

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~BENARAS~~ BENCH

OA/~~TA/RA/CP/MA/PT~~ 24190(L) of 20.....

H.P. Pachauri..... Applicant(S)

Versus

Union of India..... Respondent(S)

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Certified that the file is complete in all respects.

B.C. S. Weeded & disesray

Signature of S.O.

[Handwritten Signature]

Signature of Deal. Hand

[Handwritten Signature]

(A6)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration O.A. No.24 of 1990(L)

Hari Prasad Pachauri Applicant

Versus

Union of India & Others Respondents

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

Hon. Mr. A.B. Gorthi, Member(A)

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

The applicant who was working as J.A.O. Incharge SECO: Lucknow G.P.O. during the year 1984-85 and the preparation of lists of Silent S.B. Accounts for the year 1984-85 was pending, has prayed this Tribunal that the imputations levelled against the applicant are vague and based on no evidence, this Tribunal may be pleased to drop the charges and proceedings initiated under Rule 16 of CCS (CC&A) Rules, 1965 and the punishments inflicted are bad in the eyes of law and without ^{application &} making of mind by issue of a non-speaking order of the disciplinary authority which is liable to be quashed. The punishment of stoppage of next increment of the applicant for two years without cumulative effect may be also be set aside and the review order also be set aside and the withholding of promotion and non-consideration of the applicant for promotion on due date alongwith the officers who are junior to him was not legal and that the respondents may be directed to modify the date of promotion of the applicant from 30.10.89 to 1.4.87 with retrospective date. On 2.7.86 the applicant was served with the

following imputations of charges while he was working as J.A.O.

" While working as J.A.O. SBCO LW, he was entrusted with the work of getting the list of silent S.B.Accounts for the year 1984-85 prepared. For doing this work UDC SBCO, Ledger clerk and APM (SB) are only entitled to get honorarium as per Directorate instructions. J.A.O. is not entitled to any honorarium. The J.A.O. is expected to test check few entries in each list and this work he is expected to do during office hours. The applicant is alleged to have claimed an honorarium of Rs.211-10 by scoring out the name of S/Shri D.K.Srivastava and Shyamsunder UDCs and including his name managed to draw honorarium although he was not entitled for the said honorarium."

Departmental proceedings took place and the punishing authority after taking into consideration the material on the record held that the applicant has committed serious irregularity. The Director of Postal Accounts U.P.Circle, Lucknow being the disciplinary authority in his case, in exercise of the powers conferred upon him as per Rules under CCS (CCA) Rules, 1965 ordered stoppage of increments for two years without cumulative effect vide order dt. 10.9.86.

The applicant preferred an appeal to the Postmaster General U.P.C. Circle Lucknow against the said stoppage of increments order who after considering all aspects of the case rejected the appeal vide order dt. 26.3.87 and which communicated to him vide letter dt. 17.6.87.

The applicant was not entitled for Honorarium for the work which was done by him and that is why the applicant did not mention his name at initial stage in the honorarium bill and acquittance roll but, later on after the bill had been passed by the competent authority, he


AA

scored out the names of S/Shri D.K.Srivastava, UDC @@@, Shyam Sunder, UDC and A.K.Srivastava, UDC in the honorarium bill and entered his own name in place of Shri A.K.Srivastava, UDC and managed to draw the amount on 29.12.84. The matter was referred to the Member (Personnel) Postal Services Board and he also did not find any ground either to set aside or review the punishment. The applicant had also made representation against the adverse remarks to the Chief Postmaster General, Lucknow which was decided on 16.11.90. The entry against item No.17 was ordered to be expunged. Entry against item No.6 was modified and remarks regarding attending to audit objections was allowed to stand in his ACR. The D.P.C. met in December, 1987 for promotion from JAO's cadre to AAO cadre w.e.f. 1.4.87 but the applicant was found not fit for promotion. Ultimately in the year 1989 the applicant was given promotion after expiry of the punishment period. The charge levelled against the applicant is vague as per assertion given by the applicant. We have gone through the charge and we do not find that the charge is vague and is misconstituted. Facts are clear that when the applicant was not entitled for honorarium even then he managed to draw the same as stated above. The punishment order has also been challenged on the ground that it is a non-speaking order and there was no application of mind. The Postmaster General has rejected the applicant's representation after considering all the aspects of the case. The Member (Personnel) Postal Services Board also did not find any ground to review the punishment. It is true

(29)

that during this period his juniors have been promoted from the JAO cadre to AAC cadre in the year 1987. His case was also considered but the applicant was not found fit for promotion by the D.P.C. in the year 1987. He was given promotion in the year 1989 after expiry of the punishment period. The promotional post was a selection post and it was within the jurisdiction of the review D.P.C. to select or not to select. The Departmental Promotion Committee after going through the service record and after considering all the aspects of the matter did not find the applicant ^{& fit} to be promoted from the year 1987. In the above circumstances, we do not find any ground to interfere with the punishment order which has been passed on the material on record with reasons. Accordingly, the application is dismissed with no order as to costs.


Member (A)


Vice Chairman

Dated the 5 July, 1991.

RKM

CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow
Opp. Residency, Gandhi Bhawan, Lucknow

INDEX SHEET

CAUSE TITLE

24

of 1990 (L)

NAME OF THE PARTIES

Hari Pd. Sachari

Applicant

Versus

U. O. I.

&

Respondent

Part A, B & C

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15.	File B.	B1 to B156

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

22-1-90

Registration No. 24 of 1989

APPLICANT(S) H. P. Pachama

RESPONDENT(S) None

(AI)

Particulars to be examined

Endorsement as to result of examination

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

Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
No

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?

Ys

12. Are extra copies of the application with Annexures filed ?

Ys

(A2)

a) Identical with the Original ?

b) Defective ?

c) Wanting in Annexures.

Nos. _____ pagesNos _____?

13. Have the file size envelopes bearing full addresses of the respondents been filed ?

Ys No

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 ?

Ys

a) Concise ?

b) Under distinct heads ?

c) Numbered consecutively ?

d) Typed in double space on one side of the paper ?

18. Have the particulars for interim order prayed for indicated with reasons ?

Ys

19. Whether all the remedies have been exhausted.

Ys

Ginesh/

A-11-9)

(A2)

Hon. Mr. Justice G. C. Srivastava, V.C.
Hon. Mr. A. B. Corli, A.M.

The case may be listed on
6-11-51 for final hearing.

J
A.M.

W
V.C.

24/90 (L)

Hon. Justice G. Nath, V.C.
Hon. Mr. U. S. Ramaiah

See original order on the main Petition

Admit
list for further order on 23.3.90

AH

AM V.C.

OR
Dr. D. Chandras take notice on behalf of O.P.
No reply filed.
S.P.O.

23.3.90

Hon. D.K. Agrawal Jm.
Hon. K. Banga, Am.

L
22/3/90

None for applicant.
Dr. D. Chandras for rept. No 3
Respondent No 1 & 2 unrepresented.

let counter be filed within 6 weeks, rejoinders, if any 9 weeks thereafter. list for hearing on 3-10-90.

[Signature]

Dep
Jm

Ux. 90 No sitting Adj. to 21.11.90

21/11/90

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. M. M. Singh, Am.

L
4/x/90

Dr. Dinesh Chandra says that the respondents did not receive Annexures along with copy of the petition. The learned Counsel for the applicant undertakes to furnish copies to Dr. Chandra within one week. Counter may be filed within four weeks to which the applicant may file rejoinders within two weeks thereafter. list before the DR (J) on 16/11/91 for fixing a date for final hearing if possible after completion of the record.

OR
No reply has been filed.
S.P.H.

L
19/11/90

16.1.91
D.R.

Both the parties are absent today Applicant did not Annexure along with of the petition to respondents. Counter may filed by 15/2/91.

MP copy, L
7/12/91
21/11/90

M. M. *[Signature]*
Am. *[Signature]*
V.C.

re

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/S.B. LUCKNOW

O.A. 24 (L) No. _____ OF 19
H. P. Pathanai Vs. U.O.C. Sothari

AS

Sl.No.	Date	Office Report	Orders
	19.4.91	<p>D.R. Both the parties are absent today.</p> <p>There after counsel for the applicant appeared. Amendments were incorporated in both the copies as per order of the Hon. Bench.</p> <p>Counter and Reply are already on record. Case is listed for final hearing on 3/7/91 before the Hon. Bench.</p>	<p>→ Hence case is ripe for final hearing. Now this case is listed before the Hon'ble Bench on 8-3-91 for final hearing. The orders on the amendment application dated 8-2-91</p>

Recd 9
J. U. 12/27/91
A

Recd copy of the judgment order dt. 5.7.1991 passed in the case.

Q.N. Tewari
Adv.
10.7.91

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

Review Petition No. 398 of 1991

In

Original Application No.24/90(L)

Hari Prasad Pachauri Applicant

Vs.

Union of India & Others Respondents

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

Hon'ble Mr. A.B. Gorthi, Member (A)

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

This is a review application against our judgment order dated 5th July, 1991 dismissing the Original Application filed by the applicant. This Review Petition is on the ground that this Hon'ble Tribunal summarily dismissed the case which is listed for final hearing. Accordingly from the office records we found that the case was listed on 3rd July, 1991 for hearing and thereafter it was posted for delivery of judgment on 5th July, 1991, on that date judgment was delivered. It appears that the order sheets are not ^{being duly} ~~been~~ maintained ^{kept} and sometimes the order sheets are blank and the applicant is trying to take advantage of it.

2. The applicant was working as J.A.O. Incharge, SECO, Lucknow G.P.O. during the year 1984-85. It appears that the applicant was chargesheeted after the enquiry. The charge against him was that, he was entrusted with the work of getting the list of silent S.B. Accounts for the year 1984-95 prepared, and for this work U.D.C. SECO, Ledger Clerk and AFM(SB) are only entitled to get honorarium as per Directorate Instructions. As the applicant is J.A.O. he is not entitled to any honorarium, and he is expected to test check for few

(111)

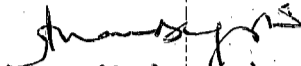
entries in each list and this work he is expected to do during office hours. The applicant is alleged to have claimed an honorarium of Rs.211.10/ by scoring out the name of S/Shri D.K.Srivastava and Shyamsundar UDCs and including his name managed to draw honorarium although he was not entitled for the said honorarium. A departmental proceedings took place against the applicant on the basis of said charges, and after hearing of the applicant a minor penalty was imposed on the applicant by stoppage of increments for two years without cumulative effect vide order dated 10.9.86. The applicant preferred an appeal to the Postmaster General U.P.Circle against the said punishment which was rejected vide order dated 26.3.87. The matter was referred to the Member(Personnel) Postal Services Board and he also did not find any ground either to set aside or review the punishment. The applicant had also made representation against the adverse remarks to the Chief Postmaster General, and the entry against the order Item No.17 was ordered to be expunged, and entry against item No.6 was modified and remarks regarding attending to audit objections was allowed to stand in his ACR. In the year 1987 the D.P.C. met for promotion from JAO's cadre to AAO but the applicant was found not fit for promotion. Subsequently in the year 1989 the applicant was given promotion after expiry of the punishment period. It appears that during this period his juniors have been promoted from the JAO cadre to AAO cadre in the year 1987, and the applicant was not promoted because he was under penalty. It was within the jurisdiction of the review D.P.C to select or not to select. The Departmental Promotion Committee did not find any matter to consider the applicant for promotion. We accordingly direct the respondents to put up the matter to the higher authority and if the higher authority did not find any merit in the applicant's case then the judgment

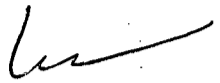
W

(A12)

of Tribunal will not stand against the respondents.

With above observation the application ~~stands~~^{is} dismissed. Nor order as to costs.


Member (A)


Vice-Chairman.

6th Nov., 1991, Luknow.

(sph)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
SITTING BENCH, AT LUCKNOW.

57A 24/90 (4)

(A/B)

Central Administrative Tribunal
Circuit Bench at Lucknow
Date of Filing 22-1-90
Date of Receipt of Past...

Deputy Registrar (J)

In re. :-

H.P. PACHAURI Vs. ... UNION OF INDIA & OTHERS.

O.A. of 1990

REGN. No.:

DATED :

FORM - II

R e c e i p t - S l i p

RECEIPT OF THE APPLICATION FILED IN THE C.A.T.
ALLAHABAD, SITTING BENCH AT LUCKNOW BY SHRI H.P. PACHAURI,
A.A.O., O/O D.A. (P); AMINABAD, LUCKNOW UNDER THE MINIST-
RY OF COMMUNICATION (DEPARTMENT OF POSTS), UNION OF
INDIA, NEW DELHI THROUGH HIS COUNSEL SHRI R.V. TEWARI,
ADVOCATE, HIGH COURT BENCH AT LUCKNOW IS HEREBY
ACKNOWLEDGED, TODAY i.e. THE OF JANUARY, 1990.

LUCKNOW ;

DATED :

FOR REGISTRAR,
C.A.T. BENCH AT,
LUCKNOW.

Noted
RV Tewari
27/1/90

F 7
L
22/1/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. 24 1990 (L)

Dt :

(L)
(AW)

Hari Prasad Pachauri --- --- --- Applicant

VS

Union of India and others --- --- --- Respondent

Application U/s-19 of CAT, Act 1985

I N D E X

(Compilation No 1)

Sl. No.	Description of Documents	Annx.	Page No.
1.	Application	A - 1	1 - 21
2.	Reviewing order dt. 22.11.1988 received on 21.12.1988.	A - 2	22 - 25
3.	Appellate order dt. 26.3.87	A - 3	26 - 28
4.	Punishment memo dt. 10.9.86	A - 4	29 - 31
5.	Lucknow Chowk H.O. IPO No. B 02419084 dt. 1.1.90 for Rs. 50/- fee of the application.	A - 5	32 - -
6.	VAKALATNAMA	A - 6	33 - -

Lucknow.

Dated :- 22.1.90.

Hari Prasad Pachauri
Signature of the Applicant

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

BA 24/90 (4)

A15

HARI PRASAD PACHAURI, AGED ABOUT 55 YEARS,
SON OF SHRI RAM SWAROOP, WORKING AS A.A.O.
(Gr. - 'B'-Gazetted) O/O THE DIRECTOR OF
ACCOUNTS (POSTAL), U.P. CIRCLE, AMINABAD,
LUCKNOW.

.....
APPLICANT

VERSUS.

1. UNION OF INDIA THROUGH THE SECRETARY,
MINISTRY OF COMM. (DEPT. OF POSTS),
NEW DELHI.
2. THE CHIEF POST MASTER GENERAL, U.P.
CIRCLE, LUCKNOW.
3. THE DIRECTOR OF ACCOUNTS, (POSTAL),
U.P. CIRCLE, AMINABAD, LUCKNOW.

.....
RESPONDENTS.

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

HUMBLE SUBMISSION IS AS UNDER :-

Hari Prasad Pachauri

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION
IS MADE :-

(i)(a)	No.	2-484/88-Vig-III
(b)	Date	22.11.1988 received on 21.12.1988 vide D.A. (P), Lucknow No. Admn.-1 (S) /Disc./HPP/TR-159 dated 21.12.88.

contd. 2..

- (c) Authority Hon'ble Member (Personnel), Postal Services Board, Govt. of India, Ministry of Commn. (Deptt. of Posts), New Delhi.
- ii) (a) VIG/M-1/3/87/4 (A/B)
- (b) 26.3.1987
- (c) PMG, U.P. Circle, Lucknow.
- iii) (a) Admn.-1(S)/P-III/HPP
- (b) 10.9.1986
- (c) Director of Accounts (Postal), U.P. Circle, Lucknow.

2. JURISDICTION OF THE TRIBUNAL

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

3. L I M I T A T I O N

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the C.A.T. (Procedures), Act. 1985 subject to the condonation of the period of delay in submission of a separate application supported by the Affidavit U/S 21 of the said Act.

4. F A C T S O F T H E C A S E

1. The applicant was working as J.A.O. INCHARGE SECO; Lucknow - G.P.O. during the year 1984-85 and the preparation of lists of Silent S.B. Accounts for the year 1984-85 was pending.

(A17)

for the months together irrespective of the repeated instructions and orders of the AO, ICO- (SB), Lucknow on account of the refusal by the staff of U.D. Cadre to attend the work of preparation of the lists of silent SB Accounts on payment of honorarium as per prescribed provisions.

The further delay was due to in-adequacy on the part of the AO, ICO, (SB), Lucknow and the Director, Postal Services, Lucknow in initiating Disc.-proceedings against the defaulters and to call them to account for such job-indiscipline prevailing since long. Reports are annexed to this application as Annexure - A-1 & A -2.

2. That under procedural rules detailed in POSTAL MANUAL OF SBCO, PAIRING AND ICO PROCEDURES as retreated under D.G. Posts, New Delhi letter No. A-2/86-SB dated 26.2.86 and 22.10.86 (Annexure No. A-3), accounts in which no transactions have taken place for a period of six (now amended to 3 years) years will be treated as Silent S.B. A/cs..

Lists of such accounts are prepared by the staff of UD Cadre working in SBCO of each and every Head Post Offices. This work should be started every year simultaneously with the work of calculation of annual interest in S.B. A/cs. by SB Branch of Head Post Offices in respect of which interest statements are prepared by the LDCs of SBCO Branch after completion of 20% checking of calculation of interest under the process by the UDCs SBCO Branches of Head Post Offices at the end of each Financial year.

Hari Lal Pachauri

S.B.

(A18)

The work of preparation of lists of SB Silent Accounts is to be attended by the staff SBCO manually and also the work by nature is specific, periodical on regular basis and in addition to the normal work-load taken into account for establishment purposes and as such UDCs engaged are required to attend this work on payment of extra remuneration in the shape of Honorarium at the rate prescribed by the Department for such operative work attended beyond normal working hours by sitting late.

3. That the official incharge of SBCO is required to exercise a test check before placing his signatures at the bottom of each lists thus prepared by endorsing the prescribed certificate for which no honorarium is allowed as he is supposed to do this work during his normal duty hours and also as part and partial of his routine duties as per Annexure - A-3 of this application.
4. That the official incharge SBCO has been held personally responsible for timely preparation and correctness of such lists under his supervision as per Annexure A-3 of this Application.
5. That the short-comings faced by the applicant to gear up the work were reported time to time to the AO, ICO (SB), Lucknow and the Director, Postal Services, Lucknow as per Annexure A.1 & A.2 of this application with a request to ~~suggest~~ suggest alternative and also to accord approval to engage the applicant himself in the interest of work and also to curtail further delay as per Annexures quoted in the para

Har. Pd Sachauri

(AP)

of this application. The authorities preferred to remain reluctant to the references. However, the AO, ICO (SB), Lucknow came forward to fix 31.12.1984 as the target date for the completion of this work without any alternative to the exigencies reported and thus the applicant was left with no alternative except to deploy himself on the job with a view to get the same completed by the stipulated period of 31.12.1984.

Accordingly, the applicant attended the work by sitting late beyond his duty hours and the completion and submission of the lists of Silent SB Accounts were reported on 29.12.1984 detailing the UDCs who did not attend the work even on orders as per SECTIONAL ORDER BOOK dated 25.9.1984 and 15.10.84 respectively. The report is annexed as Annexure A.4 of this application.

6. That on receipt of the report as per Annexure A.4 of this application the AO, ICO, (SB), Lucknow reported to the Director, Postal Services, Lucknow vide his office No. ICO/SB/Misc./LW GPO /85 dated 1.2.85 with a copy endorsed to the Chief Post Master, Lucknow G.P.O. that the incharge SBCO i.e. the applicant has claimed irregular honorarium knowing that the incharge SBCO is not entitled to claim honorarium vide DG, P & T letter No. 1/34/76-SB dated 1.2.1987 because he is required to test check few entries in each list and sign at the bottom of each page of the lists for which he will not be paid any honorarium as he is supposed to do this work during duty hours. The extract of the D.G., P & T letter No. 1-34/76-SB dated 1.2.1977 as available in the Postal

contd....6..

Han Id Sachauw

A20

Manual of SBCO, Pairing and ICO Procedures is annexed as Annexure A.5 to this application.

It was also reported that the applicant has claimed honorarium and taken payment of Rs. 211.10 by inserting his name by scoring out the name of S/Shri D.K. Srivastava and Shyam Sunder, UDCs in the honorarium bill and A. Roll No. SB-182 dated 28.12.84 after sanction and release of these vouchers for payment as the name of the applicant were not written in this vouchers initially.

7. That on completion of the work of preparation of lists of silent SB A/cs. for the year 1984-85 the applicant prepared honorarium bill and A Roll in his own hand on 27.12.84. Under the process names of all the UDCs were written in chronological number in the bill and A Roll at the first instant. The columns against the name of S/Shri D.K. Srivastava and Shyam Sunder UDCs were left blank as in case of Srivastava the amount due to him was more than Rs. 250/- and under the financial power a separate bill is to be prepared and submitted to the Director, Postal Services, Lucknow being the sanctioning authority of such bills and Sri Shyam Sunder, UDC had not attended the work at all. The columns in honorarium bill and A Roll No. SB-182 dated 28.12.84 were also to be left blank as he had also not attended the work irrespective of reports and orders but inadvertently the amount due to the applicant i.e. Rs. 211.10 were entered in these documents against the name of Shri A.K. Srivastava, UDC. On 28.12.84 the irregularity came out to be detected and the applicant

Hari Pd Sachau

contd. 7...

