the memo were ~~xxxxxxxxxx~~ examined  
before him.

True copy  
Attended  
P. C. Sonkar  
11-5-90

सहीत

..2..

That on approached and request several times the authorities concern pushed my client here and there.

That my client is poor man and there is big family of my client which are totally based on the earning of my client.

I, therefore call upon through this notice kindly allow my client to resume his duties and also manage to pay his balance salary otherwise my client will seek remedy in the Competent Court of Law and please also note that you will also be liable to pay cost and damage to my client.

Yours Faithfully,

Dated: 28/5/90

( P.C. Sonkar )

Advocate

Collectorate, Lucknow.

Copy forwarded to the Chairman Managing Committee CIMAP Departmental Canteen Post Bag No. 1 Ram Sagar Mishra Nagar Lucknow with a request to look into the matter sympathetically and prompt action in the matter.

( P.C. Sonkar )

28/5/90

True copy  
Submitted  
P. C. Sonkar  
11-5-90



ब अदालत श्रीमान

वादी अपीलान्त

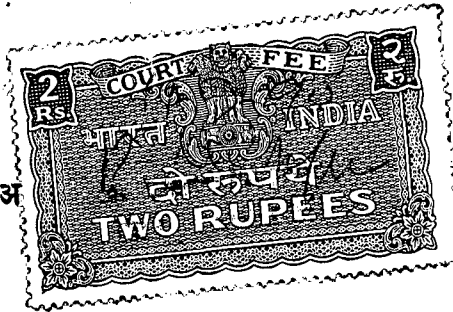
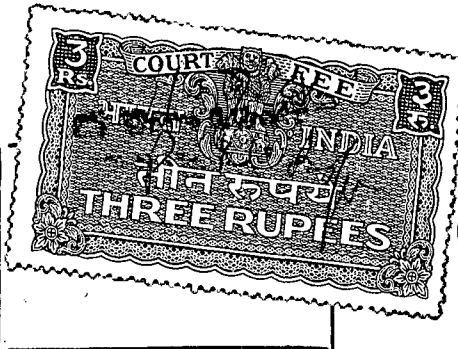
प्रतिवादी रेस्पाडेन्ट

श्री

का

वकालतनामा

Mhd. Shauin



The Union of India & others

बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री प्रयाग नारायण बाजपेई

ऐडवोकेट एवं श्री कार्तिकेय बाजपेई ऐडवोकेट भैरो जी

रोड, लखनऊ महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्व वकील द्वारा जो कुछ पंरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या हमारी विपक्षी (फरीकसानो) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे 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 पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पंरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिये यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आये।

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक ११ महोना ७ सन् १६९० ई०

Accepted  
A. K. S.  
11-7-90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH.

31

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS.

In

O.A.NO.219/90.

Mohd. Shamim ..... Applicant.

Versus

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

\*\*\*\*\*

I, P.Krishnan aged about 52 years, son of Shri Parameswar Administrative Officer, Central Institute of Medicinal and Aromatic Plants, (Counsel of Scientific and Industrial Research) P.O. Ram Sagar Misra Nagar, Lucknow do hereby solemnly affirm and state as under :-

1. That the deponent has read the application filed by Shri Mohd. Shamim and has understood the contents thereof.
2. That the deponent is well conversant with the facts of the case stated hereinafter and is filing this Written Statement on behalf of all the respondents.

-; PRELIMINARY OBJECTION ;-

- (i) That the Counsel of Scientific and Industrial

Contd...2/-

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29/6

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29/6/93

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Research is the parent establishment and the Central Institute of Medicinal and Aromatic Plants is functioning under the aegis of the C.S.I.R.

(ii) That the applicant is estopped from contending that he is in continuous employment of the respondent and is entitled to get salary for the reason that he made a statement before the Chairman, C.I.M.A.P. Departmental Canteen that he is not interested to work in C.I.M.A.P. Departmental Canteen.

(iii) That the applicant has not exhausted the departmental remedies available to him for redressal of his grievance and on this account only the O.A. is not maintainable under Sec.20 of the Administrative Tribunal Act.

3. That the contents of para 1 of the O.A. need no comments.

4. That in reply to para 2 it is stated that the C.I.M.A.P. departmental canteen is not registered with the Directorate of Canteen, New Delhi and as such its employees are not holder of a civil post under the State. Thus the subject matter of the present O.A. is not within the jurisdiction of this Hon'ble Tribunal and accordingly it is not maintainable under Sec.14 of the Administrative Tribunal Act, 1985. As the applicant does not hold a Civil post under the Union of India provisions of Article. 311 of the Constitution of India are not applicable to the present case.

5. That in reply to para 3 it is stated the present O.A. is

*Chudh*

Contd..... 3/-

barred by Limitation under Sec.21 of the Administrative Tribunal Act in as much as the cause of grievance arose on 5-6-89 when the Charge-sheet was served on the applicant.

6. That the contents of paras 4(1) to 4(4) are admitted.

7. That the contents of para 4(5) are denied. No application for leave on medical grounds was received from the applicant. He remained on unauthorised absence w.e.f. 6-4-1987. He was asked vide letter No.6/577/83-M.P.(Admn) dt.13-4-87 to join duty immediately failing which action will be initiated against him (Annexure R-1). Again on 23-4-87 a reminder telegram was sent to him in which he was informed that he was absenting unauthorisedly from 6th April, 87. He was asked to report immediately failing which disciplinary action will be taken against him. Copy of the above telegram was sent to him by post in confirmation at his residential address (Annexure R-2). Yet again vide letter dt.5-5-1987 Shri Shamim was informed that he had been absenting unauthorisedly since 6-4-87 and in spite of the above office memos and telegram he had not reported for duty. He was further directed to report for duty latest by 14th May, 1987 failing which disciplinary action will be initiated against him for his unauthorised absence and defiance of orders.

8. That in reply to para 4(6) it is stated that the salary of the applicant was not paid to him since 6-4-1987 as he was on unauthorised absence and in spite of repeated reminders he failed to report for duty. Even the above communications remained unreplied.

*Shamim*

// 4 //

9. That in reply to para 4(7) it is stated that the applicant was not on leave since 6-4-1987. As <sup>a</sup> matter of fact he <sup>n</sup> on unauthorised absence from duty since 6-4-1987 and in spite of many reminders from the department he did not resume duty. It is, however, denied that he availed leave upto 31-3-1987 which was granted to him.

10. That the contents of para 4(8) need no comments.

11. That in reply to para 4(9) it is stated that when the applicant attended the enquiry on 17th Sept, 1987 the subject matter of the enquiry was explained to him in Hindi & at that time he did not raise any objection to the effect that he may be given Hindi Translation of the Charge-sheet. On the other hand he participated in the enquiry.

12. That the contents of para 4(10) are admitted extent that the applicant appeared for enquiry on 17th Sept, 1987 and the subject matter of the Charge-sheet was explained to him in Hindi. Rest of the contents are denied.

13. That the contents of para 4(11) are denied. The subject matter of the Charge-sheet and all connected documents were explained to the applicant during the course of enquiry and thereafter his signatures were obtained. This was done before the witnesses.

14. That in reply to para 4(12) it is stated that the applicant was not served with any order of suspension. The applicant

Contd.....5/-



never reported for duty even after the enquiry. He failed to report for duty after 26-4-67 in spite of repeated reminders as has been indicated in the above paragraphs.

15. That the contents of para 4(13) are denied.

16. That in reply to para 4(14) it is stated that the petitioner was never served any such orders which might have stopped him to join his duty. As a matter of fact the department did not consider it necessary to issue any such order for his unauthorised absence after the inquiry, in view of his inability to attend his duties in C.I.M.A.P. Canteen as intimated by him in his written statements.

17. That in reply to para 4(15) it is stated the enquiry was conducted in accordance with the rules.

18. That the contents of para 4(16) are denied.

19. That in reply to para 4(17) it is stated that the enquiry has not been completed in view of the statement of Shri Mohd. Shamim for his inability to continue his service in C.I.M.A.P. Canteen. In his statement before the enquiry officer, Shri Shami has stated that as the Institute was far away from the city he cannot look after his parents during those days when he is detained in the office late at night when there is a guest in the Institute or when there is any function in the Institute. As such it was not considered necessary to inform about the decision of the enquiry report.

20. That in reply to para 4(18) it is stated that Shri Mohd. Shamim was a temporary employee of C.I.M.A.P. Canteen. Moreover the said canteen is not registered under the Director of Canteen, New Delhi so far. Hence no service conditions or any other long-term benefits are guaranteed to him as are admissible to the Registered Canteen Employees.

21. That in reply to para 4(19) to 4(21) it is stated that in view of the applicants statement made on 17-9-87 before the enquiry officer the averments raised in the answering paragraphs are not tenable.

22. That in reply to para 4(22) it is stated that the provisions of para 311(2) of the Constitution of India are not applicable in the present case.

23. That in reply to para 4(23) it is stated that there has been no violation of the principle of natural justice in the present case.

24. That the contents of para 4(24) are denied. Since the applicant left the service of his own free will, he has not right to claim re-instatement.

25. That the Grounds for Relief indicated in various subparagraphs of para 6 have been adequately replied in the above paragraphs and need no further reply.

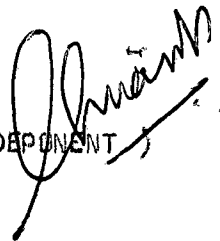
26. That the contents of paras 6 and 7 need no comments.

Contd.....7/-



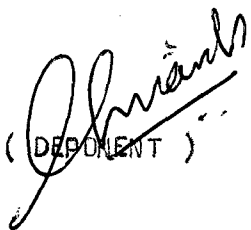
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27. That in view of the submissions made in the above paragraphs the reliefs sought for in para 8 and Interim order prayed for in para 9 are not tenable. The O.A. lacks merit and is liable to be dismissed with Costs.

  
( DEPONENT )

VERIFICATION :-

I, the deponent above named, do hereby verify that the contents of paras 1 and 2 are true to my personal knowledge and those of paras 3 to 27 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.~~

  
( DEPONENT )



P/105

CIMAP DEPARTMENTAL CANTEEN

CENTRAL INSTITUTE OF MEDICINAL & AROMATIC PLANTS  
POST BOX NO.1, P.O. RAM SAGAR MISRA NAGAR  
LUCKNOW

Annex-21

No.6/577/83-MP(Adm.)

Dated : 13-4-1987

MEMORANDUM

It has been reported that Shri Mohd. Shemim, Bearer has been absenting unauthorizedly from duty since 6-4-1987. He is hereby directed to join duty immediately failing which action will be initiated against him.

13/4  
( K.D. VERMA )  
HONY. SECRETARY  
KDS  
13-4-87

To,

Shri Mohd. Shemim,  
Bearer,  
Sadar Bazar Cantt.,  
Lajpat Rai Marg,  
Kothi No.2,  
LUCKNOW

Copy to :-

- P. N. 414
1. Chairman, Canteen Committee, CIMAP, Lucknow.
  2. Finance & Accounts Officer, CIMAP, Lucknow.
  3. Bill Section
  4. Office copy
- ✓
- Shemim

STATE

EXPRESS

TELEGRAM

MOHD SHAMIM  
BEARER  
SADAR BAZAR CANTT.  
LAJPAT RAI MARG  
KOTHI NO.2  
LUCKNOW

P/106.  
Annex R-2

REFER MEMO DATED THIRTEENTH APRIL (.)  
ABSENTING UNAUTHORIZEDLY FROM SIXTH APRIL (.) REPORT  
FOR DUTY IMMEDIATELY FAILING WHICH DISCIPLINARY ACTION  
WILL BE INITIATED

MEDPLANTS

N.T.T.

( K.D. VERMA )  
~~XXXXXXXXXXXXXX~~  
HONY. SECRETARY

CIMAP DEPARTMENT CANTEEN  
CENTRAL INSTITUTE OF MEDICINAL & AROMATIC PLANTS  
POST BOX NO.1, P.O. RAM SAGAR MISRA NAGAR  
LUCKNOW-226016

No.6/577/83-MP(Adm.)