(A21)

by attending the office of the Post Master Lucknow G.P.O. incircled the name of Sri A.K. Srivastava, UDC and substituted his name in both these documents under the knowledge of the dealing Assistant and the APM concerned of Account Branch. To get the errasors authenticated by the sanctioning authority before release of these documents for payment was an imperative on the part of these officials exclusively. The payment was received by the applicant on 29.12.84 leaving sufficient time span to act upon the duties prescribed under procedures by these officials.

The fact reported by the AO, ICO, (SB), Lucknow on 1.2.1985 were incorrect and contrary to the factual position on the records because the question of scoring out of the name of S/Shri D.K. Srivastava and Shyam Sinder, UDCs was in no case a necessity and the name of Sri A.K. Srivastava, UDC, was corrected substituted as no honorarium was due to him.

8. That on receipt of the alleged report of the AO, ICO, (SB), Lucknow, the Director, Postal Services, Lucknow ordered Sri N.L. Gupta, ASPOS of his office to enquire into the facts. The Enquiry report dated 20.5.1985 is annexed as Annexure No. A-6 to this application.

Hari Pal Sachauri

The pre-existence of the alleged corrections and substitution of the name of the applicant over and above the name of Sri A.K. Srivastava, UDC is established also as per punishment Memo of August, 1985 issued by

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the Dy. Post Master (G), office of the Post Master, Lucknow G.P.O. against Shri Badlu Ram the then Bill Clerk for not bringing out the errasors in the knowledge of the sanctioning authority for authenticated purposes as required of him vide Rule 35 (D) of F.H.B. Vol.-I in lieu of the charge sheet dated 11.7.85. This punishment memo is annexed as Annexure No. A-6 to this application.

9. The applicant then was served with a charge sheet under Rule 16 of CCS (CCA), Rules 1965 by the Director of Accounts, U.P. Circle, Lucknow vide his office Memo No. Admn.-1(S)/P-III/HPP/AO TR-39 dated 2.7.1986 alleging that the applicant has claimed honorarium for which he was not entitled vide DGPT, letter No. 1-34/75-SB dt. 1.2.77 (Annexure A-7), being incharge of SECO, Lucknow G.P.O. and also the applicant has inserted his name in the honorarium bill and A Roll only on 29.12.84 i.e. after release of these vouchers for payment by the sanctioning authority by scoring out the names of S/Sari D.K. Srivastava and Shyam Sunder, UDCs for irregular and unlawful gain in contravention of the spirit of the Rule 3(i) of CCS(Conduct), Rules 1964. The copy of the charge-sheet is being enclosed as Annexure A-8 of this application.

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10.

Admittedly, the charges were against the factual position adduced during the Inquiry conducted by the said ASPOS as per Annexure No. A-9 of this application, the applicant requested perusal of certain documents vide Annexure A-10, but the disciplinary authority allowed perusal only of

(A-13)

the documents mentioned in the Annexure A-11 of this APPLICATION.

11. That irrespective of the facts the adequate defence and rebuttal of the charges were handicapped by denial of the perusal of the documents of mound material pieces evidence the applicant submitted his written representation on 14.8.86. Annexure No. A-12 of this application is the copy of the said written representation filed against the charge sheet at Annexure No. A-8 of this application.

The arguments raised by the applicant in his written representation are that the charges are false, without evidence on records rather contrary to the factual position adduced during the course of Inquiry and also the alleged D.G. letter dt. 1.2.77 is not applicable on the question of honorarium rather it deals with the rates of honorarium and O.T.A. prescribed for the officials of various cadres of SB and SBCO branches for preparation of the lists of silent S.B. Accounts and requested to cancel the vague charge sheet and proceedings be dropped on merit.

12. The Disciplinary authority i.e. the Director, of Accounts, (Postal), U.P. Circle, Lucknow without making of minds and adjudication of the documentary evidences punished the applicant with the stoppage of his next increments for two years without humulative effect vide his office memo No. Admn.-1(S)/P-III/HPP/TR-1485 dated 10.9.86 which is being enclosed as Annexure No A.13 of this application.

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13. The punishment memo (Annexure No. A-13) was found a non-speaking order as the disciplinary authority has failed to discuss the facts raised by the applicant in his written representation (Annexure A-12), non-making of mind as required under the principle of natural justice and an appeal dated 29.9.86/15.10.86 was preferred which is Annexure No. A-14 of this application to the Post Master General, U.P. Circle, Lucknow i.e. the appellate authority which was rejected on 26.3.87 vide PMG, U.P. Lucknow No. Vig M-1/3/87/4 dated 26.3.87. It is Annexure A-15 of this application.

14. The appellate order dt. 26.3.87 (Annexure A-15) was not only couched arbitrarily rather contrary to the realm of appraisal of evidence as if, the relevant documents have been shut out at the stage when the case was not ripe for argument.

The appellate order dated 26.3.87 remained an order not based on a sound discretion and hollowness to make up his mind on the evidence which was already on the records.

15. That the impugned findings and facts recited in both the punishment memo dt. 10.9.86 and the appellate order dated 26.3.87 show that some wring device is being adopted to cover up some laches on the part of the Administration. Aggrieved, the applicant moved the Reviewing Authority by filing a Review petition dated 24.7.87/27.7.87 addressed to the the Hon'ble Member, Postal Services Board, New Delhi.

A23

The review petition is annexed as Annexure No. A-16 to this application.

16. The Reviewing - authority has thereupon pleased to reject the petition (Annexure No. A-16) by passing the impugned order dated 22.11.88 against which this application is being filed before the Hon'ble Tribunal . The Reviewing - Order under No. 2-484/88-Vig-III dated 22.11.88 was received by the applicant only on 21.12.1989 vide D.A. (P), U.P., Lucknow Memo No. Admn.-1(S)/Disc./HPP/TR- 159 dated 21.12.1989. The impugned Reviewing order dated 22.11.88 alongwith the D.A. (P), U.P., Lucknow communicating memo dated 21.12.1989 is annexed as Annexure No. A-2 of Compilation - 1 under Index to this application.

17. The decision adopted by the Hon'ble Member (Personnel), Postal Services Board, New Delhi is simply a camouflage for orders of the disciplinary - authority and Appellate authority on the ground of the application of the alleged D.G.'s letter (Annexure No. A-5) and the wrongly conceived factual position of the alleged erasors and overwrittings caused to the Honorarium Bill and A. Roll in question respectively. The respected Member has during the course of Judicial function, adopted an attitude of critical assessment of the principles of NATURAL JUSTICE, PRINCIPLE OF DOCTRINE OF CHOICE AND THE DOCTRINE OF BENEFICIAL CONSTRUCTION. Thus this Judicial order is intending to clothe the express statutory power with un-warranted

Hari Singh Sachau

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fettering of power of the executive acting upon as if to mitigate the rigour of equity, substantial justice and fundamental safeguards guaranteed by the Constitution of India to the last dirth of balance of probability.

18. That on conspectus of all these three decisions i.e. Punishment Memo, Appellate order & Reviewing order mentioned hereinbefore the irresistible conclusion follows that the impugned order are not maintainable as they are lacking equitable and substantial justice and as such deserve to be quashed by this Hon'ble Tribunal.

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That the applicant while working as Incharge, SBCO, Lucknow G.P.O. has been awarded an adverse entry for the year 1983-84 which was communicated to the applicant only on 2.7.1986 vide D.A. (P) U.P. Circle, Lucknow No. DPC/CR/Corr-281(a) dated 2.7.1986 against which the representation of the applicant dated 14.8.86 is still pending disposal by the P.M.G., U.P. Circle, Lucknow as per D.A. (P), U.P. Circle, Lucknow memo No. Admn.-1(S)/P-III/HPP/CR/Adverse/83-84/D-1129 dated 21.3.1988.

The copy of the Adverse entries and representation dated 14.8.86 are enclosed as Annexure A-17 and A-18 to this application.

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There is arbitrariness in the award of the adverse entry and un-reasonable delay in communication and as such the adverse entries are liable to be expunged on only one ground of laches.

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Moreover, Adverse remarks should not be deemed as operative if any representation within the prescribed limit is pending vide D.G., P & T. letter No. 27/4/78-Disc -I dated 19.4.78 superceding the previous instructions contained in the D.G.'s letter No. 27/17/72-Disc.-1 dated 4.12.1972.

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The representation of the applicant dt. 14.8.86 is still pending disposal and as such the adverse entries deserve to be quashed and expunged on merit. It is, therefore, prayed that this Hon'ble Tribunal be pleased to command the respondents No. 2 & 3 to decide the pending representation dated 14.8.86 by issue a writ certiorari or any other instruction /instructions which this Hon'ble Tribunal deems fit & proper as per circumstances of the case.

19 (20)

That, consequence upon the impugned orders discussed hereinbefore, the promotion of the applicant due w.e.f. 1.4.1987 was not considered by the respondents No. 2 and 3 alongwith other officials on seniority subject to unfit in a higher functional grade of Rs. 2000-3200 under 80:20 Scheme of restructuring of cadre of Jr. Accounts officer in accordance with the D.G. (Posts) letter No. 37(R)/87-PA-Admn.-1/III dt. 11.8.87 even though the service records of the applicant was meritorious and no punishment was concurrently running. ~~except the perverse orders under disciplinary proceedings for minor penalty.~~

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That as per Annexure A-19 and A-20 the applicant was repeatedly allowed to be superceded by his juniors till he was actually promoted as A.A.O. (Gr.-B-Gazetted) on 3.11.89 with a deferred date i.e. w.e.f. 30.10.89 instead of 1.4.87 being the date of promotion of his juniors. Office order No. 284 dated 3.11.89 is being annexed as Annexure No. A-21 to this application praying that withholding of promotion without adhering to the procedure of sealed-cover or without deciding the representation dated 2.2.1988 is a nullity and against the constitutional guarantee.

This Hon'ble Tribunal is, therefore, being approached to adjudicate the position of Law and to issue directives deemed just and proper to modify the date of promotion at par the date of promotion of the officials next junior to the applicant i.e. 1.4.1987 with all benefits without disturbing the seniority of the applicant, on the respondents No. 2 & 3 as perpetual supersession could not be sustained in the eyes of Law.

5.

GROUND'S FOR RELIEF WITH LEGAL PROVISIONS

(I)-

Because, the imputations levelled against the applicant as per Annexure A-8 of this application are not only vague rather contrary to the factual position on records.

(II)-

Because, the alleged infringement of outstanding order said to have been contained as per D.G's letter dt. 1.2.77 (Annexure A-7) is misconstrued

(129)

as the instructions thus contained by the said D.G.'s letter relates to the description of rate of O.T.A. / Honorarium admissible to the various cadres of staff and not the crucial question of deployment of incharge SECO under the exigencies reported.

The charge-sheet at Annexure A-8 and the imputations appended are liable to be cancelled as not sustainable or maintainable.

(III)-

Because, the punishment memo and punishments inflicted are without making of mind and bad as the memo thus issued is non-speaking order. The synopsis is not enough to meet the requirement of natural justice and substantial justice.

The punishment memo is based on falsified facts and ulterior motives and is, therefore, liable to be quashed.

(IV)-

Because, the appellate order dated 26.3.87 (Annexure A-15) is couched arbitrarily full of hollowness to make up mind on the evidence and is also based on some wrong device to cover up administrative laches and is liable to be quashed.

(V)-

Because, the impugned reviewing order dated 22.11.88 (Annexure No. A-16) against which this application is being filed/this Hon'ble Court, is simply a camouflage for orders of the

Hari Pd Sacham

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disciplinary authority and the appellate authority. The review order is bad in the eyes of law because the principle of natural justice, principle of doctrine of choice and the doctrine of beneficial constructions have not been adhered to as required for such semi-judicial adjudication.

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Because, the adverse entries have been awarded arbitrarily (Annexure No. A-17 & A-18) and suffers inordinate delay in communication are liable to be expunged by the respondents No. 2 and 3 on merit on only ground of laches.

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Because, the adverse entries have become in-functuous on the face of the D.G., P&T letter No.27/4/78-Disc.-1 dated 19.4.78 by keeping the representation dated 14.8.86 pending beyond the prescribed limits of three months.

(VI) (VIII)-

Because, the withholding of promotion in consequence of the disciplinary proceedings for minor penalty is against the law and the departmental procedures prescribed for sealed-cover.

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(VII) (IX)-

Because the Juniors have been allowed to supercede by not considering the promotion of the applicant on expiry of the disciplinary proceedings by a supplementary D.P.C. as required under the departmental procedure and as such

(A-31)

the date of promotion i.e. 30.10.89 deserves to be amended to that of 1.4.87 i.e. the date of the promotion of the next junior officials with all benefits of promotions and emoluments.

6.

DETAILS OF REMEDIES EXHAUSTED

The applicant declares that he has availed of all the remedies available to him under CCS(CCA), Rules 1965 as per chronological details of representations, authorities and results with number of Annexures noted against each.

<u>S.No.</u>	<u>Particulars of Representations</u>	<u>Authority</u>	<u>Result</u>	<u>Annexure No.</u>
1.	Written Representation against the charges as per Annexure A-8.	The Disciplinary Authority i.e. D.A. (P), Lucknow.	Punishment inflicted. as per Annexure A-13.	A-13
2.	Appeal as per Annexure A-14.	Appellate Authority i.e. PMG, UP/LKO. As per Annexure A-15.	Rejected vide Appellate order dt. 26.3.87 as per Annexure A-15.	A-15
3.	petition to the Reviewing Authority i.e. the Hon'ble Member (P), Postal Services Board, New Delhi under R-29 of CCS(CCA)R-1965,	Reviewing Authority prescribed under R-29 of CCS(CCA) Rules 1965.	Rejected vide impugned order under Annexure A-2 compilation-1. of the application.	A-2 OF COMP-1

Hari Pal Sachauri

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7.

MATTERS NOT PREVIOUSLY FILED OR
PENDING WITH ANY OTHER COURT.

The applicant 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 authorities 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 6 above, the applicant prays for the following reliefs :-

(1)- Because the imputations labelled against as per Annexure A-8 of this application are vague and based on no evidence, this Hon'ble court be pleased to drop the charges and proceedings initiated under Rule 16 of CCS (CCA) Rules 1965 as per above.

(2)- The punishments inflicted are bad in the eyes of law and without making of mind by issue of a non speaking order of the disciplinary Authority which is liable to be quashed. This Hon'ble Tribunal be pleased therefore, to quash the punishment memo and set aside the punishments of stoppage of next increment of the applicant for two years without cumulative effect as per Annexure A-13.

Hari Pd Sachan

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(3) Because the reviewing order as per Annexure A-2 compilation - 1 of the application is perverse and bad for substantial and equitable justice is therefore, liable to be quashed by this Hon'ble Tribunal with all consequential benefits for promotion, seniority and emoluments of pay and allowances with retrospective dates.

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(4) Because, the adverse entries recorded in CR of the applicant for the year 1983-84 are arbitrarily, have become infelicitous and are liable to be expunged on the only one ground of laches. This Hon'ble Tribunal be pleased to issue instructions or commands upon the respondents No. 2 & 3 to decide the pending representation dated 14.8.86 and to expunge the entries on merit by issue a writ certiorari or any other instruction/s deemed fit and proper as per circumstances of the case.

Hon'ble Sachar

(4) (5) Because, the withholding of promotion and non-consideration of the applicant for promotion on the due date alongwith the other officials allowing the juniors to supercede the applicant disturbing his seniority without opportunity are bad in the eyes of law and also are in contravention of the procedures prescribed by the department itself and as such this Hon'ble Tribunal be pleased to issue instructions to the respondents No. 2 & 3 to modify the date of promotion of the applicant from 30.10.89 to that of

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1.4.1987 as per Annexure A-21 of this application with all benefits with retrospective date.

- (6) That the cost of this application be awarded to the applicant by passing orders against the defendants and in favour of the applicant.
- (7) That any other relief deemed proper and just in the circumstances of the case, be considered and awarded in favour of the applicant and against the Respondents.

9-

INTERIM ORDER

pending final decision on the application the Respondents No. 2 and 3 may be directed to dispose of the representation dated 14.8.86 filed against the adverse entries recorded for the year 1983-84 pending with the Respondent No. 2 since the date of its submission.

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MODE OF SUBMISSION OF THE APPLICATION

Through his counsel Shri R.V. Tewari, Advocate, High Court, Lucknow Bench, Lucknow, the applicant prays for the opportunity to have oral hearing at the admission stage.

11-

PARTICULARS OF I.P.O. IN RESPECT OF THE

APPLICATION FEE.

Lucknow Chowk, HO, Postal Order No. 02419084

contd. ...21.

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dated 1.1.90. for Rs. 50.00 (Rupees Fifty only)
payable at Lucknow G.P.O. is enclosed which is
Annexure A-3 of Compilation - 1 of this application.

12.

LISTS OF DOCUMENTS

- (i) As per Compilation - 1 Annexure A-1
to A-4.
- (ii) As per Compilation - 1 Annexure A-1 to
A-21
- (iii) Index in Form - I
- (iv) Receipt Slip in Form-II
- (v) Registered Address

Lucknow ;

Dated : 22.1.90.

Hari Prasad Pachauri
APPLICANT

VERIFICATION

I, Hari Prasad Pachauri, aged about 55 years, son of
Shri Ram Swarup working as A.A.O. (Gr-B-Gazetted), O/o the
Director of Accounts, (Postal), U.P. Circle, Aminabad, Lucknow,
do hereby verify that the contents of paras 1, 2, and 4, to 20
are true to my personal knowledge and those of paras 3, and (I)
under head 5 to (v) under head 12 believed to be true on legal
advise and personal belief and that I have not suppressed any
material fact.

Lucknow ;

Dated : 22.1.90.

Hari Prasad Pachauri
APPLICANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,

SITTING BENCH AT LUCKNOW.

(A36)

In re. :-

H.P. PACHAURI Vs. UNION OF INDIA & OTHERS.

O.A. of 1990

REGN. No.:

DATED :

REGISTERED ADDRESS

1. Particulars of the Applicant :

- i) Name of the Applicant - HARI PRASAD PACHAURI
- ii) Name of Father - Shri Ram Swaroop
- iii) Designation & Office - A.A.O. (Gazetted)
in which employed. O/O Director of Accounts,
(Postal), U.P. Circle,
Lucknow.
- iv) Office Address - Sh. H.P. Pachauri,
A.A.O., O/O The D.A.(P),
U.P. Circle, Aminabad,
Lucknow - 226 018.
- v) Address for Correspondence - -do-

2. Particulars of Respondents :-

- (A) (i) Name of Respondent - Union of India, Through
No. 1. The Secy., Min. of Comm.,
(Deptt. of Posts), New Delhi
- ii) Designation - -do-
- iii) Office Address - -do-
- iv) Address for Correspondence. - -do-
- (B) (i) Name of Respondent - The Chief P.M.G., U.P.
No. 2. Circle, Lucknow.
- ii) Designation - -do-
- iii) Office Address - -do-
- iv) Address for correspondence. - -do-

Hari Prasad Pachauri

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(C) (i) Name of Respondent
No. 3.

- The Director of Accounts,
(Postal), U.P. Circle,
Aminabad, Lucknow.

ii)	Designation	-	-do-
iii)	Office Address	-	-do-
iv)	Address for Correspondence.	-	-do-

Lucknow ;

Dated : 22.1.90.

Hari Pd Lalhauri
Signature of Applicant.

(38)

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
U.P. CIRCLE, LUCKNOW - 226 018

NO. ADMN. I(S)/Disc./HPP/TR. 159

DATED: 21/12/1988

To,

Shri H.P. Pachauri
Junior Accounts Officer,
O/o the D.A.(P), Lucknow

Sub: Petition of Shri H.P. Pachauri,
JAD O/o the D.A. (P), Lucknow.

Sir,

In reference to C.D. Letter No. Vig/M-1/3/87/4 loose dated 4.12.88 a copy of the order No. 2-48/88-Vig.III dated 22.11.88 (original) from the Member (Personnel) postal Services Board, Dak Bhawan, New Delhi containing decision of Member (P) in petition case of Shri H.P. Pachauri, JAD O/o D.A.(P), Lucknow is forwarded herewith for information.

Yours faithfully,

Sd/-

ACCOUNTS OFFICER
ADMN.I(S)

NO. ADMN.I(S)/BISC./HPP/

DATED: /12/1988

Copy forwarded to:-

1. The Postmaster General, U.P. Circle, Lucknow with reference to his No. Vig/M-1/3/87/4 Loose dated 4.12.88. The receipt of this office File No. Admn. I(S)/P-III/HPP (Disc), CRs & Service Book are hereby acknowledged.
2. A.A.O. Admn II for Service Book;
3. PA & D.D. for C.R. Portion.

Sd/-

ACCOUNTS OFFICER
ADMN.I(S)

Verified True Copy attested

R. V. Tiwari

dm/211288

Adv. Lucknow Bench.

No. 2-484/88-Vig. III

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF POSTS.

DATED:

DAK BHAWAN
PARLIAMENT STREET
NEW DELHI.

O R D E R

Shri H.P. Pachaori J.A.O Director (Postal Accounts) Lucknow has submitted a petition dated 24.7.87 against the orders of Director of Accounts (Postal) LW dated 10.9.86 imposing the penalty of withholding of his next increment for two years without cumulative effect and upheld by PMG U.P. Circle LW by order dated 26.3.87.