Dated : 23-4-1987

Registered  
Copy by post in confirmation of the above  
telegram to Shri Mohd. Shamim, Bearer, Sadar Bazar Cantt.,  
Lajpat Rai Marg, Kothi No.2, Lucknow with the instruction  
to join duly immediately failing which disciplinary action  
will be initiated against him.

- P. N. Verma  
2314
2. Chairman, Canteen Committee, CIMAP, Lucknow.
  3. Finance & Accounts Officer, CIMAP, Lucknow.
  4. Bill Section
  5. Cashier, CIMAP, Lucknow.
  6. Office copy

23/4  
( K.D. VERMA )  
HONY. SECRETARY  
K.D. Verma  
23487

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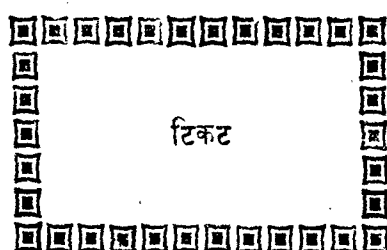
अदालत श्रीमान् ..... महोदय

115 C.A.7  
Lucknow Bench

[वादी अपीलान्ट]

प्रतिवादी [रेस्पाडेंट]

# वकालतनामा



(वादी अपीलान्ट)

Mohd Shaimun

बनाम Anil Kumar Singh

(प्रतिवादी रेस्पाडेंट)

नं. मुकद्दमा 219 सन् १० पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Dr. Jyoti Chandra  
Adv. Anand Singh, Lucknow वकील  
महोदय  
एडवोकेट

नाम अदालत  
मुकद्दमा नं०  
नाम फरीकत

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें - वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिये यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर .....  
(गवाह) .....  
Administrative Officer  
Central Institute of Medicinal & Aromatic Plants, Lucknow

साक्षी (गवाह) .....  
दिनांक ..... महिना .....

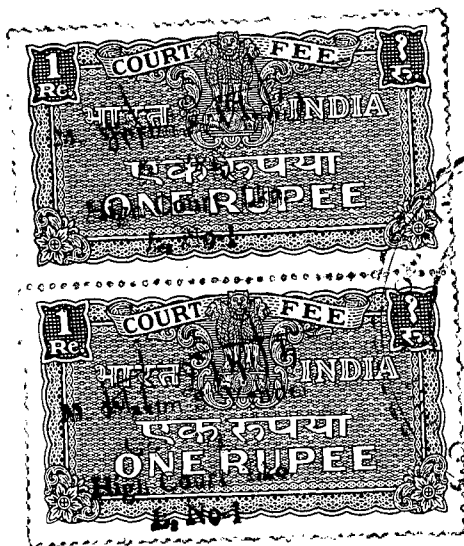
स्वीकृत

In THE HON'BLE CENTRAL ADMINISTRATIVE - TRIBUNAL

Additional Bench - Lucknow.

41

O.A. No.219 of 1990  
Fixed for 08.09.1993



Mohd. Shamim

.... Applicant

Vs.

The Union of India & Others

... Respondents

REJOINDER AFFIDAVIT

I, Mohd. Shamim, aged about 32 years S/O Sri Mohd Yousuf R/O Kothi no.2 Sadar Bazar, Lajpat Rai Marg, Ca-  
Lucknow, do hereby solemnly affirm as under:-

1. That the contents of para 1 & 2 of the W.S. do not require any comments.
2. That the contents of para 2(1) of the W.S. n no reply.
3. That the contents of para 2(2) of the W.S. are denied. The Deponent had never made any Statement before the Chairman CIMAP DEPARTMENTAL CANTEEN that he is not interested in the work. The Opp. parties a required to prove the contents of para under reply. The Deponent is in continuous services of the Respondent in the eyes of Law and accordingly he is entitled to the full salary and other consequential benefits.
4. That the contents of para 2 (3) of the W.S. a denied and the contents of para 6 (1) of the Original Application are reiterated. The Deponent has made several representations to the Respondents but no wastaken. Thus the original Application is maintained.
5. That the contents of the para 3 of the W.S. denied. The deponent is a Govt. Servant and he is holding the Civil Post. It is mentioned in the dated 01.07.92 written by the Joint Secretary of I.R.



21/1/21

( Administrative) which has been addressed to all the Directors and Heads of Labs & Canteen. The copy of the letter was also forwarded to the O.P. No.2. According to the letter dated 01.07.92 the Employees of Non Constitutory Departmental Canteen will be treated as Regular Employee of C.S.I.R. w.e.f. 01.10.91 and will be entitled to get all the benefits which are available to a Regular Govt. Servant of C.S.I.R. The copy of the letter dt. 01.07.92 is filed herewith as Annexure-RA-1 to this Rejoinder Affidavit.

6. That it is further submitted that the Joint Secretary of C.S.I.R. has also written a letter on 21.05.93 in which it has been mentioned that the employee of the NON Constitutory Unregistered Departmental Canteen shall also be governed by the letter dated 01.07.92, regarding Service matters. The copy of the letter dated 21.05.1993 is filed herewith as Annexure-RA -2 to this Rejoinder Affidavit. Thus even the employees of the Unregistered Canteen are also holder of Civil post in Union of India and they are entitled to get the protection of Art.311 of the Constitution of India. Thus the present Original Application is within the Jurisdiction of this Hon'ble Tribunal and according to as mentioned U/S 14 of the Administrative Tribunal Act. 1985.

7. That the contents of para 5 of the W.S. are denied. The deponent was not allowed to resume his duties without passing any written order against him. Thereafter the deponent moved several representations to the Respondents. Lastly he served a legal Notice through Counsel on 21.5.90 which is already on record as Annexure-5 to the Original Application. Thereafter the Deponent had filed the Original Application on 10.07.90. Therefore the Original Application is well within the time as prescribed U/S 21 of the Administrative Tribunal Act.

8. That the contents of para 6 of the W.S. needs no reply. The contents of paras 4(i) to 4(IV) of the Original Application are reiterated.

9. That the contents of para 7 of the W.S. are denied. It is wrong to say that the deponent was asked to report to his duty. In fact no any kind of letter or any information regarding the joining of the duty was received by the deponent. Both the letters Annexed



21/7/94

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by the Respondents alongwith their W.S. appears to be FARZI as there is no mention of Despatch Number on the letters. Only the letter no. is mentioned. The Opp. parties are required to prove the contents of para under reply. The Deponent had applied for Medical Leave by moving the Application to the Respondents. The contents of para 4(v) of the Original Application are reiterated.

10. That the contents of para 8 of the W.S. are denied and the contents of para 4 (vi) of the Original Application are reiterated. The deponent could not know the result of his Leave Applications due to illness.

11. That the contents of para 9 of the W.S. are denied and the contents of para 4(vii) of the O.A. are reiterated. The Deponent was never informed by the Respondents to resume his duties.

12/

12. That the contents of para 10 of the W.S. needs no reply.

13. That the contents of para 11 of the W.S. are denied. The contents of para 4( ix) of the Original Application are reiterated.

14. That the contents of para 12 of the W.S. are admitted to the extent that the deponent was called for the Enquiry, but rest of the contents are denied. It is wrong to say that the subject matter of the Charge Sheet was explained to the Deponent in Hindi. The contents of para 4 (x) of the Original Application are reiterated.

15. That the contents of para 13 of the W.S. are denied. Neither the subject matter of the Chargesheet nor any connected documents were explained to the deponent. The contents of para 4(xi) of the Original Application are reiterated.

16- That the contents of para 14 of the W.S. are denied. The contents of para 4(xii) of the Original Application are reiterated.

17. That the contents of para 15 of the W.S. are denied. The contents of para 4 ( xiii) of the Original Application are reiterated.



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18. That the contents of para 16 of the W.S. are denied. The contents of para 4 (Xiv) of the Original Application are reiterated. The Deponent was never informed regarding the result of the Enquiry Proceedings and he was restrained from working in an arbitrary manner without passing any specific order.

19. That the contents of para 17 & 18 of the W.S. are denied. The contents of para 4 (Xv) and para 4 (Xvi) of the Original Application are reiterated.

20. That the contents of para 19 of the W.S. are denied. The contents of para 4 (Xvii) of the Original Application are reiterated. The deponent never made any statement before the Enquiry Officer, that he is unable to perform his duties. The Opp. parties are required to prove the contents of para under reply.

21. That the contents of para 20 of the W.S. are denied. The contents of para 4 (xviii) of the Original Application are reiterated. The deponent is entitled to get the benefit like the employee of the Registered Canteen in view of the letters Annexure RA-1 & RA -2, because the employees of even un-registered canteens have been given the same benefit which are being given to the regular employees of the Central Government.

22. That the contents of para 21 of the W.S. are denied. The contents of para 4 (XIX) to para 4 (XXI) of the Original Application are reiterated.

23. That the contents of para 22 of the W.S. are denied. Further the contents of para 4 (xxii) of the Original Application are reiterated. The Employees of the Canteen have been treated as Govt. Servants and Holders of the Civil Posts by judicial pronouncements made by the Hon'ble High Court as well as by different circulars issued by C.S.I.R. from time to time. Thus the Deponent is entitled to get the protection of Art. 311 of the Constitution of India.

24. That the contents of paras 23 & 24 of the W.S. are denied. The contents of para 4 (xxiii) Para 4 (xxiv) of the original Application are reiterated.



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25. That the contents of para 25 of the W.S. are denied. The contents of para 6 of the Original Application are reiterated.

26. That the contents of para 26 of the W.S. needs no comments.

27. That the contents of para 27 of the W.S. are denied. The deponent is entitled to get the reliefs prayed by him in para 8 of the Original Application. The Original Application is based on true facts and genuine grounds and the Original Application is liable to be allowed with cost.

*[Signature]*

Dated: 09.1993

Deponent.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1 to of this R.A. are true to my knowledge and the contents of paras are true to my belief. Nothing material has been concealed and no part of it is false, so help me God.

Signed and verified today this the *14* day of Sept. 1993, in the Hon'ble Court Compound at Lucknow.

*[Signature]*

Deponent.

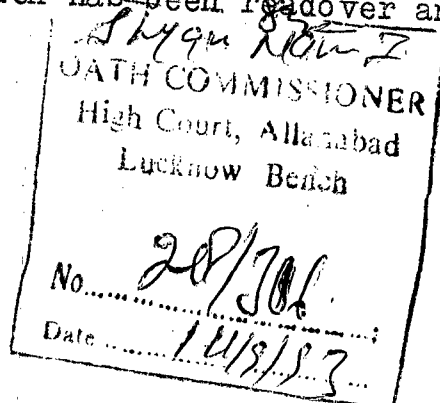
I identify the deponent who has signed before me

( P.N. Bajpai )  
Advocate.



Solemnly affirmed before me on *14*, 09.1993 at *6.30* A.M./P.M. by Sri Mohd. Shamim, the above named deponent who is identified by Sri P.N. Bajpai, Advocate, Hon'ble High Court of Judicature at Allahabad ( Lucknow Bench ) Lucknow.

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





MOHD. SHAMIM

VS

APPLICANT

THE UNION OF INDIA & others

RESPONDENTS

ANNEXURE R A 1

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

ANUSANDHAN BHAVAN  
RAFI MARG  
NEW DELHI - 110001

No.17(202) /92-E.II(U-3)

Date: 1st July 1992

From: Joint Secretary (Admn.)  
C.S.I.R.

To,

The Directors/Heads of all  
National Labs./Instts.

Sub: Employees of non-statutory registered departmental  
canteens - treatment of - as regular employees of  
CSIR.