2. Minor penalty proceedings were initiated against him on 2.7.86 on the imputation stated below briefly:

"While working as J.A.O SBCO LW, he was entrusted with the work of getting the list of silent S.B. Accounts for the year 1984-85 prepared. For doing this work UDC SBCO, Ledger clerk and APM (SB) are only entitled to get honorarium as per Directorate instructions. J.A.O is not entitled to any honorarium. The J.A.O is expected to test check few entries in each list and this work he is expected to do during office hours. The petitioner is alleged to have claimed an honorarium of Rs. 211.10 by scoring out the name of S/Shri D.K. Srivastava and Shyamsunder U.D.Cs. and including his name and managed to draw honorarium although he was not entitled for the said honorarium." Thus it is alleged he contravened Rule 3 (1) (i) of CCS (Conduct) Rules 1964.

3. The crux of the problem in this case is that the petitioner is not entitled to claim honorarium for the work detailed in the foregoing para. He not only drew honorarium but in the process

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deleted the names of two UDCs and inserted his name, although his name did not figure originally in the said honoraria bills. The Appellate Authority held that "though the amount is small the intention of the Appellant is established to be dishonest", while rejecting the appeal of the petitioner.

4. Besides tracing the history of the case, the petition brings out that (a) the petitioner attended the work personally by sitting late beyond normal duty hours and claimed Rs. 211.10 towards honorarium and thus this act of the petitioner is not against the spirit of Directorate's instructions; (b) that the said punishment affects his pension and promotion; (c) that AD ICO(SB) was informed of the exigencies of work and his permission sought to allow the petitioner to do the work on honorarium basis; (d) that the Appellate Authority had not applied its mind properly; (e) that breach of a rule made by the department is merely an irregularity and not an 'illegality or 'misconduct' and finally prays for setting aside the appellate order.

5. None of the contentions raised by the petitioner is tenable. From the records it is seen that instead of pursuing action against the UDCs who refuse to do the work, he, on his own accord, performed the said work for getting honorarium -- an unintended benefit -- which is irregular. Thus, reporting to AO ICO (SB) regarding exigencies of work cannot hold good. Apart from this the petitioner has chosen to forget an important aspect of the case i.e. substituting his name in the place of UDCs, when originally he had not shown his name at all in the honorarium bills. This action on the part of the petitioner is highly undesirable. Records indicate that the Appellate Authority had come to a decision only after taking into account the facts and circumstances of the case as the Appellant is order itself states that "..... the intention of the Appellant is established to be dishonest.." Thus, it is seen that the

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petitioner has attempted to derive an unintended benefit and contesting whether breach of a rule is an 'illegality' or 'misconduct' or not only amounts to side-tracking the issue. While the penalty does not affect the amount of pension, his promotion should be considered after currency of punishment, as per prescribed procedure. Thus there is no ground to intercede on behalf of the petitioner. The petition deserves to be rejected.

6. In exercise of powers conferred under Rule 29 of CCs (CCA) Rules, 1965, I reject the petition.

Sd/-
(KAILASH PRAKASH)
MEMBER (PERSONNEL) POSTAL SERVICES-
BOARD.

Shri H.P. Pachori,
Jr. Accounts Officers,
D.A.P.
Lucknow.

Verified, True Copy Alleged

R.V. Tiwari

R. V. Tiwari

Adv.

High Court, Lucknow Bench.

AG2

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL),
U.P. CIRCLE, LUCKNOW: 226 018.

Dt. 17/6/87

NO. ADMN. I. (S) / P-III / Disc / D-274

To,

Shri H.P. Pachauri,
Jr. Accounts Officer,
O/O D.A.(P),
U.P. Circle,
LUCKNOW: 226 018.

SUB: Appeal against the order of stoppage of next increment
for 2 years without cumulative effect.

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Please find herewith the copy appellate order received
vide with P.M.G.'s Memo No. VIG/M-1/3/87/4 dated 26/3/87 for
information. The same may please be acknowledged in duplicate
for onwards submission to P.M.G., U.P. Circle, Lucknow.

sd/
ASST. CHIEF ACCOUNTS OFFICER
ADMN. I. (SECRET)

Verified, True Copy attested

R. V. Tiwari
R. V. Tiwari
Adv.

High Court, Lucknow Bench.

(A43)

GOVT OF INDIA
DEPTT. OF POSTS

OFFICE OF THE POSTMASTER GENERAL U.P. CIRCLE, LUCKNOW.

Memo No. VIG/M-1/3/87/4

Dt at Lw-226001, the 26-3-87.

This is an appeal dated 29.9.86 preferred by Shri H.P. Pachauri, J.A.O. O/O Director of Accounts(Postal) Lucknow against withholding of next increment for 2 years without cumulative effect awarded by Director of Accounts(Postal) vide memo no. Admn.I(s)/P-III/HPP dt 10.9.86.

The case in brief is that the appellant was proceeded against under Rule 16 of CCS(CCA) Rules 1965 vide Director of Accounts(Postal)Memo No. Admn-I(S) /P-III/HPP/AOTR 39 dated 2.7.86 for the following lapses :-

While working as Jr. Accounts Officer SSCO Lucknow GPO Lucknow, appellant was entrusted with the task of getting the list of silent SB accounts for the year 1984-85 prepared.

As per D.G.P&T letter no. 1-34/75-SB dated 1.2.77, SBCO and SB branch is entitled to get honorarium for completing the work of treating SB A/cs as silent A/cs. and preparation of list of silent accounts. The UDC SBCO, ledger clerk and APM (SB) will be paid honourarium at the prescribed rates. The Incharge SBCO who is required to test check few entries in each list and sign at the bottom of each page of the list will not be paid any honorarium as he is supposed to do this work during duty hours.

Being the Incharge of SBCO Lucknow GPO appellant was fully aware of the ruling, that is why he distributed the amount of work to be done amongst the UDCs who were entitled for honorarium. Appellant did not mention his name at initial stage in the honorarium bills and A.Roll, but later on he scored out on 28.12.84 the names of Shri D.K. Srivastava U.D.C. and Shri Shyam Sunder U.D.C. in the honorarium bill and managed to draw the hono-

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honorarium for Rs. 211.10 against his name on 29.12.84. In this way, appellant has claimed the amount of honorarium in an irregular way for which he was not entitled. By claiming honorarium when not entitled and by overwriting in honoraria bills in the manner cited above, the appellant is alleged to have violated Rule 3(1) of CCS (Conduct) Rules 1964.

The Director of Accounts (Postal) Lucknow the disciplinary authority, considered the defence representation dated 14.8.86 of the appellant and imposed the penalty appealed against.

I have gone through the case. Though the amount is small, yet the intention of the appellant is established to be dishonest. Under the circumstances there is no scope for reducing the punishment awarded.

The appeal is therefore rejected.

Sd/-

(S.P. Rai)

Postmaster General U.P.
Circle, Lucknow.

Verified, True Copy attested

R. V. Tiwari


R. V. Tiwari

Adv.

High Court, Lucknow Bench.

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL), LUCKNOW - 226018.

No. Admn. I(S)/P-III/HPP/

 Dated/10.9.86.

MEMORANDUM

Shri H.P. Pachauri, Junior Accounts Officer, Office of the Director of Accounts (Postal), Lucknow was charge-sheeted under rule 16 of C.C.S. (CCA) Rules, 1965 vide Memo of even No. dated 2.7.86. The statement of imputations of misconduct or misbehaviour against the said official was as follows :-

"While working as Jr. Accounts Officer, S.B.C.O. Lucknow G.P.O. Lucknow, Shri H.P. Pachauri, Junior Accounts Officer, was entrusted with the task of getting the list of silent S.B. accounts for the year 1984-85 prepared.

As per D.G. P&T letter No. 1-34/75-SB dated 1.2.77 SBCO and SB Branch will get honorarium for completing the work of treating S.B. A/cs. as silent A/Cs. and preparation of list of list of silent accounts. The U.D.C. S.B.C.O., Ledger Clerk and A.P.M. (SB) will be paid honorarium at the prescribed rates. The incharge SBCO who is required to trusty check few entries in each list and sign at the bottom of each page of the list will not be paid any honorarium as he is supposed to do this work during duty hours.

Being the Incharge of SBCO Lucknow G.P.O., Shri H.P. Pachauri, Jr. Accounts Officer was fully aware of the rulings, that is why he distributed the amount of work to be done amongst the U.D.Cs. who were entitled for honorarium. Shri Pachauri did not mention his name at initial stage in the Honorarium Bills A Rolls, but later on he scored out on 28.12.84 the names of Shri D.K. Srivastava, UDC and Shri Shyam Sunder, UDC in the honorarium Bill and managed to draw the honorarium for Rs. 211.10 against his name on 29.12.84. In this way, Shri Pachauri, has claimed the amount of honorarium in an irregular way for which he was not entitled. By claiming honoraria when not entitled and by over-writing in honoraria bills, in the manner cited above, the official is alleged to have violated Rule 3(i) of CCS(Conduct) Rule 1964."

The official was asked to submit his representation within a period of 10 days, failing which it would be presumed that he had no representation to make and orders will be liable to be passed against him exparte.

Alib

The official vide his application dated 11.7.86 requested for certain documents.

It was thereafter intimated to him which of these documents would be admissible vide this office letter of even number dated 8.8.86.

Subsequently the official submitted his representation dated 14.8.86 which has been examined by me in detail with respect to the other records and documents available in the case.

The first charge against the official relates to his claiming honoraria as J.A.O. SBCO Lucknow GPO when the same was not admissible to him.

On going through the representation of the official I find that despite the lengthy discussion made by him on the charge sheet he has nowhere refuted the validity of the charge.

The second charge against the official relates to his overwriting on the honoraria bill and A Roll on 28.12.84.

In this connection the statement of the official dated 15.3.85 available in record is vital. The official has stated there in that he encircled the name of Shri A.K. Srivastava, UDC on 28.12.84 on the A Roll as well as on the Bill. He has stated that both the corrections were made before the sanction of the honoraria in question.

By so stating Shri Pachauri has clearly admitted the second charge in the statement of imputations against him. On examination of the Honoraria Bill I find that the same has been checked and verified by the A.P.M. (Administration) on 27.12.84 as also by the official himself on the same date. Therefore the overwriting on the bill has been made after the same was checked and verified by the A.P.M. concerned and the official himself.

I do not agree with the plea of the official that such overwriting would have been due to over work or the matter having been dealt with in a hurry.

He has further stated that the same corrections have been made in the D.T.A. Bill, A Roll and O.T.A. register, all of which could not have been manipulated by the J.A.O. Further he

(A47)

has taken the plea that no complaint has been received from the Postmaster, D.P.S. etc. in the matter. In this connection the former point raised by the official concerned is not relevant to the charge levelled against him and the latter point is not factually correct.

I thus hold that Shri Pachauri claimed the honoraria in an irregular way for which he was not entitled and also indulged in overwriting in Honoraria Bill in the manner stated above, thus violating Rule 3 (i) of C.C.S. (Conduct) Rules 1964. However, taking a very lenient view in the matter despite the charges being fully proved against him, and the gravity of the same I hereby order the stoppage of his next increment for two years without cumulative effect.

Sd/-
(Raghav Lal)
Director Accounts (Postal),
Lucknow.

Copy to :-

1. Shri H.P. Pachauri, Jr. Accounts Officer Office of the Director of Accounts (Postal), Lucknow.
2. Accounts Officer (Admin. II).
3. P.F. of the official concerned.
4. C.R. of the official concerned.
5. Office copy.

.....

Verified True Copy attested

R.V. Tiwari

R. V. Tiwari

adv.

High Court, Lucknow Bench.

A48

ब अदालत श्रीमान्
[वादी अपीलान्त]

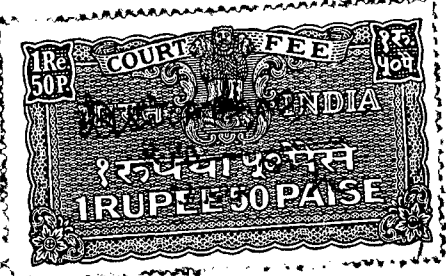
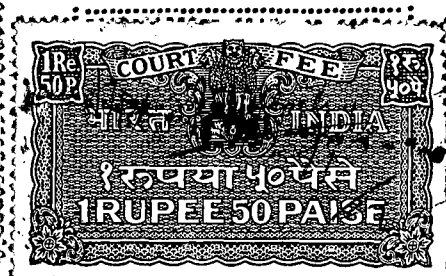
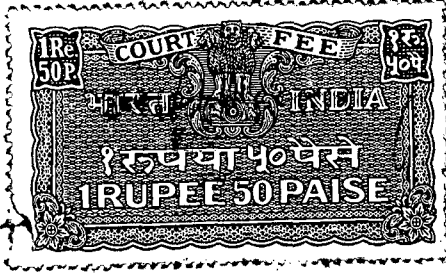
महोदय

H.P. Sachauri

वकालतनामा

प्रतिवादी [रेस्पॉण्डेंट]

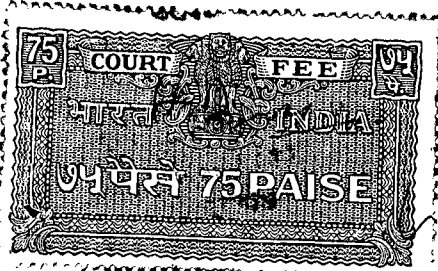
In the Central Administrative Tribunal, Allahabad
Sitting Bench at Lucknow.



H. P. Sachauri

बनाम

Union of India and Others.
प्रतिवादी (रेस्पॉण्डेंट)



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पेशी की ता०

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R.V. Tewari

Adv.

अपनी ओर से श्री

वकील

महोदय

एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

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

Accepted

R.V. Tewari
R. V. Tiwari
Adv.

High Court, Lucknow

हस्ताक्षर H.P. Sachauri

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

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स्वीकृत

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

O.A. _____ 1990

Dated :

(A49)

Harri Prasad Pachau APPLICANT.

Versus.

Union of India and Others RESPONDENTS

APPLICATION U/S 19 OF CAT, ACT 1985.

I N D E X

(Compilation No. - 2)

<u>S.No.</u>	<u>Description of documents</u>	<u>Annexure No.</u>	<u>Pages</u>
7.	Copy of Report dt. 1.12.1984	A-1	01 - 2
8.	Copy of Report dt. 29.12.84	A-2	3 - -
9.	Extract of D.G. letter dt. 26.2.86	A-3	4 - -
10.	Extract of D.G. letter dt. 1.2.77	A-4	5 - -
11.	Enquiry report dt. 20.5.85	A-5	6 - 12
12.	Punishment Memo in respect of Shri Badlu Ram, Bill clerk dated August - 85.	A-6	13 - 19
13.	Copy of charge-sheet dt. 2.7.86	A-7	16 - 19
14.	Application for perusal of records	A-8	20 - 21
15.	Copy of memo allowing perusal of records by the Disc. authority.	A-9	22 - -
16.	Copy of written representation	A-10	23 - 29
17.	Copy of punishment Memo dt. 10.9.86	A-11	30 - 32
18.	Copy of Appeal dated 29.9.86	A-12	33 - 37
19.	Copy of Appellate order dt. 26.3.87	A-13	38 - 39
20.	Copy of Review petition dt. 24.7.87	A-14	40 - 43

contd. 2..

A 50

- 21. Copy of Impugned Review order dated 21.11.88/21.12.89. A-15 44-48
- 22. Copy of Adverse entries recorded for the year 1983-84 dt. 2.7.86. A-16 49-50
- 23. Representation against the adverse entries for the year 1983-84. A-17 51-53
- 24. Copy of Office order No. 362 dated 7.1.88. A-18 54-55
- 25. Copy of Office order No. 88 dated 15.6.89. A-19 56- -
- 26. Copy of Office order No. 384 dated 3.11.89. A-20 57- -

Lucknow ;

Dated : 22.1.1990.

Hari Pd Sachawari
signature of Applicant

FOR USE IN TRIBUNAL'S OFFICE

Date of Filing

or

Date of Receipt by post.

Registration No.

signature
for Registrar.

(151)

Before the Central Administrative Tribunal at Allahabad
Sitting at Lucknow.

H.P. Pachauri ...Petitioner.

Versus.

Union of India and others. Opposite parties.

Annexure No. 1

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

From:

JUNIOR ACCOUNT OFFICER
S.B.C.O. LUCKNOW G.P.O.

TO:

THE ACCOUNT OFFICER
I.C.O.S.B. LKO. REGION
LUCKNOW.

S.B.C.O./SILENT A/Cs 84-85/84-85 LKO 1.12.84

SUBJECT:

PREPARATION OF LISTS OF S.B. SILENT A/Cs FOR THE YEAR
1984-85 OF LUCKNOW G.P.O.

REFER:- YOUR IRS. MY ORDERS FROM MY ORDER BOOK AND MY
PREVIOUS CORRESPONDENCE ON THE ABOVE SUBJECT.

~~*****~~

IT IS BEING REQUESTED TO YOUR GENTILITY AND
PROFOUND RESPECT THAT INSPITE OF MY BEST EFFORT OF S.B.
SILENT ACCOUNTS OF THE YEAR 1984-85., SHRI A.K. SRIVASTA
VA AND SHRI SHYAM SUNDER UDCS OF S.B.C.O. LUCKNOW G.P.O
HAVE NOT BEEN PREPARING THE ABOVE CITED LIST AND THEIR
ATTITUDE IS NEGLIGENCE AND ANY HOPE FROM THEM IS MERE
DECEITS.

SHRI N.K. KAUSHIK AND SHRI R.C. VERMA .SHRIRAM ANI
SHRI D.K. SHRIVASTAVA HAVE STARTED THEIR WORKS ON DUE DATE
THEY WOULD BE ENTITLED TO HONORARIUM FOR THEIR WHOLE
WORK THOUGH THEY MAY BE HELPED BY ME PREPARATION OF
LISTS OF THE ACCOUNTS WITHOUT ANY OBJECTION FROM ME.

....2

AS2

SHRI A.K.SRIVASTAVA AND SHRI SHYAMSUNDER UDCS
ARE NOT TAKING ANY INTEREST IN THE WORK AND IT APPEARS
THAT THE WORK AND IT APPEARS THAT THE WORK ALLOTTED TO
THEM MAY REMAIN UNCOMPLETE AFTER THE PERIOD OF 21MONTHS
THOUGH WORKS ORDERS WERE MARE LAST YEAR IN 1983.

AND NO UDC &PA IS READY TO COMPLY THE WORK OF
ABOVE OFFICIALS TOO.I HAVE STARTED THE ABOVE REMNED
WORK OF LISTING THE RATES OF HONORARIF ARE SAME TO THE
OFFICIALS OF ALL STATUS AND GRADES AND NO FINANCIAL LOS
WOULD OCCUR TO DEPARTMENT IF REMINISCENT WORK IS
COMPLED BY ME UPTO 31.12.84 AS IT IF WERE DONE BY ANY
UDC OR PA.

THE HONORARIUM FOR THE WORK DONE OR TO BE DONE
WOULD BE CLAIMED AT UDC RATES BY ME. IF YOU HAVE ANY
OBJECTION?KINDLY INTIMATE ALTERNATIVE ARRANGEMENTS SO
THAT LISTS MAY BE COMPLETED UPTO 31st DECEMBER,1984.

Sd/-H.P.PACHAURI
1.12.84
JUNIOR ACCOUNT OFFICER
S.B.C.O. LUCKNOW G.P.O.

TRUE COPY
Attested

Junior A/C.Officer,
C/o D.A.P. Lucknow.
24.7.87.

.....

Verified, True copy attested.

R. V. Tiwari

Adv.
High Court, Lucknow Bench.

AS3

Before the Central Administrative Tribunal at Allahabad:
Sitting at Lucknow.

H.P.PachauriPetitioner.

Versus.

Union of India and others ...Opposite parties

Annexure No. 2

INDIAN POSTS AND TELEGRAPH: DEPARTMENT

From: Junior Account Officer
S.B.C.O.Lucknow-G.P.O.

To,

The Account Officer

I.C.O., S.B.LKO

Lko.

29.12.84

SBCO/silent A/C/84-85

Preparation x claim of Lesto of Silent
A/Cs of LKO GPO for the year 1984-85

-----X-----

The following officials have failed to
prepare them allotted quota of list of silent
Accounts upto 15.7.1984.

1. Shri A.K.Srivastava.U.D.C.S.B.C.O.LKO

2. Shri Shyam Sunder ,U.D.C.,S.B.C.O LKO

hence the list of the above cited officials
to comply the work.I.A.O.self have prepared these list
and claimed due honoriana at the rates fixed to U.D.Cs=
by Directorate ,mere lists are prepared out of duty-
honours by the under signed.

Sd/- illigible

29.12.84

Junior Account Officer,

S.B.C.O.Lucknow.G.P.O.

Copy to:-

D.Ps.LKO for information.

Sd/-

Junior Account Officer,

S.B.C.O.Lucknow.G.P.O.

Verified. True copy attested.

R.V. Jiwari
Adv.

High Court, Lucknow Bench.

ASU

O.A. _____ 1990

DATED : _____

In re. :

H.P. Pachauri APPLICANT

Versus,

Union of India & others RESPONDENTS

ANNEXURE No. 3

EXTRACT OF PARA 24 (4) OF POSTAL MANUAL OF SECO, PAIRING & ICO PROCEDURES TO BE READ WITH D.G. POSTS LETTER NO. 1.2/86-SB DATED 26.2.1986.

PREPARATION OF LIST OF SILENT ACCOUNTS

"(4) When action The official incharge of the SECO will test check few entries and sign at the bottom of each page of the lists The Official incharge SECO will be held responsible for timely preparation of lists of silent accounts and will record the following certificates under his dated signature."

.....

Verified, True Copy attested

R.V. Tewari

R. V. Tiwari

Adv.

High Court, Lucknow Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

MSB

O.A. _____ of 1990

Dated : _____

In re.:

H.P. Pachairi

.....