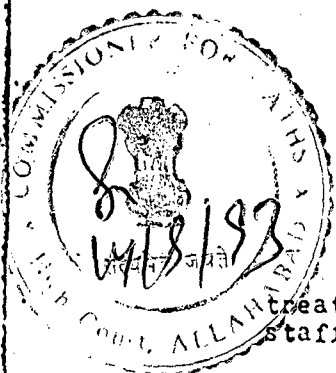
Sir,

I am directed to state that in pursuance of the approval accorded by Governing Body at its meeting held on 6.5.1992, the employees of the non-statutory registered departmental canteens/tiffin rooms in position as on 1.10.1991 in various Labs./Instts. of CSIR will be treated as regular non-technical employees of the Council w.e.f. 1.10.1991 entitled to all benefits which a Council employee of comparable status is normally entitled to except GPF, Pension, Group Insurance Scheme in respect of which separate communications will follow in due course. Copies of the following orders issued by Government of India in this regard are attached for information and implementation of the decisions contained therein so long as these are relevant to the CSIR system:

- 1) O.M. No.F.2(26)-B(CDN)/92 dated 24.1.1992 of Ministry of Finance, Deptt. of Economic Affairs (Budget Division), New Delhi.
- 2) O.M. No.12/5/91-Dir(C) dated 29.1.1992 of Ministry of Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training), New Delhi.
- 3) O.M. No.3/1/92-Dir(C) dated 30.1.1992 of Ministry of Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training), New Delhi.

It may, however, be stipulated that these orders to treat them as Council employees are applicable only to the staff who were in position as on 1.10.1991 in the non-statutory

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Chd  
7.7.92


departmental canteens/tiffin rooms which are centrally registered as on 1.10.1991 with the Director (Canteens) of the Department of Personnel & Training, New Delhi carrying valid registration number allotted to such Canteens/Tiffin Rooms by the above Department.

As per instructions contained in Department of Personnel & Training, O.M. No.12/5/91-Dir.(C) dated 9.4.1992 (copy enclosed), no financial support will be provided here-after in the form of Capital Grants/Replacement Grants, Grants for repairing of main equipment, loan or advance by CSIR as mentioned therein in respect of the registered canteens/tiffin rooms where 100% payment of pay & allowances of their employees is now to be borne by CSIR in pursuance of the above Governing Body decision. Sales proceeds of these Canteens/Tiffin Rooms may continue to be deposited in the Nationalised Bank as hitherto and accounts may be operated as per instructions contained in the Green Book and should not be mixed with CSIR accounts.

It is, however, reiterated that instructions contained in this office circular of even number dated 17.2.1992 with regard to freeze the present staff strength of non-statutory registered departmental/cooperative canteens/tiffin rooms of CSIR as on 1.10.1991, be followed scrupulously.

Kindly acknowledge receipt.

Yours faithfully,

  
(K.L. Katyal)  
Under Secretary.

Encl: a/a

Copy to:

1. Sr. F&AOs/F&AOs of all Labs./Instts. of CSIR.
2. DS(CO), CSIR Hqrs./Dy. FA(F) & (B)/Sr./F&AOs in CSIR Hqrs.
3. SO (E.II(Unit-1))
4. SO (E.II(Unit-2))
5. US(Admn.), CSIR Complex.
6. Dr. Dinesh Abrol, President, CSIR SWA  
C/o NISTADS, New Delhi.
7. Shri J.P.Sharma, President, Fed. of CSIR EWUA,  
C/o NPL, New Delhi.
8. Director (Canteens), Department of Personnel &  
Training, Lok Nayak Bhavan, New Delhi for information.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH LUCKNOW

MOHD SHAMIM

VERSUS

APPLICANT

THE UNION OF INDIA & Ors

op. party

ANNEXURE RA-2

Phone:

Gram: 'CONSEARCH' New Delhi

Telex: 31-65202

31-68142 } CSIR IN



वैज्ञानिक तथा औद्योगिक अनुसंधान परिषद्

COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH

राष्ट्र मार्ग,  
RAJ MARG.

संख्या

No.

17/202/1/ NBRI/92-E.II

नई दिल्ली-110 001

New Delhi-110001, the

21st May, 1993

प्रेषक

FROM

संयुक्त सचिव (प्रशासन)

Joint Secretary (Admn.)

Council of Scientific and Industrial Research

To

The Director,  
National Botanical Research Institute,  
Lucknow

Subj:- Regularisation of the employees of non-statutory  
unregistered departmental/Cooperative Canteens/  
Tiffin Rooms located in CSIR Labs./Instts.

Sir,

In pursuance of the decision taken by the Governing  
Body at its meeting held 4.11.1992, DGSIR in consultation  
with Financial Adviser, CSIR has been pleased to accord  
approval to the regularisation of the employees of unregistered  
Canteen/Tiffin Room of your Laboratory numbering Four (4)  
with effect from 4.11.1992, as per information provided vide  
your letter No. NBRI/Canteen/93-GL dated 19.04.1993/.  
After regularisation, these employees shall be governed by  
the same terms and conditions as notified vide our letter  
of even number dated 1.7.92 and subsequent instructions on  
service matters of these employees issued in this  
regard from time to time.

Subject to  
fulfilment  
of the  
requirement  
of medical  
fitness and  
verification  
of character  
and  
antecedents  
under the  
rules.

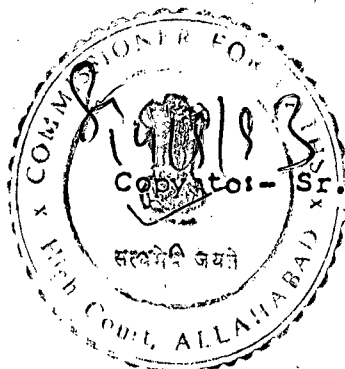
It may, however, be reiterated that the instructions  
contained in this office circular No.17(202)/92-E.II dated  
17.2.1992 be followed scrupulously.

Yours faithfully,

-Sd-

(K.L.KATYAL)  
DEPUTY SECRETARY

DEPUTY SECRETARY



Copys to:- Sr./FAO of the Laboratory.

(NBRI Lucknow)

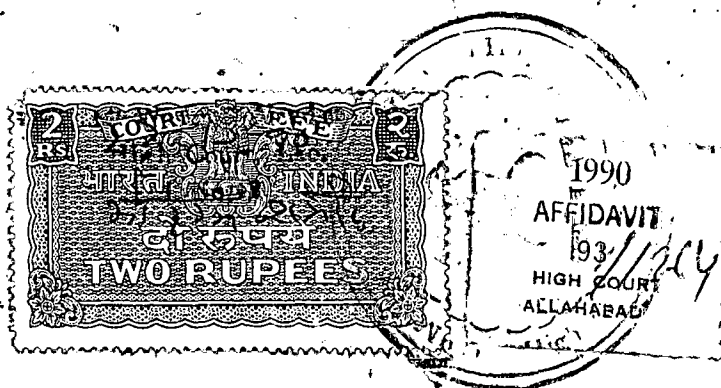
162  
1-6-93

श्री

In the Central Administrative Tribunal  
Additional Bench , Allhabad. u9  
Circuit Bench,, Lucknow.

O.A. No .

of 1990



Mohd. Shamim

...

Applicant.

Versus

The Union of India & Others... Respondants.

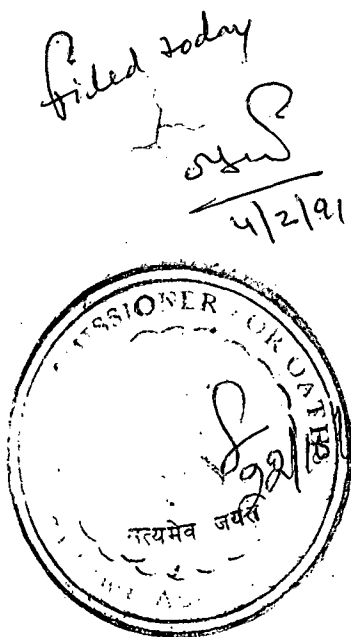
Supplementary ~~Rejoinder~~ Affidavit.

I, Mohd. Shamim aged about 30 years  
S/O Mohd. Yusuf R/O Kothi No.2 Sadar Bazar  
Lajpat Rai Marg, Cantt. Lucknow. do hereby  
solemnly affirm as under.

1. That the above noted petition has  
been filed for issuing a declaration to the  
effect that the applicant is still in service  
of the Opp. parties. The Hon'ble Tribunal has  
directed the Deponent to submit the documents  
to prove that he was a Govt. Servant.

2. That the deponent has already filed  
the papers in support of his pleadings . They  
itself show that the deponent was a Govt.  
servant.

3. That the Department of the Deponent is  
a Department of Govt. of India Ministry of  
Personnel and P.G. and Pension . Its Director



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is one for whole India.

4. That the deponent is filing herewith few other documents showing that the House rent allowance has been allowed to the employees of the Canteen Department. He is also filing herewith the increment certificate. This document also shows that the Department is a Department of Central Govt. The documents are filed herewith as Annexures-12 & 13 to this Affidavit.

5. That the Opp. parties will clarify the position on this point when the notices will be issued to them.

6. That the deponent was getting the salary from the Govt. Treasury. He is not the servant of any Private Department.

समीक्ष

Dated: 22.10.90

Deponent.

Verification.

I, the a-bove named deponent do hereby verify that the contents of paras 1 to 4 of this Affidavit are true to my knowledge and the contents of paras 5 & 6 are true to my belief. Nothing material has been concealed and no part of it is false, so help me God.

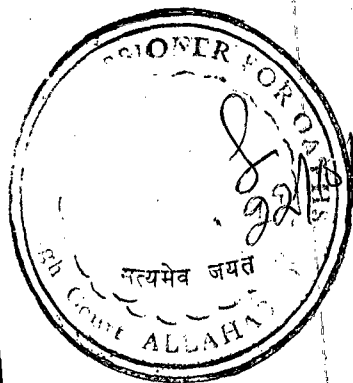
Signed and verified today this the 22nd day of Oct. 1990, in the High Court Compound, at Lucknow.

समीक्ष

Deponent.

I identify the deponent who has signed before me.

( P.N. Bajpai  
Advocate.



3.

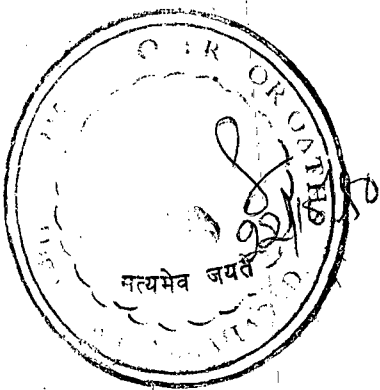
solemnly affirmed before me on 22.10.90 at  
8.30 A.M. / P.M. by the above named deponent  
who is identified by Sri P.N. Bajpai, Advocate  
High Court of Judicature at Allahabad (Lucknow  
Bench ) Lucknow.

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

समीक्षित

8

Shyam Narain	
OATH COMMISSIONER	
High Court of Judicature	
Lucknow Bench	
No.	93/1364
Date	22/10/90



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

The Union of India & others  
Annexure No. 12

Petitioner  
Opp. Parties

PERIODICAL INCREMENT CERTIFICATE

Name of Incumbent	Whether substantive or officiating	Scale of pay of post	Present pay	Date from which present pay is drawn	Date of present increment	Future pay	Absence from duty not counting for increment	Leave without pay and in the case those holding the posts in official capacity, all other kinds of leave during which he/they would not have continued to officiate in the post
Sh. Mohd. Shamim Beard. CIMAP Departmental Kanton	2 Officiating	Rs. 196-3-220 1 B. 3-220	Rs. 202/-	5-6-75	5-6-75	Rs. 205/-	8 9 10 11	

Notes:- 1. When the increment claimed is the first to carry a Government Servant over an efficiency bar, columns 3, 5 and 7 should be filled up in red ink.  
2. The figure (1) or (2) should be placed against each name according as the certificate (1) or (2) applies. The explanatory memorandum should be submitted in any case in which certificate (2) applies.