APPLICANT

versus,

Union of India & Others

.....

RESPONDENTS.

ANNEXURE No. 4

EXTRACT OF D.G. P&T letter No. 1-34/76-SB dated 1.2.1977.

RATES OF HONORARIUM AND NORMS OF O.T.A.

"The control organisation is required to do some additional work of periodical nature on regular basis For preparation of the silent accounts lists and doing other connected work the staff of the control organisation and Savings Bank branch is entitled to the following rates of honorarium w.e.f. 1.2.77

This extract is as per POSTAL MANUAL OF S.B.C.O., PAIRING, IGO PROCEDURES.

.....

Verified, True copy attested

R.V. Tiwari

R. V. Tiwari

Adv.

High Court, Lucknow Bench.

ENQUIRY REPORT

The case relates to alleged irregular claim of honorarium of Shri H.P. Pachauri JAO SBCO Lucknow. G.P.O. As desired by BPS, I made enquiries in to the facts as reported by the AO (ICD)SB Lucknow Region vide his letter no. ICD/SB/Miac/Lw.GPO/85 dt.1.2.85. A perusal of record of SBCO shows that Shri H.P. Pachauri JAO noted an order book No. 139 dt.25.9.84 regarding preparation of list of silent accounts for the year 1984-85. These orders were signed by S/S D.K. Srivastava Sri Ram, N.K. Kaushik and R.C. Verma U.DCs SBCO Lucknow G.P.O. Shri Pachauri further noted orders on 15.10.84 for completion of the work. On 1.12.84 JAO SBCO informed to A.O. (ICD) (SB) Lucknow that Shri A.K. Srivastava was not doing the work. The A.O. ICD (SB) Lucknow ordered to complete the work by 31.12.84. The work was completed and compliance report was sent to A.O. on 29.12.84.

On examination of list of silent accounts for the year 1984-85 it is found that the lists were prepared by the officials as noted below:-

(1) Shri H.P. Pachauri J.A.O.

<u>Name of office</u>	<u>No. of Accounts</u>
AP Sabha	230
Chinhat	1053
Gosainganj	1393
Sant Market	2
Lucknow H.O.	1774
Lucknow Part I	1028
Lucknow Part II	809
National Herald	581
Amethi	212
B. Hotel	394
C.B. Lines	453
Chandganj	135
Darulsaifa	99
Military Hospital	114
Shee Lines	214
Canal Colony	501
	9002

(2) Shri R.C. Verma U.D.C.

Aliganj	38
---------	----

(3) Shri S.K. Gupta LDC

Lalbagh	536
Gokhale Marg	386

(4) Shri Sri Ram UDC

Dilkusha	2637
D.S. Bazar	480
Kumhawan	472
RBLines	316
	3905

(4)

AST

(5) Shri D.K. Srivastava UDC

Bakshi Ka Talab	36
Clarks Awadh	46
Ghazipur	319
H.A.L.	223
Itaunja	1346
Mahanagar	1317
M.N.Colony	448
Mohanlalganj	1116
Nigohan	405
Nagram	407
Niel lines	567
Nishatganj	46
T.K.Bazar	167
U.F.G.Camp	65
	<u>6510</u>

For the aforesaid work the honorarium has been claimed by the followings officials to the extent noted against each.

<u>Name of official</u>	<u>No. of Accounts claimed as per Hon. bill</u>	<u>Amount</u>
1. <u>Shri R. C. Verma UDC</u>		
AP Sabha	230	
Aliganj	38	
Chinhat	1053	271A
Gosainganj	1393	122-13
	<u>2714</u>	

2. <u>Shri N.K. Kaushik JDC</u>		
Lalbagh	536	
Gokhla Marg	386	2698
Sant Mkt.	2	121-41
Lko.H.O.	1774	
	<u>2698</u>	

(3) Shri Sri Ram U.D.C.

Dilkusha	2637	
D.S.Bazar	480	
Kumhrawan	472	3905
RBLines	316	175-72
	<u>3905</u>	

(4) Shri D.K. Srivastava

Office shown
on page 2 above 6510

Bill submitted
separately and
sanctioned by R.O.

(5) Shri H.P. Pachauri JAO

HO Part I	1028	
HO Part II	809	
National Hld.	581	
Amethi	212	
B.Hotel	394	
C.F.Lines	453	
C.Hotel	153	
Chandganj	135	
S.Bazar	99	
Hospital	114	4601
al colony	214	211-10
	<u>4693</u>	

Shri H.P.Pachauri JAO prepared Honorarium bill on 27.12.84. There are correction in the bill. The names of S/Shri D.K.Srivastava, A.K.Srivastava and Shyam Sunder have been scored out in the bills meant for account branch. In the bill kept as office copy in the administrative branch the names of Shri A.K.Srivastav & Shyam Sunder have been scored. The name of Shri D.K.Srivastav is still in the bill but, neither any amount has been shown nor it has been sanctioned. The name of Shri H.P.Pachauri JAO has been added at Sl.5 of bill JAO being I/c of SBCO checked and verified the bill on 27.12.84 under his dated signature. Hon. bill was personally brought to Administrative branch of Lucknow G.P.O. Sri Ramendra Kumar Pal PA Admn.branch checked it and put up to APM(Admn.) Shri S.N.Sinha who signed it on 27.12.84 for checking and verifying the bill. The bill was further signed by Shri L.C.Sinha Dy.P.M.(G)Lw.G.P.O. on 28.12.84 and it was finally sanctioned on 28.12.84 under the signatures of Shri S.S.Chablani Postmaster Lucknow G.P.O.

A Roll relating to the bill was also prepared by Shri H.P.Pachauri JAO. On the A Roll the particulars of PM's sanction have not been noted. The name of Sri A.K.Srivastav was first written at sl.4 of the A Roll with the amount of Rs.211-10. Which has been scored out and name of Shri H.P.Pachauri has been added with the same amount i.e.Rs.211-10. After sanction the bills from the Admn.branch the bill was brought to account branch. Shri Badlee Ram Bill Clerk Account branch signed the bill & A Roll. After further checking the same by Shri R.N.Pandey APM (A/c) it was authorised for payment by Shri R.K.Nigam Dy.P.M.(A/c) SB-No.182 dt. 28.12.84 was written by Shri R.N.Dwivedi Bills paid clerk Lucknow G.P.O. Who stated that the bill and A Roll was personally brought by Shri H.P.Pachauri JAO on 28.12.84. Shri N.K.Kaushik UDC and Shri Sri Ram took their payment on 28.12.84 and Shri Pachauri received payment on 29.12.84 while Shri R.C.Verma UDC received payment on 15.1.85 on SB No.128 dt.14.1.85.

In this case there are following two points for enquiry-

- (1) Irregular claims of Honorarium by Sri Pachauri JAO.
- (2) Unauthorised correction in A Roll & Bills

The statement of all concerned were recorded except P.M.Lucknow G.P.O. & Sri Ram UDC, where examination was not held for the case.

Shri H.P.Pachauri in his w/a dt.21.2.85 and 15.3.85 stated that he helped S/Shri R.C.Verma and N.K.Kaushik UDC in preparation of list of 2676 and 1774 accounts respectively. He had informed the AO ICO(SB)Lw.that Sri A.K.Srivastav was not preparing the list of silent accounts. He added that the claim of Shri D.K.Srivastav for 5510 accounts was above Rs.250/- and as such his name was included in the bill. According to Shri Pachauri the correction of names in bill as well as in A Roll was made by him before sanction on 28.12.84. He did not remember whether or not he had attended the Administration branch and Account branch personally for getting the needful.

Shri S.K.Gupta LDC in his w/s dt. 21.2.85 stated that he had helped Shri N.K.Kaushik UDC in preparation of lists of 386 a/c of Gokhle Marg and 536 accounts of Lalbagh P.O. and he had no objection on payment of its honorarium to Shri N.K.Kaushik.

(AS)

Shri D.K.Srivastava UDC in his w/s of 21.2.85 stated that Sri H.P.Pachauri JAO desired that lists prepared by him may be adjusted in the name of S/Shri N.K.Kaushik R.C.Verma & A.K.Srivastava so that the amount of each individual may not exceed the limit of Rs.250/-. He further added that Shri Pachauri wanted that the amount of his claim i.e.Rs. 292.95 may be adjusted with other UDC Shri Shyam Sunder to which he did not agree. He has further mentioned that due to his accident during Sep.84 he was unable to prepare the list neat and clean for which he took help of his father to make fair copy, The lists were prepared by his father who is a retired employee of the deptt. The totals, Summary and consolidation work was done by Shri D.K.Srivastava UDC in his own handwriting.

Shri Shyam Sunder UDC stated in his statement dt.21.2.85 that Shri H.P.Pachauri JAO allotted him binders pertaining to Lucknow G.P.O.binder No.1 to 76 and HAL S.O. as per order book remarks dt.25.9.84. He further stated that Shri Pachauri JAO, after two days of making orders desired that he would himself prepare the list as he was in need of money. He further added that the list were prepared by Shri Pachauri and Shri Pachauri told him to take the payment of honorarium and transfer the amount to him (Shri Pachauri) to which he (Shri Shyam Sunder) did not agree as no work was done by him.

Shri Anand Kumar Srivastava UDC in his statement dt. 21.2.85 and 15.3.85 stated that he was allotted binder no.76 to onwards of Lucknow G.P.O., U.P.Governors Camp and Clarks Avadh S.O. He also stated that Shri Pachauri JAO desired to prepare the list himself as he was in need of money. He stated that A Roll was brought in SBCO on 28.12.84 and Shri Pachauri advised him to sign on the A Roll and transfer the amount to him for which he (Shri A.K.Srivastava) objected to as the lists for which honorarium was drawn, were not prepared by him. He further stated that his name in the A Roll was uncircled by Shri Pachauri on 29.12.84 in his presence and he has no knowledge about the correction in Hen.Bills. On being questioned Shri A.K.Srivastava stated that Shri Pachauri did not tell him for taking payment on 28.12.84.

Shri N.K.Kaushik LDC in his w/s dt.15.3.85 stated that during 1.5.84 to 1.1.85 he was working as UDC and he received payment for preparing list of 536 a/c of Lalbagh 386 a/c of Gokhle Marg, 2 a/c of Sant Market, and 1774 a/c of Lucknow G.P.O. The lists of Lalbagh and Gokhle Marg were prepared by Shri S.K.Gupta LDC and summary was prepared by JAO. He added that he helped both the officials in separating the ledger cards of silent accounts and dictation to both the officials. Regarding payment he stated that Shri Pachauri informed him to take payment. He could not see on the back side of A Roll, and has no knowledge about correction of name of Shri A.K.Srivastav in A Roll.

A60

Shri R.C.Verma UDC in his w/s dt. 15.3.85 stated that he had received payment of honorarium on 15.1.85 for preparation of lists of 38 a/c of Aliganj, 230 a/c of A.P.Sabha, 1053 a/c of Chinhat and 1393 a/c of Gosainganj P.O. He prepared the list of 38 a/c of Aliganj in his writing and rest lists were prepared by Shri Pachauri JAO. He also added that he separated ledger cards of silent accounts and dictated it to Shri Pachauri in preparation of the lists. He further told that he was on leave from 23.12.84 to 30.12.84 and as such he could not receive payment on 28.12.84.

Shri Ramendra Kumar Pal P.A. Admn. branch in his w/s dt. 1.5.85 stated that there was already correction in Hon. bills and it was duly attested by the JAO SBCO when it was received by him for sanction. He further told that he had completed the formality for sanction of the bill the same day i.e. 28.12.84. He stated that he had no knowledge whether can be sanctioned and paid to JAO or not.

Shri Badloo Ram Bill Clerk Account branch in his w/a dt. 14.3.85 stated that the bill & A Roll was received by him and there were already corrections in bill & A Roll. He further added that he signed the A Roll & bill and no knowledge as to who had brought these bills & A Rolls.

Shri R.N.Pantley APM A/c in his w/s dt. 2.4.85 stated that he had checked A Roll & bill on 28.12.84 and he did not know- remember whether there was correction in the names in A Rolls & Bills or not.

Shri R.K.Nigam Dy.P.M.A/c in his w/s dt.4.4.85 stated that he did not remember about the correction.

Shri R.N.Srivastava bill paid clerk in his w/a dt. 14.3.85 stated that there was already correction in bill & A Roll and these A Roll & bill were brought to him by Shri H.P. Pachauri JAO.

Shri S.N.Sinha APM (Admn.) in his w/s dt.4.4.85 stated that Hon. bill was personally brought before him by Shri H.P. Pachauri or some other official of SBCO and as for his knowledge there was no correction in the bill when he signed the same.

Shri L.C.Sinha Dy.P.M. (G) Lw.G.P.O. & Supdt.C.S.D. Lucknow in his comments dt. 14.5.85 stated that the bills under reference when come to him did not bear the name of Shri H.P.Pachauri JAO.

As per rule in the subject only UDC SBCO ledger clerk and APM(SB) are entitled for honorarium for preparation and checking of SB silent list Shri H.P.Pachauri JAO was fully aware of the facts, that is why he distributed the amount of work done by him amongst the UDC, who were entitled for honorarium. It is clear from the Hon.bills & A Rolls that Sri Pachauri did not mention his name at initial stage in these documents. He reported on 1.12.84 to Accounts Officer ICD(SB) about non attending the said work by Shri A.K.Srivastava UDC was allotted the work of preparation of list of Lucknow GPO, UPG Camp and Clarke Avadh. Later on the work of UPG Camp and Clarke Avadh was completed by Shri D.K.Srivastava and work of Lucknow GPO by Shri Pachauri himself. It was fact that Shri A.K.Srivastava did not work to prepare the list but inclusion of his name in the Honorarium bills as well as in the A Rolls tells some things wrong and shows that Shri Pachauri was in knowledge that

Shri Vankar & Shri Singh

the claim of Shri D.K.Srivastava will be more than the sanction limit of P.M.Lw.G.P.O. and would be able to persuade Shri D.K.Srivastava to forego some work of his share in the interests of Shri Shyam Sunder so that the claim of all the officials may be sanctioned at local level ie by P.M. and for this very purpose he mentioned the name of Shri D.K.Srivastava and Shri Shyam Sunder UDC in the Honerarium bill, without mentioning the number of accounts. But when he could not succeed in his aim, he scored out the names of both the officials. S/Shri Kaushik & R.C.Verma UDC have stated that Shri Pachauri helped him in preparation of lists, for which they had separated the ledger card, and dictated the same to Pachauri. Their visions are not reliable. They have stated so only to save their skin as they have received payment of remuneration for the work which they have not done. From the statements of all concerned as well as from the relevant documents, it is proved that Shri Pachauri has claimed the amount of honerarium in an irregular way. It is also proved that he got honerarium sanctioned to those officials who had not done the work. In this way Shri Pachauri JAO have also furnished a wrong certificate on the honerarium bill.

As regards corrections in the bills & A Roll, it is found that Shri Pachauri JAO has stated that the correction was made by him on 28.12.84 while Shri S.N.Sinha APM(Admn.) & Shri L.C.Sinha Dy.P.M.(G) stated that there was no correction in the bills and the name of Shri H.P. Pachauri was not mentioned in the bills when these were put up to them for signatures. It is observed that the bill was submitted on 27.12.84 and it was also signed by Shri S.N.Sinha on 27.12.84, thus correction in the bill on 28.12.84 is at a later stage by JAO was not permissible. It is found that there was no correction in the bills till it was signed by Sri L.C.Sinha on 28.12.84. The bill was sanctioned by the P.M. on 28.12.84. Shri S.S.Chhablani P.M.Lw.G.P.O. who sanctioned the bill could not be examined but the circumstances of the case ~~specify~~ that the correction was made after the bill was sanctioned by the P.M. In this way Shri H.P.Pachauri has committed a serious irregularity which may amounts falsification in Govt. documents.

Though Shri H.P.Pachauri is responsible for which but the following officials also committed irregularities.

1. Shri R.K.Pal P.A.Admn.branch

He has stated that there was already correction in the bill when he examined it for sanction but as per statement of S/S S.N.Sinha APM(Admn.) & L.C.Sinha Dy.P.M.(G) there was no correction and name of Shri H.P.Pachauri was not there, if it is supposed that Shri Pachauri made correction after verification of S/Shri S.N.Sinha & L.C.Sinha and before sanction by P.M., then it was the duty of Shri R.K.Pal to point out about the correction to the sanctioning authority, In not doing so he got allowed the payment of Honerarium to Shri H.P. Pachauri who was entitled for Honerarium as per DG Communication already mentioned in the Certificate furnished in the bill. As such he committed gross negligence and concealed the correction made by the JAO.

2. Shri Badloo Ram P.A. Account branch.

He failed to prepare a fresh A Roll as the A Roll presented to him for checking was bearing correction. Moreover the particulars of sanction were not mentioned in the A Roll. He should have at least signed over the corrections.

3. Shri N.K. Kaushik UDC SBCO Lko. G.P.O.

He did not prepare the list himself but claimed the amount of Honorarium.

4. Shri R.C. Verma UDC SBCO Lko. G.P.O.

He prepared the list of 38 accounts only but received the payment of Honorarium for 2714 accounts.

The following documents relating the case are enclosed for favour of perusal.

1. w/s dt. 21.2.85 & 15.3.85 of Shri H.P. Pachauri JAO.
2. w/s dt. 21.2.85 of Shri S.K. Gupta LDC SBCO.
3. w/s dt. 21.2.85 of Shri D.K. Srivastava UDC SBCO
4. w/s dt. 21.2.85 of Shri Shyam Sunder UDC SBCO
5. w/s dt. 21.2.85 & 15.3.85 of Sri A.K. Srivastav UDCSBCO
6. w/s dt. 15.3.85 of Shri N.K. Kaushik LDC SBCO
7. w/s dt. 15.3.85 of Shri R.C. Verma UDC SBCO
8. w/s dt. 1.5.85 of Shri R.K. Pal P.A. LKO. G.P.O.
9. w/s dt. 14.3.85 of Shri Badloo Ram P.A. LKO. G.P.O.
10. w/s dt. 4.4.85 of Sri R.K. Nigam Dy. P.M. LKO. G.P.O.
11. w/s dt. 4.4.85 of Shri R.N. Pandey APM A/C LKO. G.P.
12. w/s dt. 14.3.85 of Shri R.N. Dwivedi P.A. LKO. G.P.O.
13. w/s dt. 4.4.85 of Sri S.N. Sinha APM LKO. G.P.O.
14. w/o-dv Comments dt. 14.5.85 of Shri L.C. Sinha Supdt C.S.D. Lucknow.
15. Office copy^{du} only to Rs. 630/36 in r/o payment of Honorarium for preparation of list of silent accounts (Copy of admn. branch).
16. Copy of bill No. SB-182 dt. 28.12.84 in r/o payment of Honorarium for Rs. 630/36 for preparation of list of silent a/c (copy of a/c branch).
17. A Roll of SB/B2/dt. 28.12.84 relating to Hon. bill for Rs. 630-36 in original.
18. A Roll of SB-128 dt. 14.1.85 relating to redrawing of amount from U.D. for Rs. 204-58 in original.

Examined
by me

(S. Asha)

12/5/85

(N.L. Gupta)
ASPOs

O/O The D.P.S. LKO. RGN. LUCKNOW.

Verified, True Copy attached

R.V. Tiwari
K.V. Tiwari

Adv.

High Court, Lucknow Bench.

In the Central Administrative Tribunal, Circuit Bench, Lucknow.

O.A. _____ of 1990
Dated _____

H.P. Pachauri
Union of India and others

Applicant
Respondents,

APP. U/S 19 of CAT Act 1985.

ANNEXURE No. 6.

DEPARTMENT OF PUBLIC
OFFICE OF THE POSTMASTER, LUCKNOW : GPU-226901.

Mem. No. B-43/DTA/Londonation/85. dt Lucknow, Aug. , 1985.

Shri Badloo Ram, Postal Asst., Accounts Branch, Lucknow GPU was charged under Rule 16 of CCS (CA) Rules, 1965 vide this office memo no. even dated 11.7.85 with the statement of imputation of misconduct reproduced below:

"An honorarium bill of 1988 for preparation of list of silent accounts for the year 1984-85 was sanctioned vide Postmaster, Lucknow no. 11 dated 20.12.84. The above bill bearing correction in the name of Shri A.K. Srivastava to that of H.P. Pachauri J.A.O. He failed to check the unauthorised correction done by JAO without authentication of drawing officer. Moreover the particulars of sanction were not mentioned in the A. Roll. He should have atleast signed over the correction.

It is thus alleged that Shri Badloo Ram, P.A., Lucknow GPU failed to discharge his assigned duty in violation of rule 4(6) of Volume VI read with rule 35 of FHB Vol. I and thereby did not maintain devotion to duty in contravention of the provisions of rule 3(i)(ii) of CCS (Conduct) Rules, 1954."

I have gone through the representation of the official. It is contended that bills and A. Rolls were prepared in 1988 and presented to him for check and allowing disbursement and that the corrections were duly authenticated under the signature of Shri H.P. Pachauri J.A.O. As per rule 35(d) of FHB Vol. I all corrections or any inter-erasure deemed necessary is to be authenticated under full signature and date of drawing officer. As Shri Pachauri was not the drawing officer, correction under his signature should not have been accepted. The official thus failed in performance of his legitimate duty with deviation and charge against him stands proved. However, I am inclined to take a lenient view in order to give a chance to the official to give better performance in future and hereby order that Shri Badloo Ram be CENSURED for the above lapse.

Postmaster (G)
Lucknow GPU.