MGIPFC-387-19 Gerl. Admn./76-77-GIPFC-(C-997)-28.8.76-30.00.000

Signature

CIMAP  
Signature & Designation of Drawing Officer

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

Mond. Shamin

Versus  
The Union of India & others  
Annexure No. 13

Petitioner

Opp. Parties

No.3/2/10/86-Dir(C)  
Government of India  
Ministry of Personnel P.G.&Pensions  
(Deptt. of Personnel and Trg.)  
(Director of Canteens)

New Delhi  
Dated the 26.7.89

OFFICE MEMORANDUM

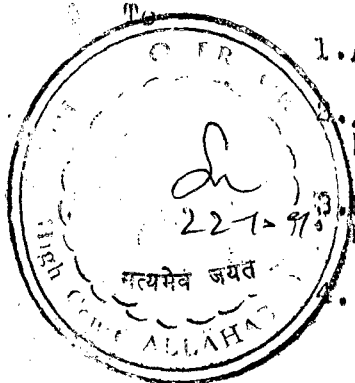
Subject:- Grant of House Rent Allowance and Compensatory (City) Allowance at old rates with respect to revised pay scales for the period from 15.1.1986 to 30.9.1986 to Non-statutory canteen employees.

The undersigned is directed to state that it has been decided that the employees of non-statutory canteens/tiffin rooms will also be paid House Rent Allowance, Compensatory (City) Allowance as per proviso of Ministry of Finance, Department of Expenditure O.H.No.F.21011/5/85-E.II(B) dated 4.7.1989 (copy enclosed for ready reference).

2. Subsidy at the existing rates i.e. at the rate of 100% in the case of Tiffin Rooms and 70% in the case of canteens on the revised rates of HRA/CCA will be claimable.

3. This issues with the concurrence of Home Finance Division vide their U.O.No.3911/FA(H)/89 dated 18.7.89.

(S.T. RAJAN)  
DIRECTOR OF CANTEENS



1. All Ministries/Departments of Govt. of India.

2. All the Chairman of the Managing Committee of the Departmental/Cooperative canteens/Tiffin Rooms.

3. Ministry of Finance, Deptt. of Expenditure E.II(B) New Delhi.

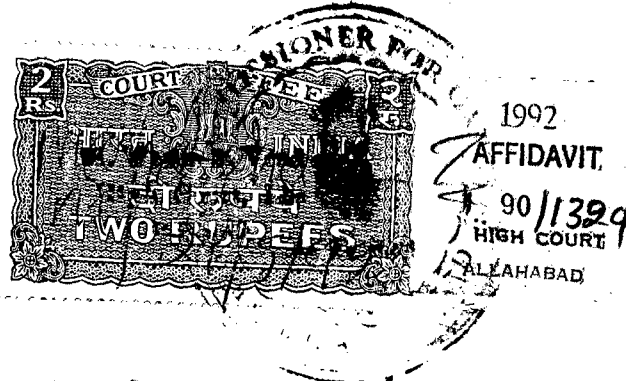
4. Home Finance Division, MHA.



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

O.A. No. 219 of 1990 (L)  
~~XXXXXXXXXXXXXXXXXXXX~~

O.A. No. 219 of 1990 (L)  
Fixed for -21.5.92



Mohammad Shamim ... Applicant

VS.

Union of India & Others ... Opp. parties.

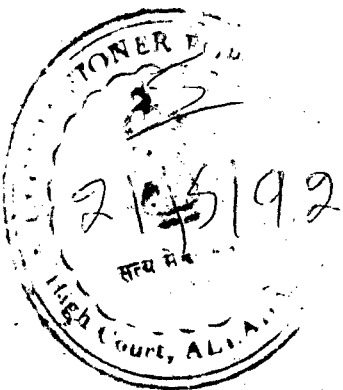
Supplementary Affidavit

I, Mohd. Shamim, aged about 32 years  
S/O, Sri Mohd. Yousuf, R/O, Kothi no. 2, Sadar  
Bazar, Lajpat Rai Marg, Contonment, Lucknow.  
do hereby solemnly affirm as under.

1. That the petitioner was required to  
explain and to give the name of the correct  
Department and the name of the Ministry in the  
Central Govt. In this connection the petitioner  
wants to say that the Canteens established in  
the Govt. offices belongs to the Govt. and the  
employees working in the canteen or the Govt.  
servant. It has been held by the Hon'ble Supre-  
ma Court in several case.

2. That the name of the Ministry written  
in the address of O.P.No.1 is correct.

3. That the application filed by the Appli-  
cant is liable to be admitted as the deponent  
is the Govt. servants.



Filed today

21/5/92

21/5/92

21/5/92

2.

4. That the deponent is entitled to get the reliefs claimed.

21/5/92

Dated: 21.5.92

Deponent.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this Affidavit are true to my knowledge and the contents of paras 3 & 4 are true to my belief. Nothing material has been concealed and no part of it is false, so help me God.

Signed and verified today this the 21st day of May, 1992, in the Court Compound at Lucknow.

21/5/92

Deponent.

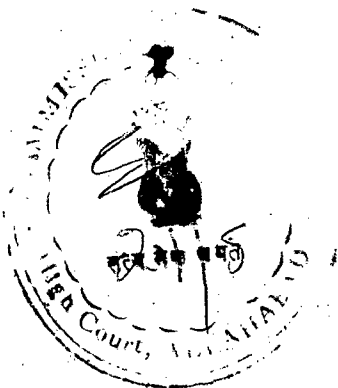
I identify the deponent who has signed before me.

21/5/92  
( P.N. Bajpai  
Advocate.

solemnly affirmed before me on 21.5.92 at 9.00 A.M./P.M. by Sri Mohd. Shamim the above named deponent who is identified by Sri P.N. Bajpai, Advocate, High Court of Judicature at Allahabad ( Lucknow Bench ) Lucknow.

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

S. Singh  
(Notary Public)  
OATH COMMISSIONER  
High Court Allahabad  
Lucknow Bench Lucknow  
No. 90/1324  
21/5/92

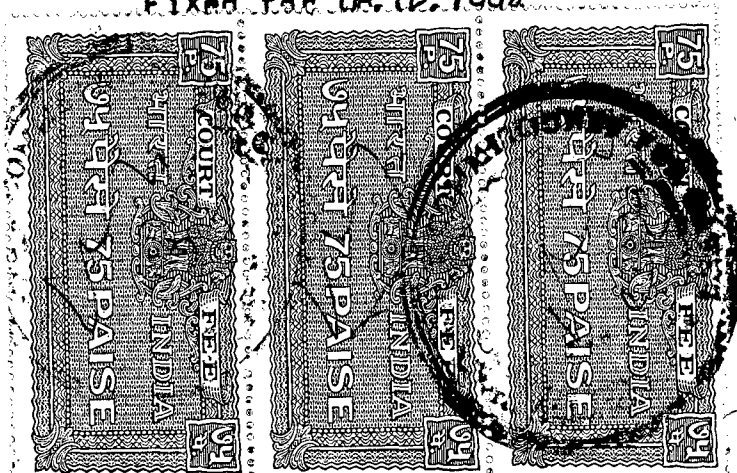
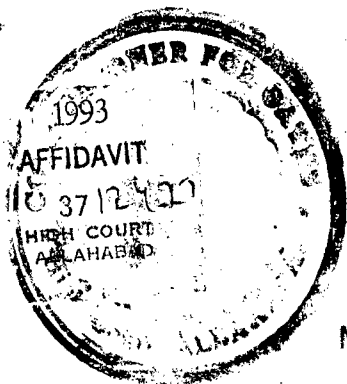


In the Central Administrative Tribunal , Lucknow.

Additional Bench Lucknow.

O.A. No.219 of 1990

Fixed for 08.02.1994



Mohd. Shamim ... Applicant

Vs.

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

Supplementary Rejoinder Affidavit.

I, Mohd. Shamim, aged about 32 years, S/O, Sri Mohd. Yousuf, R/O, Kothi no.2 Sader Bazar, Lajpat Rai Marg, Cantt. Lucknow, do hereby solemnly affirm as under.

1. That on 22.12.93, when the case was taken up for final hearing a preliminary objection was raised by the Counsel for the respondent, that the deponent /Applicant is not the Govt. Servant, as such the Original Application ~~is not maintainable~~ is not maintainable. Due to the aforesaid reasons, the Applicant is filing the supplementary Rejoinder Affidavit.
2. That the deponent is a Central Govt. Servant. It is evident by the Circular dated 24.1.92 and and the G.L. issued by the Department of personal & Training dated 9.04.1992 and the G.L. issued by the Govt. on 1.10.91. The copies of circular and G.L. are filed herewith as Annexure=1, 2 & 3 to this Supplementary Rejoinder Affidavit.
3. That the order contained in Annexure=1 to 3 are



fully applicable and the deponent is liable to be treated as the Central Govt. Servant and will be entitled to all benefits, which the Central Govt. Servant is normally entitled to thus the present O.A. is very well maintainable and is liable to be allowed with cost.

Dated: 08.02.1994

*Shami*

Deponent.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this Affidavit are true to knowledge and the contents of para 3 are true to my belief. Nothing material has been concealed and no part of it is false, so help me God.

Signed and verified today this the 7th day of Feb. 1994, in the Hon'ble High Court compound at Lucknow.

*Shami*

Deponent.

I identify the deponent who has signed before me.

*P.N. Bajpai*

( P.N. Bajpai )  
Advocate.

Solemnly affirmed before me on 07.02.1994, at *Annex 1005*  
A.M./P.M. by Sri Mohd. Shami, the above named deponent who is identified by Sri P.N. Bajpai, Advocate, Hon'ble High Court of Judicature at Allahabad ( Lucknow Bench )

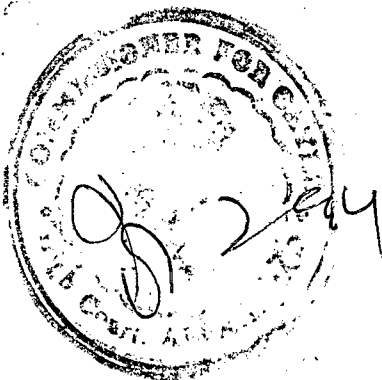
*R. D. ARJUN*

OATH COMMISSIONER

Lucknow.

High Court, Lucknow Bench, Lucknow

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



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH LUCKNOW

Mohd. Shemim

ANNEXURE

The Union of India

NOT IMMEDIATE,  
BUDGET.

No. F.2(26)-B(CDM)/92.  
Government of India  
Ministry of Finance  
Department of Economic Affairs  
(Budget Division)

New Delhi, 24.1.1992.

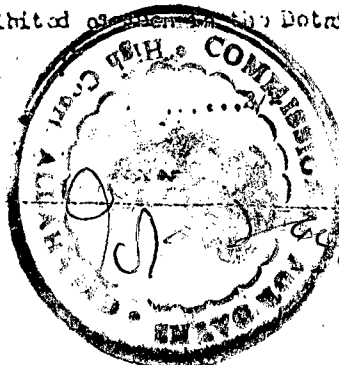
OFFICE MEMORANDUM

Subject: Employees of non-statutory departmental cantons  
- treatment of - as Central Government servants  
- provisions to be made for their pay and  
allowances, etc.

Under the existing financing arrangement, Central Government bears in the normal course 70% of the salary bills of the employees of the non-statutory departmental cantons, by way of subsidy. The balance 30% is met by the cantons themselves from their own resources. Whenever the cantons are unable to meet their share of the expenditure on the salary bills from their own resources, interest-free loans are provided to them by the Government for the shortfall.

2. According to a judgment of the Supreme Court delivered on 11th October, 1991, the employees of the non-statutory Departmental cantons are to be treated as Central Government Servants and will be entitled to all benefits which a Central Government servant is normally entitled to.

3. Following the judgment of the Supreme Court the entire provision needed for pay and allowances of the canton employees may be made by the respective Ministries/Departments, in their Demands for Grants, from the Revised Estimates 1991-92, under a distinct subhead "Departmental Cantons" below minor head 'Other expenditure' under the major head of account to which the revenue expenditure of the related Ministry/Department is ordinarily debited, and entitled as such in the Detailed



24/1/92