Copy to:-

1. The official concerned.
2. P.F. of the official.
3. Pension Register.
4. C.H. file of the official.
- 5-6. Spare.

Postmaster (G)
Lucknow GPU.

Verified, True Copy attested Lucknow GPU.

R.V. Tewari
R.V. Tewari
Adv.

High Court, Lucknow Bench.

Statement of imputation of misconduct against Shri R.K.Pal,
P.A., Lucknow GPO.

(Abh)

An honorarium bill of SBCO for preparation of list of silent accounts for the year 1984-85 was submitted by JAO SBCO for payment. There was a correction in the bill in name of Shri A.K. Srivastava, UDC. This correction was not pointed out by Shri R.K.Pal to sanctioning authority. In the payment of honorarium to Shri H.P. Pachauri, J.A.O. SBCO who was not entitled for the honorarium as per rules.

not doing
he got
lowered

It is thus alleged that Shri R.K.Pal, P.A., Lucknow GPO failed to maintain devotion to duty and contravened the provision of rule 3(1) (ii) of CCS (Conduct) Rules, 1964.

Dy. Postmaster (G)
Lucknow GPO.

Verified, true copy attested

R. V. Tewari

R. V. Tewari

Adv.

High Court, Lucknow Bench.

Department of Posts
Office of Sr. Supt. of Post Office Allahabad Division

ABS

Form. No. JACO/Non./Inv. Hlt./ Dt. of Alld., 25/10/73
Year 87-88/88-89

In accordance with DG Post New Delhi memo. No. 103/30/71-UP I dated 6.5.73 and 25.10.73, sanction of Sr. Supt. of Post of Allahabad is hereby accorded for the payment of Honorarium for the preparation of IR returns statement for the year 1987-88 to the extent of 1000 branches of Allahabad HQ as detailed below:-

Sl. No.	Name of the Official	Designation	Amount
1.	H/Offr E.P. Pandey	Supervisor	150.00
2.	H.O. Deyvedi	U.D.C.	207.45
3.	O.P. Shukla	"	224.50
4.	H.K. Mishra	"	100.00
5.	Jyoti Singh	"	111.70
6.	H.O. Singh	"	222.99
7.	V.K. Mishra	"	249.75
8.	Kalyan Singh	"	151.05
9.	T.P.H. Yadav	L.D.C.	249.75
10.	Jagdish Yadava	"	217.55
11.	Arvind Kumar	"	249.75
12.	H.K. Prasad	"	110.50
13.	Lalish Mishra	"	100.00
Total			2359.55

55

Rs. Two thousand three hundred nine & paise sixty only.

Sr. Supt. of Post Office
Allahabad Division

Copy to :-

- Director of Accounts (Postal) U.P. Circle Lucknow
P.P. to his No. PAM/1110/Amc-1 Report/20 dated 24.4.89.
- The Sr. Postmaster Allahabad for information and necessary action.
- 4 office copy & spare.

Note : The payment has already been made in August 88. This memo. is not for payment.

Amr/

Verified, True Copy attested

R.V. Tewari

R. V. Tewari

Adv.

High Court, Lucknow Bench.

(A 66)

Before the Central Administrative Tribunal at Allahabad:

Sitting Bench at Lucknow.

Petition No. of 1990.

Shri H.P.Pachauri, ... Petitioner,

Versus.

Union of India and others. ... Opposite parties.

Annexure No. 7

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL),
U.P.CIRCLE LUCKNOW-226018.

No. Admn. 1(S) P-III/H.P.P./A.P.T.R.39. Dated 2.7.86.

MEMORANDUM

Shri H.P.Pachauri (Designation) Jr. Accounts Officer
(Office in which working) office of the Director of
Accounts (Postal), Lucknow, is hereby informed that it is
proposed to take action against him under Rule 16 of C.C.S.
(C.C.A) Rules, 1965. A statement of the imputations of mis-
conduct or misbehaviour on which action is proposed to be
taken as mentioned above, is enclosed.

2. Shri H.P.Pachauri, Jr. Accounts Officer is hereby given
an opportunity to make such representations as he may wish
to make against the proposal.

3. If Shri H.P.Pachauri, Jr. Account Officer fails to
submit his representation within 10 days of the receipt of
this Memorandum, it will be presumed that he has no represen-
tation to make the orders will be liable to be passed
against Shri H.P.Pachauri, Jr. Accounts Officer, ex-parte.

4. The receipt of this Memorandum should be acknowledged by

A67

Shri H.P.Pachauri, Jr. Accounts Officer.

sd/- Illegible,
(ROSHAN LAL)
DIRECTOR OF ACCOUNTS (POSTAL)
U.P. CIRCLE. LUCKNOW.

REGISTERED/A.D

To,

Shri H.P.Pachauri,
Jr. Accounts Officer,
Add. Inspection Party No.1,
Firozabad.H.O.
Firozabad(U.P.)

.....

Verified. True copy attested.

R. V. ...
R. ...

Adv.
High Court, Lucknow Bench.

A68

Before the Central Administrative Tribunal at Allahabada
Sitting Bench, at Lucknow

H.P.Pachauri. ...Petitioner.

Versus.

Union of India and others. ...Opposite parties

Annexure No. 7-(a)

THE STATEMENT OF IMPUTATIONS OF MISCONDUCT OR MIS
BEHAVIOUR AGAINST SHRI HARI PRASAD PACHAURI, JR. ACCOUNTS
OFFICER, OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL) U.P.
CIRCLE. LUCKNOW.

(i) While working as Jr.Accounts Officer, S.B.C.O
Lucknow, G.P.O. Lucknow, Shri H.P. Pachauri, Jr. Accounts
Officer, was entrusted with the task of getting the list
of silent S.B.Accounts for the year 1984-85 prepared.

As per D.G.P&T letter No.1-34/75-SB dated 1.2.77
S.B.C D.and S.B.branch will get honorarium for comple-
ting the work of treating S.B.A/Cs.as silent A/Cs.and
preparation of list of silent accounts.The U.D.C.S.B.C.D
Ledger clerk as A.P.M. (SB) will be paid honorarium at
the prescribed rates.The Incharge S.B.C.D.who is required
to test check few entries in each list and sign at the
bottom of each page of the list will not be paid any
honorarium as he is supposed to do this work during duty
hours.

Being the Incharge of S.B.C.D.Lucknow,G.P.O.
Shri H.P.Pachauri, Jr.Accounts Officer was fully aware
of the rulings, that is why he distributed the amount of

(A2)

work to be done amongst the U.D.Cs who were entitled for honorarium. Shri H.P. Pachauri did not mention his name at initial stage in the Honorarium bills and a Rolls, but later on he scored out on 28.12.84 the name of Shri D.K. Srivastava, U.D.C. and Shri Shyam Sunder U.D.C. in the honorarium Bill and managed to draw the honorarium for Rs. 211.10 against his name on 29.12.84. In this way, Shri Pachauri, has claimed the amount of honorarium in an irregular way for which he was not entitled. By claiming honorarium when not entitled and by overwriting in honoraria bills, in the manner cited above, the official is alleged to have violated Rule 3(1) of C.C.S (Conduct) Rules 1964.

Sd/-
 (ROSHAN LAL)
 DIRECTOR OF ACCOUNTS (POSTAL),
 U.P. CIRCLE. LUCKNOW.

...

Verified. True copy attested.

R. V. Tiwari
 R. V. Tiwari
 Adv.
 High Court, Lucknow Bench.

(A7)

(2) letters whose copies are required

- 1. Reply of letter no SB CO / Silent A/c Dh-25 / Dh-25 LKO dated 14.2.84 addressed to A.O. Sec SB LKO from FAO SSec LKO
- 2. A letter issued from A.O. Sec SB LKO to FAO SSec LKO regarding completion of work of SB Silent A/c Dh-25 by 31.12.84 at any cost
- 3. Copy of the Complaint of Hon. LKO regarding scoring out the names of Shri D.K. Siroharia & Anthonym Suresh VDCs on 28/12/84 and the copy also of the action taken by him against me.
- 4. The Complaint lodged by the Hon. Lucknow regarding irregular disposal of honoraria in my name by Hon. Lucknow, A Hon. Aesa Hon. Siroharia on 29/12/84.
- 5. The rules under which the J.A.O. has been forbidden to perform the work of Silent A/c for honoraria out of duty hours in the circumstances beyond his control.
- 6. The rules under which the honoraria of representation of JMT statement have been paid to other officials other than machinists.

Pray

Now I pray

- 1. That the abovesaid whole records may kindly be consolidated at one office where I may consult easily without loss of time and cost.
- 2. The date of submission of representation may kindly be extended upto 18th Aug 1986 as now-a-days I am in inspection party and consultation of above mentioned record would not be in my easy access.
- 3. The letters or records which are not available or would be unavailable may I kindly be informed of their to.

With best regards, yours faithfully

Sri Prasad Pacharni

J.A.O. o/o D.A. (P) Lucknow
Now in inspection party, A.O. I

Dated 11.7.86

Verified, true copy attached at Fatehgarh H.O.
R.V. Tiwari

Adv.
High Court, Lucknow Bench

A72

Before the Central Administrative Tribunal at Allahabad:
Sitting Bench at Lucknow.

H.P.Pachauri. Petitioner.

Versus.

Union of India and others. Opposite parties.

Annexure No. 9

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATION
DEPARTMENT OF POSTS.
OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
U.P.CIRCLE. LUCKNOW-226018.

No.Admn.1(S)/P-III/ H.P.P./ T R 1183 dated 8.8.86.

MEMORANDUM

With reference to the representation dated 11.7.86 of Shri H.P.Pachauri, Jr.A.O. in response to the chargesheet issued to hi, Shri Hari Prasad Pachauri, Jr.A.O. is hereby permitted to inspect the following records, considered relevant, in the chamber of Account Office Admn.I(S) during the week commencing from 11th August, 1986:-

1. Bill of honorarium No.SB.182, dated 28.12.84.
2. A.Roll of SB-182 dated 28.12.84.
3. Details as stated in the Enquiry Report by A.S.P.Os, Lucknow about Number of silent accounts for 1984-85 whose lists have been prepared by the officials.

His reply to the charge sheet should be received within two weeks of receipt of this memo failing which the decision will be taken ex-parte.

Sd/- Illigibke
Shri Hari Prasad Pachauri Jr. Accounts Officer, P.A. II Sect. U.P.CIRCLE. LUCKNOW.
Inspection Party no.1
Auraiya H.O.
AURAIYA (U.P)

Verified. True copy attested.
R. V. Diwari
Adv.

केन्द्रिय प्रशासनिक अधिकरण, इलाहाबाद

वृत्त २७०५ - पीठ, लखनऊ

मू० प्र०

/1990

ता० पेशी -

हरि प्रसाद पचौरी

-- प्रार्थी

भारत सरकार आदि

--कृतिवादीगण/विषक्षीगण

॥ यूनियन आफ इण्डिया आदि ॥

परिशिष्ट -नं० 10

सेवा में,

श्रीमान निदेशकजी ,

डाक लेखा उत्तर प्रदेश परिमंडल लखनऊ ।

बिषय :- सी० सी० ए० सी० सी० एस० के नियम 16 अन्तर्गत
आरोप पत्र का बचाव ।

संदर्भ :- आपका ज्ञापन संख्या ए.डी.एम.-1 ॥एस ॥ पी - 3/एच.पी
पी. दिनांक 8-8-86

मान्यवर महोदय,

सक्रिय उपरोक्त बिषय में किम्प निवेदन है यद्यपि पूर्ण
अभिलेख के अक्लोकन के अभाव में समुचित बचाव प्रस्तुत करने में
अस्मर्थ हूँ फिर भी कि उपरोक्त आरोप का निर्णय अति शीघ्र हो
सके मैं अपना निम्नांकित पक्ष प्रस्तुत कर रहा हूँ आशा है कि इस
पर सहानुभूति पूर्वक विचार होगा ।

इस आरोप पत्र के दो पहलू है प्रथम मानदेय ॥आनरेरियम ॥
बिल संख्या 182 व वेतन चिट्ठा सं० 182 दिनांक 28-12-84 में
परिवर्तन व सुधार दूसरा है निष्क्रिय छातों की सूची बनाने का

का अनाधिकृत मानदेय प्राप्त कर लेना अतः दोनों के बिजय में

अलग - अलग बचाव प्रस्तुत है :-

वेतन चिट्ठा ॥ एरीयर ॥ व मान देय ॥ आनरेरियर ॥ बिल संख्या

182 दिनांक 28-12-84 में परिवर्तन व सुधार ।

1- श्री डी० के० श्रीवास्तव व श्री श्याम सुन्दर उच्च श्रेणी

लिपिको के नामों का स्कोरिंग वेतन चिट्ठा 183 दिनांक 28-12-

84, में नहीं है शायद दोनों के नाम ही इस वेतन चिट्ठे में नहीं है ।

2- मानदेय भत्ते बिल संख्या 182 दिनांक 28-12-84 में इनके

नाम हो सकते हैं परन्तु उनके नाम के सामने श्री श्याम सुन्दर के कार्य

न करने और श्री डी० के० श्रीवास्तव का मानदेया 250/- से अधिक

का होने के कारण छाते संख्या व धनराशि का खाना खाती

छोड़ दिया गया था अतः नाम का लिखा होना या उसके आगे

धान न लिखे होने पर स्कोरिंग कोई महत्व नहीं रखता विद्वर

अधिकारी इसे दोष की संज्ञा न देने की अनुकम्पा करेंगे ।

3- जैसे मानदेय भत्ते बिल सं० 182 दिनांक 28-12-84 में

सारे उच्च श्रेणी लिपिकों और अपना नाम मेरे द्वारा लिखा गया

था जैसे ही कुछ कार्य की अधिकता व जल्दबाजी में मेरे अपने कार्य

की धनराशि 211/-रु० भूत से श्री ए० के० श्रीवास्तव के नाम के

सामने लिखा गई थी उसे मैंने सभी बिल सं० 182 की तीनों प्रतियों

व वेतन चिट्ठा ॥ एरीयर ॥ को सुधार कर अपने प्राध्वरों द्वारा

प्रमाणित कर संस्वीकृति हेतु डाकपाल लखनऊ को प्रस्तुत करे=हे

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किया था अतः बिल व एरीयल में परिवर्तन प्रस्तुत करने से पूर्व ही किये गये थे ।

4- यहकि सभी अभिलेखों बिल संख्या 182, वेतन चिदठा सं० 182 दिनांक 28-12-84 व समयोपरिभत्ता रजिस्टर में सुधार है । अगर परिवर्तन व सुधार प्रारम्भिक स्थिति प्रस्तुत करते समय के न होकर इसके पश्चात में किये गये होते तो कोई भी अभिलेख ऐसा अवश्य होता जिसमें परिवर्तन न हो पाता और जो प्रमाणित करता कि सुधार इसके पश्चात हुआ है परन्तु ऐसा नहीं है। सारे अभिलेखों में सुधार है जो प्रमाणित करता है कि सारे अभिलेखों में प्रस्तुत करने से पूर्व ही हो गये थे ।

5- एस० बी० सी० अशो० के बिलों की प्रतियाँ एक डाकपाल लखानऊ ॥ प्रशासन ॥ के कार्यालय में हो प्रतियाँ लेखानुभाग में व वेतन चिदठा कोषागार व लेखानुभाग में रहते है ये पूर्वोक्त अभिलेख समयोपरिभत्त सहायक, स० डा० पा० प्रशासन, डाकपाल, उप डाकपाल लेखा, बिल सहायक लेखा, भुगतान सहायक लेखा व कोष सहायक व सहायक डाकपाल कोष के हाथों से निकलते है क्या यह सम्भव है कि मैं इत्ने कर्मचारियों व अधिकारियों की ईमानदारी कर्तव्यनिष्ठा को धोखा देकर इन सभी अभिलेखों में परिवर्तन/सुधार कर सकता था किसी एकाध कर्मचारी को गुमराह, लालायित किया जा सकता था सभी को नहीं अतः प्रारम्भिक स्थिति में ही सुधार किये गये थे स्वतः प्रमाणित है ।

6- यदि मैंने 28-12-84 व 29-12-84 को कोई स्कोरिंग का परिवर्तन किया था तो कोई भी पैरा 5 में वर्णित कर्मचारी/अधिकारी मेरे इस दुराचा

मेरे इस दुराचार के विपरीत किसी भी विद्वान^{उच्च} अथवा अधिकारी को कम्प्लेन अवश्य करता परन्तु ऐसा न होने से यह स्वतः प्रमाणित है कि इन ब्लि व एरियल सं० 182 दिनांक 28-12-84 में 28-12-84 व 29-12-84 को कोई स्कोरिंग या परिवर्तन नहीं हुआ था ।

7- रहा कर्मचारियों व अधिकारियों के विविधा पश्चात के स्टेटमेंट के बारे में वे काफी समय पश्चात लिये गये है और समयान्तर व्यक्त की स्मृति पर पर्दा डाल चुका होता अतः किसी भी लालच दबाव, प्रभाव व मय द्वारा किसी भी कर्मचारी से विद्वान अधिकारी गण कुछ भी लिखावा सकते है अतः उनकी प्रामाणिकता कितनी विश्वसनीय हो सकती है आप जैसा विद्वान अधिकारी स्वयं निर्णय लेने में समर्थ है ।

8- यदि डाकपाल लखनऊ एस०बी०सी०ओ० के मानदेय भत्तों के विषय में कुछ भी ज्ञान रखते हो तो वे मुझसे इस अनाधिकृत दावे का स्पष्टीकरण मांगते और धन का तुरन्त जमा करने के आदेश देते लेकिन ऐसा अभी तक नहीं हुआ इससे स्पष्ट है कि डाक घर के डाकपाल व उपडाकपाल इन नियमों से पूर्ण अपरचित रहकर एस०बी० सी०ओ० इन्चार्ज की कृपा पर रहते है ऐसी दशा में अनधिकृत होने के कारण ब्लि व एरियल में नाम न लिखाना और फिर बाद में परिवर्तन का आक्षेप उचित नहीं है उन्हें यह तक भी अभी तक पता नहीं है कि जे०ए०ओ० ने क्या - क्या ब्लि व एरियल में लिखा था और क्या सही या गलत था अतः उनका दोषारोपण या किसी प्रकार का साक्षी विचारणीय नहीं है ।

अतः मेरी उपरोक्त प्रार्थना के आधार पर मेरे ऊपर

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उक्त दोषारोपण का विद्वान व दयालु अधिकारी विचार करने की अनुकम्पा करें ।

निष्क्रिय छातों की सूची बनाने का 211/-रु० का अनधिकृत मानदेय प्राप्त कर लेना

- 1- कृपया संलग्नक संख्या 1 व 2 देखें ।
- 2- मैंने जो 211/-रु० का मानदेय प्राप्त किया है वह निष्क्रिय छातों की सूची चेक करने का न होकर सश्रम निष्क्रिय छातों की सूची बनाने का है वह भी आधा यू सूचियां अवश्य बनाई जाती है और किसी भी उच्च श्रेणी लिपिक को भुगतान अवश्य होता लेकिन ज उच्च श्रेणी लिपिको ने दो साल में भी सूचियां नहीं बनाई तो मुझे बनानी पड़ी और मानदेय लेना पड़ा यह कार्य मैंने राष्ट्रीय हित में किया था ।
- 3- जिस कर्मचारी ने निष्क्रिय छातों की सूची परीक्षा की शक्ति को तो अनुभव किया जा सकता है परन्तु ये सूचियां बनाने की उसमें सामर्थ्यता का निम्न अभाव कितने दुःख का कारण हो सकता है विद्वान अधिकारी स्वयं निर्णय लें ।
- 4- संलग्नक संख्या 1 व 2 जो लेखाधिकारी आन्तरिक जाँच संगठन बचत बैंक लखनऊ व निदेशक डाक सेवाये लखनऊ क्षेत्र लखनऊ द्वारा इस अनधिकृत भुगतान से सम्बन्धित है से स्पष्ट है कि इस स्पष्टीकरण के पश्चात न लेखाधिकारी महोदय ही और न निदेशक डाक सेवाये लखनऊ ने ही मेरे प्रतिकूल कार्यवाही की और न 211/-रु० के वापसी के आदेश ही दिये और इस भुगतान का

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औचित्य इन विद्वान अधिकारियों द्वारा अपनी मौन साधना द्वारा
पमाणित कर दिया ।

5- उपरोक्त प्रकार का एक भुगतान श्री डी० के० श्रीवास्तव उच्च
श्रेणी लिपिक लखनऊ जी० पी० ओ० को जिनहोने कि अपने नाम पर
आवृत्त 1984-85 के निष्क्रिय छातों की सूचियां बाजार से बनवाई
थी और उनका मानदेय लेखाधिकारी आई. सी. ओ. एस. बी.
द्वारा संस्तुति व निदेशक जी लखनऊ क्षेत्र द्वारा संस्वीकृत कर, भुगतान
किया गया है परन्तु इसे अभी तक अनधिकृत व अनियमित नहीं माना
गया है फिर मेरे ही इस भुगतान को क्यों अवैध ठहराया गया है।
डाकपाल को 250/- तक के मानदेय भत्ते संस्वीकृत करने का अधिकार है।

मुझे दुःख है कि मेरे द्वारा उपरोक्त निष्क्रिय छातों की
सूचियों सश्रम जैसाकि सलग्नक नं० 2 में उल्लिखित है राष्ट्रीयहित व
हानि को ध्यान में रखाते हुये तैयार करना और तुच्छ मानदेय की
धानराशि को प्राप्त करना व साधारण भूल सुधार परिवर्तन दोष
माना जा रहा है ।

अतः दशा एव न्याय के प्रतीक है और आपकी सभी
सहायकों पर सदैव अनुकम्पा रही है अतः करबद्ध किरीत प्रार्थना
है कि मैं अब भविष्य में ध्यान रखूंगा कि ऐसी भूल, अनियमितता
गलती न हो पावे । मेरी गत बीस साल की सेवा में अभी तक मुझे
कोई भी दोषारोपण पत्र तो क्या प्रताड़ना भी नहीं मिली है और
एक वर्ष से आपके कार्यालय में कार्यरत हूँ आप मेरे चाल चलन व कार्य
से अवगत है ।



अतः पुनः करबद्ध प्रार्थना है कि मेरे मामले को सहानुभूति पूर्वक विचार कर प्रार्थी को दोषमुक्त कर अनुग्रहित करने की अनुकम्पा करें। प्रार्थी आजीवन आपका आभारी रहेगा।

कियत

संलग्नक

2 त्रिपृष्ठीय

हरि प्रसाद पचौरी
कनिष्ठ लेखाधिकारी
निदेशक डाकमन्त्र लेखा का
कार्यालय लखनऊ

दिनांक 14-8-86

Verified, true copy attested

R. V. Tiwari
R. V. Tiwari
Adv.

High Court, Lucknow Bench.

Before the Central Administrative Tribunal at Allahabad:
Sitting at Lucknow.

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H.P.Pachauri.

... Petitioner.

Versus

Union of India and others.

....Opp. parties.

...

Annexure No. 11

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
LUCKNOW-226018

No. Admn I (S)/P-III/HPP

Dated 10.9.1986

MEMORANDUM

Shri H.P. Pachauri, Junior Accounts Officer, Office of the Director of Accounts (Postal) Lucknow, was charge-sheeted under rule 16 of CCS (CCA) Rules 1965, vide Memo of even no. dated 2.7.86. The statement of imputations of misconduct or misbehaviour against the said official was as follows:-

" While working as Jr. Accounts Officer, S.B.C.O. Lucknow G.P.O. Lucknow, Shri H.P. Pachauri, Junior Account Officer, was entrusted with the task of getting the list of silent S.B. accounts for the year 1984-85 prepared."

As per D.G.P & T letter no-1-34/75-SB dated 1.2.77 S.B.C.O and S.B. Branch will get honorarium for completing the work of treating S.B.A/Cs as silent A/Cs and preparation of list of silent accounts. The U.D.C.S.B.C.O. Ledger Clerk and A.P.M. (SB) will be paid honorarium at the prescribed rates. The incharge SBCO who is required to test check few entries in each list and sign at the bottom of each page of the list will not be paid any honorarium as he is supposed to do this work during duty hours.

Being the Incharge of SBCO Lucknow, G.P.O., Shri H.P. Pachauri, Jr. Accounts Officer was fully aware of the rulings, that is why he distributed the amount of work to be done amongst the U.D.Cs. who were entitled for honorarium. Shri Pachauri did not mention his name at initial stage in the Honorarium Bills and Rolls, but later on he scored out on 28.12.84 the names of Shri D.K. Srivastava, UDC, and Shri Shyam Sunder UDC in the honorarium bill and managed to draw the honorarium for Rs. 211.10 against his name on 29.12.84. In this way, Shri Pachauri, has claimed the amount of honorarium in an

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irregular way of which he was not entitled. By claiming honoraria when not entitled and by over-writing in honoraria bills, in the manner cited above, the official is alleged to have violated Rule 3(i) of CCS (Conduct) Rules 1964 (1964) "

The official was asked to submit his representation within a period of 10 days, failing which it would be presumed that he had no representation to make and orders will be liable to be passed against him ex parte.

The official vide his application dated 11.7.86 requested for certain documents.

It was thereafter intimated to him which of these documents would be admissible vide this office letter of even number dated 8.8.86.

Subsequently the official submitted his representation dated 14.8.86 which has been examined by me in detail with respect to the other records and documents available in the case.

The first charge against the official relates to his claiming honoraria as J.A.O. SBCO Lucknow GPO when the same was not admissible to him.

On going through the representation of the official I find that despite the lengthy discussion made by him on the charge sheet he has nowhere refuted the validity of the charge.

The second charge against the official relates to his overwriting on the honoraria bill a A Roll on 28.12.84.

In this connection the statement of the official dated 15.3.85 available in record is vital. The official has stated there in that he encircled the name of Shri A.K. Srivastava U.D.C. on 28.12.84 on the A Roll as well as on the Bill. He has stated that both the corrections were made before the sanction of the honoraria in question.

By so stating Shri Pachauri has clearly admitted the second charge in the statement of imputations against him. On examination of the Honoraria Bill I find that the same has been checked and verified by the A.P.M. (Administration) on 27.12.84 as also by the official himself on the same date. Therefore the overwriting on the bill has been made after the same was checked and verified

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by the A.P.M. concerned and the official himself.

I do not agree with the plea of the official that such overwriting would have been due to over work or the matter having been dealt with in a hurry.

He has further stated that the same corrections have been made in the O.T.A. Bill, A Roll and O.T.A. register, all of which could not have been manipulated by the J.A.O. Further he has taken the plea that no complaint has been received from the Postmaster, D.P.S. etc. in the matter. In this connection the former point raised by the official concerned is not relevant to the charges levelled against him and the latter point is not factually correct.

I, thus hold that Shri Pachauri claimed the honoraria in an irregular way for which he was not entitled and also indulged in overwriting in Honoraria Bill in the manner stated above, thus violating Rule 3(i) of CC.S(Conduct) Rules 1964, However taking a very lenient view in the matter despite the charges being fully proved against him, and the gravity of the same. I hereby order the stoppage of his next increment for two years without cumulative effect.

Sd/-Illigible
(Raghav Lal)^{10.9.86}
Director Accounts (Postal)
Lucknow.

Copy to:-

1. Shri H.P. Pachauri, Jr. Accounts Office office of the Director of Accounts (Postal) Lucknow.
2. Accounts Officer (Admn. II)
3. P.F. of the official concerned.
4. C.R. of the official concerned.
5. Office copy.

Verified. True copy attested.

R. V. Tewari
R. V. Tiwari
Adv.

High Court, Lucknow Bench.

H.P. Pachauri
Union of India and others

Applicant
Respondents.

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APP. U/S 19 of CAT Act 1985.

ANNEXURE No. 12.

The Post Master General,
U.P. Circle, Lucknow.

THROUGH : PROPER CHANNEL.

Subject : Appeal against the order of stoppage
of next increment for 2 years without
cumulative effect -

Reference : Director Accounts (Postal) U.P. Circle,
Lucknow No. ADMN-1(S)/P-III/HPP dated
10.9.1986.

=====

Sir,

THE APPEAL SHOWETH AS UNDER -

(1) That while the appellant was working
as Sr. Accts Officer, SBCO, Lucknow GPO during the year
1984-85 he was to manage the work of SBCO including
the preparation of the list of silent S/B Accts for
the year 1984-85 within the target dates specified by
the AD ICO-(3B), Lucknow by issue of instructions
followed by reminders.

(2) That the preparation of the list of
silent SB Accts were to be attended by the staff
working in UDCCadre on honOrarium basis by working
beyond the office hours as well as on yielding output
for days work to the tune of the time factor available
to such staff on days basis.

The work done was distributed amongst the
the staff in UDCCadre through orders duly recorded
in the Sectional Order Book. Admittedly, the facility
not to attend such work by any one of the staff
chronically earmarked to be attended only on payment
of honourarium is also admissible except certain
exegencies.

Thus the nature of volunteership is
appendix to such type of work leaving enough room to
apprehend delay as well as to formulate the arrange-
ment accordingly by the Incharge SBCO on such matters.

Under this hollowness of the obligation
Sarvasri Shyam Sunder and A.K. Srivastava UDCs expres-
ed their inability to attend their work thus assign-
ed to them atleast within the target dates. They
actually did not put themselves to prepare the said
list.

(3) That the appellant then brought the
position before the AD ICO SB Lucknow to arrange
staff in addition to the one already available at
SBCO Lucknow GPO or to put the appellant himself on
the work as an alternative to meet the residual work
of preparation of the list of 90 Silent Accounts on
honOrarium basis at the rate admissible to the staff
of UDCCadre in the interest of the public work as
well as to avoid arrears.

Recd
MCP
18/10/86
FOR...

(2)

The Lt. A. ICo SB Lucknow, it appears, having no objection did not prefer to intervene in the interest of work since to have vigil watch to restrain any increasing arrears of work with SBCA is one of his statutory liability.

(*) This non-interference with a judgement of the appellant in view of the flexibility of the instructions contained in DG P&T Letter No. 1-34/75-SA dated 1.2.77 envisaging inadmissibility of payment of honorarium to the Incharge SBCA was interpreted as the approval of the said AD ICo SB Lucknow.

The appellant, accordingly put himself on the work and prepared the list of SA Silent Account primarily allotted to Sarvasri Shyam Sunder and A.K. Srivastava actually by working beyond the office hours and as such he was alone to prefer honorarium at the lowest rate prescribed for UDC Cadre.

The copy of the report dt. 1.12.84 under no. SBCA/Silent Accts/54-25/84/30 is annexed herewith for your kind perusal. The claim of honorarium preferred by the appellant was in no case against any idle formality rather the compensation was to be paid up to him for the exertion caused to his physique by attending office till late hours, and that too at the rate already prescribed.

(4) That while honorarium bill and A.Roll were under preparation the name of two UDCs i.e. Sri A.K. Srivastava and Shyam Sunder who did not attend the work as per para 2 above was erroneously written and the amount calculated shown payable as per no. of accounts omitting the name of the appellant as a result of casualness and customary go of the system on 27.12.84.

This mistake was, however, awakened the mind of the appellant only on 28.12.84 while he himself was going to submit the bill to the office of the Chief Post Master, Lucknow GPO for exercising the checks and according his sanction on his satisfaction. The appellant then scored out the entries regarding Sarvasri A.K. Srivastava, Shyam Sunder and Sri D.K. Srivastava UDCs and inserted his name as per chronological serial allotted to the bills and A.Roll to the name of Sri A.K. Srivastava leaving the scored-entry regarding Sarvasri Shyam Sunder and D.K. Srivastava UDCs unfilled and the documents were transferred to Sri R.K. Pal Postal Asstt. working in the Administrative Branch of the Chief Post Master Lucknow GPO on 28.12.84 to process the action ahead.

This fact of bearing prebend correction in the bill and A.Roll has been corroborated and substantiated by the statement of Sarvasri R.K. Pal and Badlo-Ram as well as Sri R.N. Dubey the Bills Clerk of the Office of the Chief Post Master Lucknow G.P.O.

This infact gives an index as to the truth against the falsified imputations and allegations levelled against the appellant.

The statements of Sarvasri S.N. Sinha, AFM Administration and Sri L.C. Sinha the then Deputy Post Master(G) Lucknow GPO carry no weight as these officials are none to receive such documents at the very first instant, and the ignorance regarding existence of any correction with the alleged documents as expressed by these officials in their

(3)

DS

statements is not only an after thought rather an attempt to seek lame excuse after provocation and inadmissibility of payment of honorarium to the I/C, SBCO were exposed to these officials during the ~~past~~ course of PRILIMINARY- ENQUIRY. This is also an attempt to save the accorded sanction being void after such overwriting or corrections being admitted and accepted.

This makes the statements of Sarva Shri S.N. Sinha and L.C. Sinha discreditable and bad on the face of all fairness.

(5) The disciplinary authority has erred not to mention and discuss the circumstances in which the list of SB Silent Account were prepared by the appellant, implied approval of the A.O. ICO(SB), Lucknow as well as the reduced rate applied to calculate the amount of honorarium. This omission on the part of the disciplinary authority makes the conclusion drawn in the punishment memo sub-verseive to the requirement of such judicial-orders.

The disciplinary authority thus has come up with a preconceived otherwise he would had provided remedial opportunity to the appellant for the purposes of this appeal.

Under accounts rule applicable to such irregular payment or any amount of over payment the amount of honorarium paid up to the appellant would have quite smoothly got refunded since the amount was earned against work duly attended and in no case by wrong appropriation. This was not got done by the disciplinary authority which transpired that he was inclined to punish the appellant compensating the ~~alleged~~ alleged loss by stoppage of any increments of the appellant.

(6) The disciplinary authority has also failed to advanced the reasons to discredit the deposition of Sarva Shri R.K. Pal, Badloo Ram and R.N. Dubey establishing the alleged corrections and over-writing, if any, was existing at the time of receipt of the disputed documents by these officials much more earlier than Sarva Shri S.N. Sinha and L.C. Sinha. The punishment memo has, therefore, lost the propriety of a judicial order and as such is not maintainable on the face of the instructions and obligatory provisions of C.C.S.(CCA) Rules 1965. ~~That~~ The contension of the disciplinary authority that the bill was corrected after being sanctioned by the deputy post master, (G), Lucknow C.P.O. and being scrutinised by the APM(Adm), Lucknow, C.P.O. on 27-12-84 is incorrect and the result of misreading the statements and records available in the concerned file of the proceedings since the bill was actually submitted on 28-12-1984 and not on 27-12-84.

(7) The disciplinary authority has made foundation of his findings in his memo of punishment matter entirely on the basis of the sheet issued under file office

the name of sarva shri D.K. Srivastava and D.K. Srivastava without providing any opportunity at the initial stage to refute such type of whims and surmises. The findings arrived at in the punishment memo are, therefore, full of improbabilities. The punishment thus imposed is, therefore, liable to be set aside. The list of SB Silent account earmarked to the share of Shri D.K. Srivastava, UDC was actually got prepared by him engaging labour on hire from open market and the claim preferred by him was objected by the appellant on the same ground. The question of name of Shri D.K. Srivastava being included in the said document does not arise and was sorted out accordingly on 28-12-84.

This bill was later on sanctioned and the amount was paid up to Shri D.K. Srivastava, UDC by the grace of the AO ICD(SD) Lucknow on consideration ridiculously.

(8) That the disciplinary authority has erred to viciate the legalistic and judicial propriety of the final order passed by him on 10-9-86 which is not maintainable on the face of the law since no correction or rectification in the draft of such judicial order once issued is permissible.

(9) That the circumstances are there exposing to the truth that the I/C SBCO have put themselves on work for which honorarium is admissible only to the subordinate staff and the claim preferred by such I/C SBCO have been sanctioned under flexibility and exigencies of public services. The case of Incharge SBCO, Nawabganj, Kanpur and J.A.O, SBCO Saharanpur may be referred to.

Moreover the spirit of the said letter of the D.G. P & T, New Delhi is prohibitory in nature and irregularity, if any, committed under such restriction is simply clerical or making of spot judgment bearing no misconduct against the Govt. Servant including the appellant, if proved to be acted upon in good faith thus the punishment inflicted without statutory procedural or administrative rules should in no case be allowed to operate adversely as such the punishment of stoppage of increment of two years without cumulative effect by the disciplinary authority here the learned Director Accounts (Postal), U.P. Circle, Lucknow deserved to be set aside with immediate effect.

(10) That the disciplinary authority has failed to assess that the punishment of stoppage of increments at such stage would shadow the emoluments of pension which is not too remote. Since the disciplinary authority has passed such a harsh punishment without notice as prescribed in the CCS(CCA) Rule 1965, thereby the punishment-memo appealed against stands viciated for the same reason.

P R A Y E R

Since the formation of opinion by the disciplinary authority is prejudicial and based on misreading of record available and the punishment thus inflicted is not a judicial order, it is prayed that the justice may now be done as discussed above by placing orders---

Contd....5

(5)

1787

(1) to set aside the non-judicious order of punishment issued by the Director Accounts (Postal), U.P. Circle, Lucknow. Vaid his office No. Admn.-I(s)/P-III/HPP/TR1485 dated 10-9-1986 stopping the next increment for two years without cumulative effect, and appealed against, at the earliest.

For this act of your kindness the appellant and his dependents will remain grateful for ever.

WITH DUE REGARDS.

Yours faithfully,

H.P. Pachauri
(H.P. Pachauri) 14/9/86
J. A. O.

Office of the Director Accounts
(Postal), U.P. Circle, Lucknow

Dated: 29-9-1986

Received Two Copies.
@ 14/10/86

am S.K. Verma
270 Bahu (S)

Verified, True Copy attested

R.V. Tiwari
R. V. Tiwari
Adv.

High Court, Lucknow Bench.

A 88

Before the Central Administrative Tribunal at Allahabad

Sitting at Lucknow.

H.P.Pachauri.Petitioner.

Versus.

Union of India and others.Opposite parties.

Annexure No. 13

GOVT OF INDIA
DEPTT.OF POSTS.
OFFICE OF THE POSTMASTER GENERAL U.P.CIRCLE.LUCKNOW.
Memo No.VIG/M-1/87/4 Dt.at Lw-226001, the 26.3.87

....

This is an appeal dated 29.9.86 preferred by Shri H.P.Pachauri, J.A.C.O/o Director of Accounts (Postal) Lucknow, against withholding of next increment for 2 years without cumulative effect awarded by Director of Accountx (Postal) vide memo no. Admn.I(S)P-III HPP dt.10.9,86.

The case in brief is that the appellant was proceeded against under Rule 16 of CCS(CCA) Rules 1965 vide Director of Accounts (Postal) Memo No. Admn-I(S)/P-III/HPP/AOTR 39 dated 2.7.86 for the following lapses:-

While working as Jr.Accounts Officer SBCO, Lucknow, GPO, Lucknow, appellant was entrusted with the task of getting the list of silent SB accounts for the year 1984-85 prepared.

As per D.G.P&T letter no.1-34/75-SB, dated 1.2.77, SBCO and SB branch is entitled to get honorarium for completing the work of treating SB A/Cs silent A/Cs and preparation of list of silent accounts. The UDC SBCO, ledger clerk and APM(SB) will be paid honorarium at the prescribed rates. The Incharge SBCO who is required to test check for entries in each list and sign at the bottom of each page of the list will not be paid any honorarium as he is supposed to do this work during duty hours.

Being the Incharge of SBCO Lucknow GPO, appellant was fully aware of the rulings, that is why he distributed the amount of work to be done amongst the UDCs

who were entitled for honorarium. Appellant did not mention his name at initial stage in the honorarium bills and Roll, but later on he scored out on 28.12.84 the name of Shri D.K. Srivastava U.D.C. and Shri Shyam Sunder U.D.C. in the honorarium bill and managed to draw the honorarium for Rs. 211.10., against his name on 29.12.84. In this way, appellant has claimed the amount of honorarium in an irregular way for which he was not entitled. By claiming honoraria when not entitled and by overwriting in honoraria bills in the manner cited above, the appellant is alleged to have violated Rule 3(1) of CCS (Conduct) Rules 1964.

The Director of Accounts (Postal) Lucknow the disciplinary authority, considered the defence representation dated 14.3.86 of the appellant and imposed the penalty appealed against.

I have gone through the case. Though the amount is small, yet the intention of the appellant is established to be dishonest. Under the circumstances there is no scope for reducing the punishment awarded.

The appeal is therefore rejected.

Sd/-
(S.P. Rai)
Postmaster General U.P.
Circle, Lucknow.

.....

Verified: True copy attested.

R.V. Tewari
R. V. Tewari
Adv.

High Court, Lucknow Bench.

H.P. Pachauri
Union of India and others

Versus.

Applicant

Respondents.

APP. U/S 19 of CAT Act 1985.

ANNEXURE No. 14.

A90

To

The Member (Personal), **POSTAL (DEPARTMENTAL) BOARD**
O/O D.G. Department of Posts,
New Delhi - 110 001.

Through:- The P.M.G. U.P.Circle, Lucknow.

Subject: Petition against the order of rejection passed by the P.M.G. U.P.Circle, Lucknow i.e. the appellate authority against the appeal against the orders of stoppage of next increment for 2 years without commulative effect.

Ref: P.M.G. U.P.Circle, memo no. Vig/M-1/3/87/4 dated 26.3.87 received under Director of Accounts (Postal), U.P.Circle, Lucknow No. Admn-1-(s)/P-3/Disc-TR/400/274 dt.29.6.1987.

-o-o-o-o-

Respected Sir,

The petition showeth as under:-

- (1) That while petitioner was working as Incharge, SBCU Lucknow G.P.O., he was required to get prepared the list of silent S.B. Accounts for the year 1984-85 prepared personally under the exigencies elaborated in his written defence submitted to the Disc. Authority on 14.8.1986, refuting, as given in line 5 & 6th of page 4th of the Defence, the charges levelled against him vide memo No. Admn.1-(s)/P-3/HPP/AUTR-39 dated 2-7-1986.
- (2) That subsequently the appeal dated 29.9.86 was filed against the punishment order dated 10.9.86 issued by the Director of Accounts (Postal) U.P.Circle, Lucknow vide his office memo No. Admn.1(s)/P-III/HPP-TR-1485 dated 10.9.86 before the P.M.G. U.P.Circle, Lucknow i.e. the appellate authority.

The appellate authority observed no scope for reducing the punishment awarded thereby he confirmed the punishment inflicted by the Disc. Authority and the appeal was rejected.

Hence this petition is preferred on the grounds and circumstances narrated here as under:-

1. The precise allegations as viewed by the Disc. Authority as well as the appellate Authority are that in the DGP&T letter No. 1-34/75-SB dated 1.2.77 authorises U.D.Cs SBCO, ledger clerk and APM (SB) to attend the work of preparation of the list of Silent Accounts (SB)

Contd...2/-

on payment of honorarium at rates prescribed and is prohibitory in nature refraining the I/C of SBCCO to put himself on the work of preparation of the list of Silent Accounts and earn honorarium under the system of checks and balances, even to be calculated at the very rates, available for UDC ledger clerk and APM(SB).

A91

Contrary to this precedural rule it was further observed that the petitioner attended the said work personally by sitting late beyond normal duty hours and has claimed Rs. 211.10 towards honorarium by correcting A.Rolls and honorarium bills accordingly.

Thus the act in violation of the said letter was recognised as mis-conduct and the petitioner was punished with the stoppage of increment for 2 years without cumulative effect, allowing the amount of Rs. 211.10 within his purse.

The plea of the petitioner that the nature of the said procedural rule circulated in the shape of standing order is simply prohibitory without any ~~xxxx~~ alternative and violation of such instructions does not involve moral turpitude, thereby act could not be ~~xxxx~~ defined as mis-conduct, was not given any cogpizence by these two authorities.

Thus the appeallate order dated 26.3.87 petitioned against is based on no statutory rules.

Further the punishment of stoppage of increment for 2 years has been passed at the stage which shadows the emoluments of pension since the petitioner is to be permoted in 80% 20% Scheme and retired within five years is also defective of lack of notice as enjoys by CCS(CCA) Rules 1965.

As per records some UDCs have expressed their unwillingness to attend the work of preparation of list of Silent Accounts(SL) for the year 1984 which was to be completed within the target dates as circulated by the A.O./C.O.(SB), Lucknow.

The AO/CO(SB), Lucknow vide applicated dated 1.12.84 was informed of the exigencies under ~~the exigencies~~ which his kind permission was sought to allow the petitioner to put himself physically on the work on honorarium basis much more earlier the claim of honorarium was actually preferred as a special case.

Contd...3/-

This sort of permission was not new to the Circle administration since the Director Postal Services, Kanpur Region, Kanpur has already issued permission to certain I/C of SBCO within his region to attend this specific work on payment of honorarium because the only consideration at that stage was that the work be not suffered.

A92

2. Admittedly the P.M.G., U.P. Circle, Lucknow, while considering the appeal has not evaluated all the necessary Pros and Cons of the unqualified obligations imposed by the said DGP&T New Delhi letter dated 1.2.77 as to what the petitioner should do to meet the work more specifically when even the AOICO (SB), Lucknow was found indifferent to release further instructions to dispose of the request for permission pending with him, rather the appellate authority has come out to cover the laconic order of the disciplinary authority by pleading that the unwillingness of some of the UDCs to attend the work on honorarium was not the relevant excuse for the I/C SBCO including the petitioner.

Hence the decision as adopted by the appellate authority, it appears, has been passed with haste to appreciate not only the pervasive promise and follow-up action assumed ⁱⁿ critical situation to envisage a suitable follow-up on account of discriminatory procedure adopted by the other Regional Heads within their own Circles.

The whole order is therefore, incensed by the abuse of prejudice both to the petitioner and procedure since on prominent exhibit is the application dtd. 1.12.84 to the AOICO (SE) Lucknow which proves that the contention of both the authorities i.e. Disp. authority and appellate authority to support their stand is a figment of imagination otherwise nothing goes on records, whatever they say.

3. It is further pleaded that in order to see what was actually in issue, your goodself may kindly adjudicate the pleadings and the judgement of these two authorities by application of ~~canons~~ canons of natural justice based on the following principles:-

(a) A breach of a rule made by the Deptt. itself for its convenience is ~~ixx~~ merely an irregularity and not an illegality or misconduct.

(b) The act will be considered objectively in the larger interest of work and by doing this it would be held that

Contd...4/-

the observation of these two sets of authorities have not decided the unqualified obligation without other alternative imposes by such departmental rulings.

As such their intention was invalid.

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PRAYER:

Wherefore on the facts, circumstances and pleading narrated in this petition it is prayed that the justice may now be done by placing orders:-

(1) To set aside:-

(a) The punishment of stoppage of increments for 2 years without cumulative effect as inflicted by the Director of Accounts(Postal) U.P.Circle, Lucknow vide his office memo no. Admn-1-(s)/P-III/HPP-TR-1485 dated 19.9.86.

(b) The appellate order petitioned against and as issued by the P.M.G, U.P.Circle, Lucknow vide his office memo No. vig/M-1/3/87/4 dated 26.3.87.

(2) To draw and disburse the arrear of increments thus stopped on account of these impugned orders w.e.f. 10.9.86 at the earliest.

With due regards,

Yours faithfully,

Hari Pd Pachauri

(H.P. PACHAURI)

J.A.O.,

O/O The Director of Postal Accounts, Lucknow.

Received
two copy
27/7/87
Dated: 24/7/87

Note:- Copies of the memos records and documents, a mention of which has been made in this petition are available with the Director of Accounts(Postal), U.P.Circle, Lucknow, who is being requested this day to submit the petition with the due comments accompanied by the relevant papers through the P.M.G. U.P.Circle, Lucknow as desired.

Recd
27/7/87

Verified, one copy attested

R.V. Tewari

R. V. Tiwari

Adv.

High Court, Lucknow Bench.

AGW

Before the Central Administrative Tribunal, at Allahabad.

Sitting Bench at Lucknow.

Sri H.P.Pachauri. ... Petitioner.
Versus.
Union of India and others. ... Opp. parties.

Annexure No. 15

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
U.P. CIRCLE LUCKNOW 226 028

No. ADMN.1(5)Disc/NPP/TR.159 Dated 21.12.1988

To,

Shri H.P.Pachauri,
Junior Accounts Officer,
C/o The D.A.(P), Lucknow.

Sub: Petition of Shri H.P.Pachauri,
JAC c/o the D.A(P), Lucknow.

Sir,

In reference to C.O.Letter no.vig/M-1/3/87/4 loose dated 4.12/88 a copy of the order No.2-48/88-vig.III, dated 22.12.88 (original) from the Member (Personnel) Postal Services Board, Dak Bhawan, New Delhi, containing decision of Member(P) in petition case of Shri H.P.Pachauri, JAC C/O D.A.(P) Lucknow is forwarded herewith for information.

Yours faithfully
sd/-Illigible,

ACCOUNTS OFFICER
ADMN.I(5)

.....2

Verified. True Copy attested

R.V. Tawari
R. V. Tawari
Adv.

High Court, Lucknow Bench.

2918

.2.

No. ADMN.1(S)/DISC./HPP/

DATED: /12/1988

Copy forwarded to:-

1. The Postmaster General, U.P. Circle, Lucknow, with reference to his No. Vig/M-1/87/4, Loose dated 4.12.88. The receipt of this office file no. Admn.1(S)/P-III/HPP (Disc) CRs & Service Book are hereby acknowledged.
2. AAO. Administrative Books, Service Book.
3. P.A. to DD for C.A. Portion.

sd/-Illigible

ACCOUNTS OFFICER.
ADMN:1(S)

.....

Verified. True copy attested.

R. V. Tewari

R. V. Tewari

Adv.

High Court, Lucknow Bench.

A96

Before the Central Administrative Tribunal at Allahabad:
Sitting at Lucknow.

H.P.Pachauri. ... Petitioner.
Versus
Union of India and others ... Opposite parties.
...

No.2-484/88-Vig.III
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF POSTS.

DATED.
22 NOV.1988
DAK BHAWAN
PARLIAMENT STREET
NEW DELHI.

- O R D E R -

Shri H.P.Pachauri, J.A.O % Director (Postal Accounts) Lucknow, has submitted a petition dated 24.7.87, against the orders of Director of Accounts (Postal) LW dated 10.9.86 imposing the penalty of withholding of his next increment for two years without cumulative effect and upheld by PMG U.P. Circle LW by order dated 26.3.87.

2 Minor penalty proceedings were initiated against him on 2.7.86 on the imputation stated below briefly:

" While working as J.A.O. SBCO LW, he was entrusted with the work of getting the list of silent S.B. Accounts for the year 1984-85 prepared. For doing this work UDC SBCO Ledger clerk and APM(SB) are only entitled to get honorarium as per Directorate instructions. J.A.O. is not entitled to any honorarium. The J.A.O. is expected to test check few entries in each list and this work he is expected to do during office hours. The petitioner is alleged to have claimed an honorarium of Rs.211.10 by scoring out the name of S/Shri D.K. Srivastava and Shyamshunder UDCs. and including his name and managed to draw honorarium although he was not entitled for the said honorarium". Thus it is alleged he contravened Rule 3(1)(1) of CCS (Conduct) Rules 1964".

3 The crux of the problem in this case is that the petitioner is not entitled to claim honorarium for the

A92

work detailed in the foregoing para. He not only draw honorarium but in the process deleted the names of two UDCs and inserted his name, although his name did not figure originally in the said honoraria bills. The appellate authority held that "though the amount is small the intention of the Appellant is established to be dishonest" while rejecting the appeal of the petitioner.

4. Besides tracing the history of the case, the petition brings out that (a) the petitioner attended the work personally by sitting late beyond normal duty hours and claimed Rs. 211.10 towards honorarium and thus this act of the petitioner is not against the spirit of Directorate's instructions; (b) that the said punishment affects his pension and promotion; (c) that AO ICO (SB) was informed of the exigencies of work and his permission sought to allow the petitioner to do the work ~~xxxxxx~~ on honorarium basis; (d) that the appellate Authority had not applied its mind properly; (e) that breach of a rule made by the department is merely an irregularity and not an 'illegality' or 'misconduct' and finally prays for setting aside the appellate order.

5. None of the contentions raised by the petitioner is tenable, from the records, it is seen that instead of pursuing action against the UDCs who refuse to do the work, he, on his own accord, performed the said work for getting honorarium - an unintended benefit - which is irregular. Thus, reporting to AO ICO (SB) regarding exigencies of work cannot hold good. Apart from this, the petitioner has chosen to forget an important aspect of the case, i.e. substituting his name in the place of UDCs, when originally he had not shown his name at all in the honorarium bills. This action on the part of the petitioner is highly undesirable. Records indicate that the appellate Authority had come to a decision only after taking into account, the facts and circumstances of the case as the Appellant ~~xxxxxx~~ order itself states that "...the intention of the appellant is established to be dishonest...." Thus, it is seen that the petitioner has attempted to derive an unintended benefit and contesting whether breach of a rule is an 'illegality' or 'misconduct' or not only amounts to side-tracking the issue.

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While the penalty does not affect the amount of pension, his promotion would be considered after currency of punishment, as per prescribed procedure. Thus, there is no ground to intercede on behalf of the petitioner, The petition deserves to be rejected.

6 In exercise of powers conferred under rule 29 of CCS(CCA) Rules 1965, I reject the petition.

Sd/-K. Prakash
(KAILASH PRAKASH)
MEMBER (PERSONAL), POSTAL SERVICES BOARD.

Shri H.P. Pachori
Jr. Accounts Officer
%A.P. %A.P.
Lucknow.

....

Verified. True Copy attested.

R. V. Jaiswal

Adv.

High Court, Lucknow Bench.

In the Central Administrative Tribunal, Circuit Bench, Lucknow.

O.A. _____ of 1990

Dated _____

H.P. Pachauri
Union of India and others

versus.

Applicant

Respondents.

APP. U/S 19 of CAT Act 1985.

ANNEXURE No. 16

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
U.P. CIRCLE, LUCKNOW 226 018

NO. ADMN. I(S)/P-III/HPP/CR/ADVERSE/83-84/1129 DATED: 21/3/88

M E M O

With reference to his representation letter dated 15th February, 1988 Shri H.P. Pachauri, Jr. Accounts Officer, is hereby intimated that his appeal against the adverse remarks recorded in his CR sheet for 1983-84 was forwarded to P.M.G. U.P. Circle vide DO No. Admn. I(S)/P-III/CR/Adverse remarks/83-84/HPP/606 dated 6.10.87. Further the Director of Accounts (Postal) U.P. Circle, Lucknow has permitted him to see the P.M.G. U.P. Circle, Lucknow with reference to his case.

[Signature]
ACCOUNTS OFFICER
ADMINISTRATION (SECRET)

To,

Shri H.P. Pachauri
Jr. Accounts Officer
G/o the D.P.A., Lucknow

Verified, true copy attached

R.V. Tewari
R. V. Tewari
Adv.

dm/150388

High Court, Lucknow Bench.

O.A. _____ of 1990

Dated _____

H.P. Pachauri
Union of India and others

Versus.

Applicant

Respondents.

APP. U/S 19 of CAT Act 1985.

ANNEXURE No. 16.

(A 150)

Office of the Director of Postal Services
Calcutta Region, Yogayog Bhawan
Office of P.O. (7th Floor) Calcutta-700012

D.O. No. DPC/CR/Corr- 281(a)

Date 1. 2. 7. 1986

Dear Shri. Pachauri,

While you have earned a good report for the year 19 83 19 84 in respect of some items, uncomplimentary comments against some items had to be made. They are brought to your notice in order that you should be made aware of them and so that you should make special efforts during the current year and in the following years to overcome these shortcomings. It is hoped that your work in future will be of such a character as to remove effect of these bad entries,

Please acknowledge the receipt of this letter and return one copy immediately to the undersigned by name.

Yours sincerely

(S. P. Ojha)

TO
Shri. H. P. Pachauri, JAO
.. An Inspection Party No. 1
.. Batehgarh. H. O. .. Batehgarh.

Item No.

Comments.

- (6) A. Agreed to the extent that he attended to objections in the last month of March, 84. His attitude had always been found non-cooperative towards the staff and inspecting officers.
- (17) B. The official prepared interest for the year 1983-84 which was the work of LDC. The concerned staff resented to it and the payment was therefore disallowed.

Verified, True Copy attested

R. V. Tiwari

Adv.

High Court, Lucknow Bench.

ad on
7.86.

In the Central Administrative Tribunal, Circuit Bench, Lucknow.

O.A. _____ of 1990
Dated _____

H.P. Pachauri
Versus,
Union of India and others

Applicant

Respondents.

APP. U/S 19 of CAT Act 1985.

ANNEXURE No. 17

A101

To,

The Post Master General,
U.P. Circle,
Lucknow.

Throughs Proper Channel.

Sub: Appeal against the adverse entries recorded by Shri S.P. Ojha, D.P.S. Lucknow Region, Lucknow in C.A. for the year 1983-84 vide his No. LPU/OR/Door-Registry 281 (9) dated 2.7.86 recorded under D.P.A. Lucknow letter No. DDPA/OR/HPP/TR 608 dated 17.7.86.

Respected Sir,

With profound respect, it is to appeal in your kind honour by the following few lines for your kind consideration and merciful decisions:-

The Learned D.P.S. Lucknow Region, Lucknow Shri S.P. Ojha recorded adverse entries in the C.A. of the appellants against item No.6 and 17 on the court that the appellants attended the work of settlement of objections in the last days of March, 1984, and his attitude was non-cooperative towards the staff and inspecting officers. Further the appellants preferred the interest statement for the year 1983-84 on the honoraria bill thereof was disallowed. The copy of the letter of the Learned D.P.S. is annexed 'A'.

As regards Comment No.(6) A, the liability for settlement of objections raised by S.B.C.O. Staff rests on S.B. Staff of H.P.O. Infact the objections are pursued by the U.D.Cs concerned and compliance is done by the S.B. From beginning of April to the end of February 1984, neither U.D.Cs attempted to settle the objections. Consequently the appellants being Incharge of the S.B.C.O. personally contacted the P.M. Lucknow and requested him to press his staff to settle the objections at the earliest possible. Due to appellants' cooperation to S. . branch and S.B.C.O. and efforts more than 70 percent of the new objections and 30 percent of old objections were settled in March 1984. The appellants cooperation and efforts and endeavour were appreciated by the A.P.M. Shri Asthana, Shri Bakhsha Singh alias Nawali and Post Master Lucknow. The comment of non-cooperation is very confusing as there are clear rules regarding the duties of all Government Servants. The appellants being J.A.O; and Incharge of

A102

S.B.C.O. tried at his level best to complete his duties and responsibilities. During Inchargeship more than 70 percent of the (balances of the) ~~tax~~ benders were agreed which is in itself unique in the history of S.B.C.O. of Lucknow G.P.O. All this was possible only due to cooperation between the Incharge and the staff working under him otherwise such a marvelous process would not have been possible and this may be judged by examining the progress of the period of appellant's predecessors and successors, so far as the Inspecting Authorities are concerned, appellant being the Incharge of S.B.C.O. tried at his level best to provide all records and informations, demanded and arranged all facilities to them. If appellant had not cooperated to inspecting authorities, they would have pointed out it on the spot. The entry in comment regarding non-cooperation after a period of 2½ years is product of after thought, is based on personal grudge for which the services of loyal and innocent appellant is being infringed.

So far the comment under para (17) B is concerned, the humble appellant did not prepare any interest statement during the year 1983-84 for which adverse entry had been recorded in the C.C. of 1983-84, likewise no honoraria bill for preparing any interest statement in the year 1983-84. Therefore, the question for dis-allowing the bill did not arise. It is very strange and out of imagination as to how this remark has been recorded by the learned reporting and reviewing authorities.

However, the appellant prepared the interest statement in the month of April, May and June 1984 and this work related to the year 1984-85, not to the year 1983-84 which have been recorded in the C.C. of 1983-84.

Thus it is apparent that the adverse entries in the appellant's C.C. for the year 1983-84 have been recorded purely on personal grudge and prejudicially by the learned and respected reporting authority and the same has been repeated by the learned and kind reviewing authority.

Since your goodness is well known for justice and mercifulness consideration, the humble appellant prays with folded hands to kindly issue your good orders quashing and

A103

-3-

expunging the adverse entries awarded by the learned, kind and respected D.P.F. Lucknow Region, Lucknow so that the pious service of the loyal appellant may be saved from any damage for which the appellant will remain ever grateful to you.

With best regards.

Yours faithfully,

Gen. D. Prasad
(Gen. D. Prasad Prasad)
Junior Accounts Officer,
(S.B.O.O. Lucknow)

Dated 14.8.1986

Now Office of the Director of Accounts,
Postal U.P. Circle, Aminabad,
Lucknow.

Verified, True Copy attested

R. V. Tiwari
R. V. Tiwari,

Adv.

High Court, Lucknow Bench.

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL)
U.P. CIRCLE, LUCKNOW-226 518

ANNEXURE-18

OFFICE ORDER NO. 362 DATE 7-1-1988

A 104

The Postmaster General, U.P. Circle, Lucknow is pleased to appoint the following Junior Accounts Officers as Deputy Accounts Officers to the higher functional grade of Rs.2000-60-2300-EB-75-3200/- with effect from the date noted against each officer under the upgraded 80 per cent scheme of restructuring of cadre of Junior Accounts Officers in the Postal Accounts Organisations in accordance with the D.G. (Posts) Letter No.37(8)/87-PA-Admn.I/111 dated 11.08.1987.

Four Selection Grade Junior Accounts Officers are redesignated as Deputy Accounts Officers with effect from 1st April, 1987.

<u>Sl.No.</u>	<u>Name of the Officers</u>	<u>Date of effect</u>
1.	S/Shri Ramesh Chandra Dwivedi	1.4.87 (Redesignated)
2.	Yogendra Pal Shourie	1.4.87 "
3.	Sri Kant Tiwari	1.4.87 "
4.	Kanhaiya Lal Tondon	1.4.87 "
5.	Jawahar Lal Pubby	1.4.87
6.	Amzad Ali	1.4.87
7.	Virendra Kumar Dwivedi	1.4.87
8.	Kishan Swaroop	1.4.87
9.	Suresh Kumar Asthana	1.4.87
10.	Jitendra Kumar	1.4.87
11.	Suresh Chandra Agarwal	1.4.87
12.	Arun Kumar Agarwal	1.4.87
13.	Ram Charan Mourya	1.4.87
14.	Mata Pher Pandey	1.4.87
15.	P.S. Saxena	1.4.87
16.	Sushil Kumar Verma	1.4.87
17.	Shwari Singh Rathor	1.4.87
18.	Vijai Kumar Mishra	1.4.87
19.	Raj Kumar Singh Sorat	1.4.87
20.	Ram Gopal Bajpai	1.4.87

(Contd. 2) (PTO)

OFFICE ORDER NO. 284 DATED: 3.11.89

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The Chief Post Master General, U.P.Circle, Lucknow is pleased to appoint the following Jr.Accounts Officers as Asst.Accounts Officers (Gr.'E' Gazetted) in the scale of Rs.20-60-2300-EB-75-3200/- with effect from the date noted against each officer under upgraded scheme of restructuring of cadre of Jr.Accounts Officer in Postal Accounts Division in accordance with DG(Posta)letter No.JT(U)/77/111 dated 11.8.87.

Name of the officers	Date of effect
1. Shri H.P.Pachauri	30.10.89 (F.N.)
2. Shri S.N.Dwivedi	30.10.89 (F.N.)
3. Shri A.P.N.Singh	30.10.89 (F.N.)
4. Shri Lalji Singh	30.10.89 (F.N.)
5. Shri Hari Bans Ram (SC)	30.10.89 (F.N.)
6. Shri Redhoy Shyam (SC)	30.10.89 (F.N.)
7. Shri Mani Ram (SC)	30.10.89 (F.N.)
8. Shri Suraj Pal Pushkar (SC)	30.10.89 (F.N.)

Appointment of Shri Lalji Singh J.A.O. in the cadre of Asstt.Accounts Officer/subject to the condition that No Disciplinary/Vigilance case is pending against him in SBDO Lucknow under Post Master, G.P.O, Lucknow.

The rate of subscription of C.G.E.G.I.S. may be made at the enhanced rate from their salary from 1.1.90.

Anand Kumar
DIRECTOR
7/11 3/11/89

No. Admn.I(S)/P-II/Promotion as AAO/80:20/977 Dt.15.11.89

Copy forwarded for information and necessary action to:

1. Accounts Officer/Admn.II.
2. Officer Concerned.
3. Service Book/Personal File of the Officers.
4. R.D.P.S. Allahabad/Kanpur/Dehradun/Lucknow.
5. Accounts Officer, P&T Civil Dn.Dehradun/Lucknow.
6. Accounts Officer.ICC(SB),Dehradun/Lucknow/Kanpur/Allahabad.
7. Post Master Dehradun/Lucknow/Kanpur/Allahabad/Varanasi.
8. ADG(PA-Wing) % the DG(Posta)New Delhi.
9. Supdt.CSD Kanpur.
10. C.P.M.G. UP Circle, Lucknow.
11. Office Order File.
12. Notice Board.
13. Spare.

SR Shrivastava
Accounts Officer
Admn.I(S)
7/11 3/11/89

*SV*771189

Verified, true copy attached

R.N. Tewari
Stewart

Hig. Court, Lucknow Bench.

ORIGINAL - COPY

A106

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

M.P. NO. 86 / 91(L) of 1991

IN- RE

Hari Prasad Pachauri Applicant

Versus

Union of India and others ... Respondents

O. A. No 24/90(L) of 1990

Under S - 19 of CAT Act - 85

REJOINDER - AFFIDAVIT

ON BEHALF OF THE APPLICANT TO THE COUNTER - AFFIDAVIT

FILED BY THE RESPONDENTS NO. 1 TO 3

(Rule 12 of CAT (Procedure) Rules -87)

For the facts and circumstances narrated in the accompanying re - joinder affidavit on behalf of the applicant to the counter - affidavit filed on behalf on the respondents No. 1 to 3 it is very humbly submitted and prayed that this Hon'ble Tribunal be very graciously pleased to grant the relief(s) prayed for in O. A. No. 24/90(L) of 1990 by rejecting the counter - affidavit filed by the Respondents with cost by issue of orders and commands in shape of a writ of mandamus in favour of the applicant and against the Respondents no. 1 to 3 and allowing the O. A. No. 24/90(L) 1990 with costs.

By AV
26-2-91
before DR
R

Filed today
21/2/91

H Pachauri

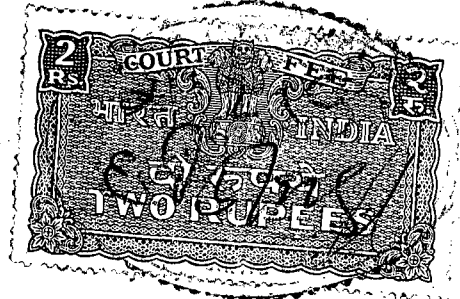
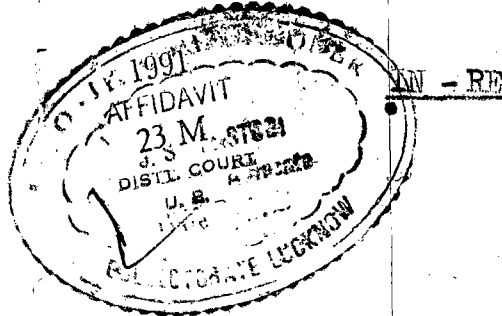
Lucknow Dated R. V. Tiwari
Advocate
20. 2. 91 High Court

R. V. Tewari
Counsel for the applicant

A/07

CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW



Hari Prasad Pachauri Applicant

Versus

Union of India and others Respondents

O. A. No. 24/90(L) of 1990

U/S 19 of CAT Act -85

REJOINDER - AFFIDAVIT

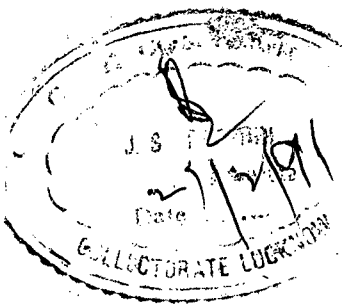
ON BEHALF OF THE APPLICANT TO THE COUNTER - AFFIDAVIT
FILED BY THE RESPONDENTS NO. 1 TO 3.

I, Hari Prasad Pachauri, aged about 55 years son of Sri Ram Swaroop working as A. A. O. (Gr. -B Gazetted), O/O The D. A. (P) U.P. Circle, Lucknow, V/O Triveni Nagar, Lucknow, do hereby take oath and depose here as under :-

1. That the deponent is the applicant in the afore said case and is fully conversant with the facts and circumstances of the case.

2. That the deponent has read the counter - affidavit filed by one Sri S. R. Abdi, A. O. O/O The D. A. (P) U.P. Circle Lucknow by means of an Affidavit dated 11.2.91 on behalf of the Respondents No. 1 to 3 of the O. A. No. 24/90(L) of 1990 and has understood the contents

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H. Pachauri

7/08

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thereof which has been also explained to him.

3. That the contents of paras 3 : (1)(ii) of the counter affidavit filed by the Respondents under head - BRIEF FACTS OF THE CASE - is not correct, false and mis-leading hence denied except issue of Memorandum of charges dated 2.7.1986, impugned order dated 10.9.86 appellate order dated 26.3.87, and the order of the revising authority dated 21.12.88 which has being challenged by the deponent on one of the ground of orders being based on no legal evidence amongst others by filing the present application before the Hon'ble Tribunal on 22.1.90 with a separate application Under Section - 21 of CAT Act - 85 for condonation of delay which was registered as C.M. No. 45/90(L) of 1990.

Further, contents of para 3 : (ii) is irrelevant since the move of the application to amend the plaint of O.A. No. 24/90(L) of 1990 which has been registered under No. 68/91(L) of 1991 for consideration and orders by this Hon'ble Tribunal and to state any thing would be pre-matured otherwise the whole narration relate to a fact which did not exist hence denied emphatically.

H. Schauer

The order dated 16.11.90 Annexure R - 2 of the counter-affidavit does not disclose any reason

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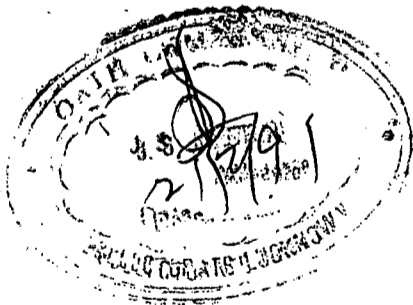
can not amount to adjudication. Remarks expunged but fresh entry allowed to be made in respect of the facts forming basis of the un-sustainable part, therefore, there is a close possibility that Respondent No. 3 was annoyed because of filing of this application before the Hon'ble Tribunal.

The expunge order being non-speaking order held bad in the eyes of law and rules of P&T man. Vol. iii - Rule 174(13) in addition to the allegations of laches at paras 18 of the application before the amendments sought and also DG P&T letter no. 27/4/78 - Disc - 1 dated 19.4.78.

4. That since no appeal lies against the order of the Hon'ble Member (P), Postal Board, New Delhi Annexure A-15 and as the applicant has decided not to submit a memorial to the Hon'ble President, which in any case is not deemed to be a remedy Under Section 21(3) of the C.A.T Act -85, the application is obviously maintainable, because by filing petition against the appellate order dated 20.3.87 Annexure - A-13 the applicant-deponent has utilized not a naked or abstract right rather he has attempted to obtain relief substantial in nature under the provisions of CCS(CCA) Rules, 65.

5. That the contents of para 4 of the counter

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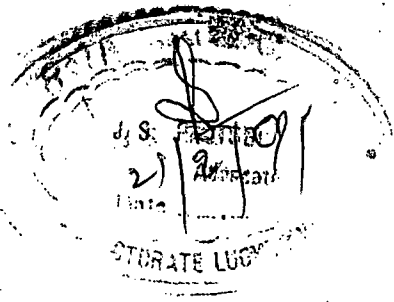
J.P. Sachau

(All)

Supreme Court in case DILBAGH RAI FERRY VS. UNION OF INDIA reported in (1974) 1 SLR 1.

8. That this Hon'ble Tribunal while admitting the application on 1.2.1990 has directed that opportunity would be given for Respondents to argue on this count at the time of final hearing, did not bear fruit as held by the Hon'ble S.C. in Madras Court Trust Vs. Hymanshu International reported in (1979) 1 SLR 757, because once the discretion has exercised by the Hon'ble Tribunal at the stage of admission of the application, it may refuse to entertain the objections on this ground alone at the stage of final hearing as has been held in case of J.P. Shukla Vs. Union of India reported in (1990) 12 ATC 475 (JAB).

9. That the Hon'ble Member (P), Postal Board, New Delhi, is an authority subordinate to the Union Govt. concerned and competent to afford relief upon the subject matter of the appeal Annexure A-12 under revision filed under Rule 29 of CCS(CCA) Rules 1965 by dealing in the manner as if it were an appeal by passing speaking and reasoned order and provisions to compute the limitation also. includes even a non-statutory representation and as such objection raised against limitation by the Respondents in para 5 of their counter affidavit



Jharkhand

(A13)

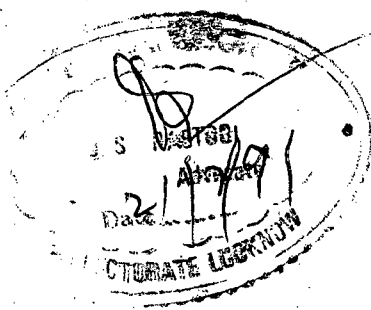
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though in a very special and contingent circumstances and has requested that the charges are vague and liable to be quashed.

This allegation has nowhere in the counter-affidavit been contravened by the Respondents rather the whole paras 3:(i)(ii) and (iii) are merely narration in repetition of the allegations of the Memorandum of charges Annexure A-7 in their own way. This also shows that the Disc. Authority had laboured hard to make up this mind to chargesheet the deponent even by misplacing of onus in this case, hence denied emphatically.

11. That the contents of para 3:(i) is false and full of inconsistency when read with the enquiry report dated 20.5.85. Annexure A-6 and also the Memorandum of charges Annexure A-7 which reads as under :-

- (i) " Enquiry report on page -5 - Sri R. K. Pal P. A. Admn.....or not" "
- (ii) " Statement of imputations attached to the memorandum of charges - but later on he scored out on 28.12.84 the name of Sri D. K. Srivastava and Shyam Sunder UDSs. in the bill. "



H. Acharya

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(A114)

12. That the contents of paras 6 of the counter affidavit is false, concocted and misleading hence denied. and challenged being a dilatory plea without appreciating the contents of para 1 of the original application.

The deponent reiterates the contents of paras 5 of the application in order to impeach the veracity of contents of para 6 of the counter affidavit filed by the respondents and to say that it was no part of the duty of the applicant - deponent to initiate Disc. action against the defaulters while the A.O. ICO(SB), and the Director Postal Services Lucknow, to whom the reports Annexure A-1 and A-2 were repeatedly addressed with no response, are the Disc. Authority and appointing authority of the Staff SBCO under their administrative control.

It is not opened to the respondents in absence of any step taken to initiate the desired Disc. Proceedings against the defaulters and to call them to account for such job - indiscipline at such a belated stage, to say that the deponent has not been prejudiced already caused at the stage when the respondents were requested to suggest alternative and also to accord approval to engage himself i.e. the applicant - deponent without any response.

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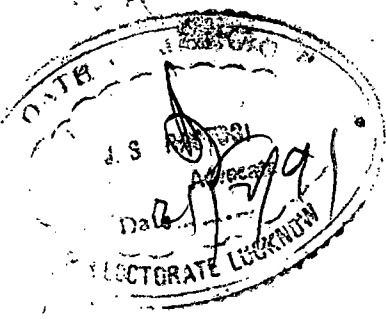
JH Behar

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13. That the contents of para 7 of the counter-affidavit need no reply.

14. That the contents of para 8, as it goes, are the poor proxy showing scant courtesy to the roll of the applicant-deponent which was limited to supply of information about duties allotted to the staff under his supervision and refusal or any nature of insubordination, which was made. The Respondents once waved their right to Administer the operation of the business intrusted to their assignment are now stopped to delve into the decision of the deponent remotely but logically flowed from the employed consent out of their keeping mum over the permission sought to accord approval to deploy himself on the job required to be completed by 31.12.1984 under the antecedents all ready reported on the principles of pith and substance rule hence denied specifically.



15. That the contents of para 9 of the counter affidavit is simply illusory without any distinction between misrepresentation as to the character of the allegations by issuance of the memorandum of charges and contents of documents annexed to the application as such are denied.

J. P. Acharya

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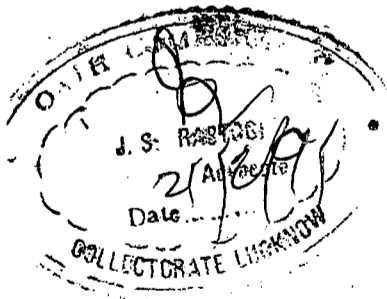
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16. That the contents of para 10 of the counter affidavit are not correct, false and misconstrued facts in a very cursory manner taking a very untenable and unjust view hence denied emphatically. It also does not go to discharge the liability to rebut the allegations of para 7 of the original application and also the findings of the enquiry report dated 20.5.85 Annexure A-5.

17. That the contents of para 11 of the counter affidavit as filed by the Respondents failed to comprehend how such an important question of facts and law in the context of the charges and one and the same subject matter of insertion of name allegedly after sanction of bill of honorarium in question in the custody of the charged Govt. servant namely Sri Badloo Ram the then bill clerk, unfolding the rational process which made the concocted prosecution story helpless to infer otherwise then what has been alleged by the applicant deponent in para 8 of the application at such a belated stage and also the statement dated 14.3.85 of Sri Badloo Ram made before the Enquiry Officer which runs as under :-

" Sri Badloo Ram bill clerk account branch, in his W/S dated 14.3.85 stated that the bill and A Roll was received by him and there were already corrections in the bill and A Roll

18. That the contents of paras 14, 15, 16, 17 and 18 of



J. S. Rastogi

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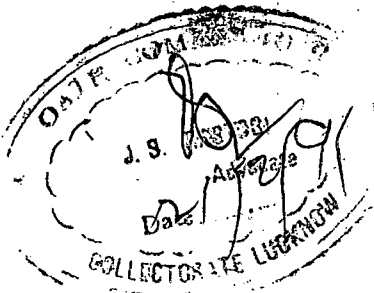
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the counter affidavit need no reply to the extent of imposition of penalty and the rest of the contentions being incorrect are denied.

The Hon'ble Member(P), Postal Board, New Delhi is vested simply with the power of revision and not the review as provided under the proviso of rule 29 of CCS(CCA) Rules 1965, a distinct proviso to that of rule 29 - A of the said rules vesting the power of review with the honourable president, Union of India.

Regarding findings reached by these authorities the Respondents deponent is advised to state that the process of making of mind did not accompany the arguments pleaded in the appeal and also the petition for revision and are therefore in contemplation of law, never be said to be speaking and reasoned orders.

These authorities seem to proceed on the premises that they could ignore the principle of natural justice and safeguards envisaged under article 31(2) of the Constitution of India under proceedings for minor penalties thereby these authorities have erred not to decided the legal incidents.



J.P. Sachau

19. That the deponent is advised to state certain material facts before putting with arguments to the contentions of the Respondents raised by means of

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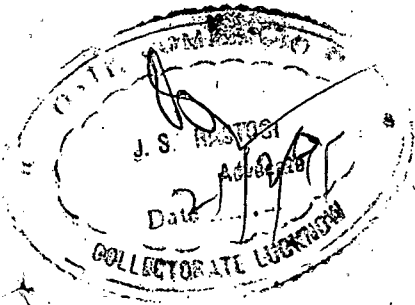
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filing counter affidavits on behalf of the Respondents no. 1 to 3.

20. That in order to complete the narrations of events, however, it is worth while to reiterate the contents of paras 5 and 7 of the original application followed by the report dated 1.2.85 by the A.O. ICO (SB), Lucknow and then the Memorandum of charges for minor penalties dated 2.7.1986 issued by the DA(P).U.P., Lucknow vide his office memo No. Admn. 1(S)/P - 3/HPP/AO TR - 39 dated 2.7.86 which is annexure A-8.

The grave men of the charges as stated earlier that the deponent had claimed honorarium in contravention of DF P&F letter dated 1.2.77 by manipulating the honorarium bill and A roll after being sanctioned and released for payment by the competent authority dis-honestly by inserting his name scoring the name of Serve Shri D. k. Srivastava and Shyam Sunder U. D. Cs.. This was taken to be wilful contravention of rules 3(i) of the civil Service Conduct Rules 1964.

The deponent denied the charges on the ground that the nature of transactions from which the statement of allegations and imputations have been derived relate to the period two years back thereby issuance



J. S. Rastogi

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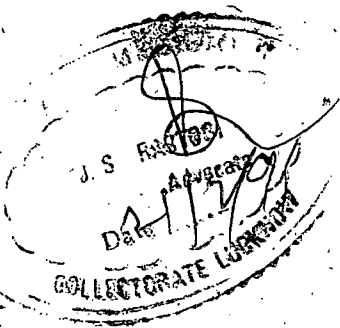
of the memorandum of charges dated 2.7.86 is obviously illegal and devoid of jurisdiction. Cases relied are G. C. Bux Vs. UNION OF INDIA reported in 11(1989) ALLI (CA) 544 and Mansa Ram Vs. S.P. Pathak reported in (1984)1 SCC 125.

Further, on the ground that he had asked for inspection of documents including copies of the preliminary enquiry report and statements recorded during such enquiry including the one of the deponent were not allowed nor any reasons pertaining to the relevancy, as claimed was communicated and as such defence against the myraid situation or irregularity alleged to have been committed was seriously prejudiced as observed in case KHEM CHAND VS. UNION OF INDIA reported in AIR 1958 SC 300. and also Kashi Nath Dikshita Vs. Union of India reported in (1986)3 SCC 229.

When it is required to address itself as to what were the documents copies of which wanted to enable the deponent to submit his explanation and in order to answer this question the deponent will like to refer to annexure A-10 annexed to the original application. Moreover, it is practically admitted by the Respondents as no where in the counter-affidavit they have contravened the allegations raised by the applicant. This

...14..

H. Acharya



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refers to para 13 of the counter affidavit.

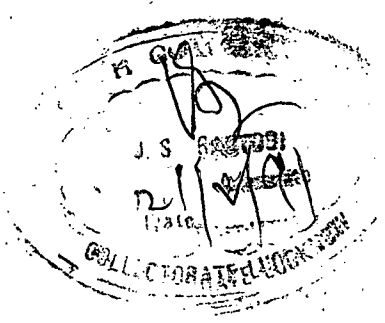
21. That the contents of para 19 need no reply except to invite a reference to the discussions made at para 3 above of this rejoinder affidavit.

22. That the contents of para 20 of the counter affidavit is false concocted and after thought hence denied.

The deponent was for the first time due to be considered for promotion to the next higher scale on seniority cum fitness in the year 1984 which was never considered even though the service record of the deponent were above board except the irregular adverse entries for the year 83 -84 which too were communicated to the deponent only on 17.7.86 against which representation dated 14.8.86 remained pending till the date of filing this application which deserves not to be read for adjudication of the merit as required under the Df P&F letter No. 27/4/78 - Disc.-1 dated 19.4.78.

23. That the contents of para 21 of the counter affidavit are not permissible under rules as the case of the deponent remained sub-judice till the order issued by the Govt. of India, Ministry of Communication (Deptt. of Posts) New Delhi bearing

JH Acharya



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their no. 2-484/88-VIG iii dated 22.11.1988 and the supersession of the deponent by the junior most colleagues despite pendency of representation dated 2.7.88 till 3.11.89 was bad in the eyes of law and that's too with a deferred date of allotment of year allowed to his junior most i.e. 30.10.89 instead of 1.4.87 hence denied.

24. That the contents of paras 22 and 23 need no comments.

25. That the deponent is advised to state that in response to the rule NISI issued by this Hon'ble Tribunal on 1.2.90 while admitting the application on merit the Respondents were required to submit their counter affidavits only by 23-3-90 but they failed. The counter affidavits filed by the Respondents after the date prescribed without leave of the Hon'ble Tribunal is not entertainable and liable to be rejected with costs in the interest of the substantial justice.

26. That the deponent is further advised to state that the counter affidavit filed by means of affidavits sworn by one Sri S.R. Abdi, AO O/o The DA(P) U.P. Lucknow is bad for impropriety of authority under the rules of business of the Govt. concerned deserves no cognizance even as a poor

...16...



H. Pachauri

..16..

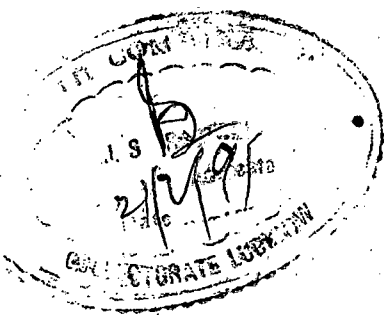
APR 22

proxy for averting the inevitable consequences of rejection with costs.

27. That the deponent is further advised to state that the impugned punishment order dated 10.7.86 of stoppage of next increment for two years without cumulative effect annexure A-11 and also appellate order and orders of the revising authority dated 20.3.87 and 22.11.88 respectively being based on no legal evidence and passed in consequent of violation of principle of natural justice and proviso of Art. 311(2) of the Constitution of India deserve to be quashed by allowing the application O.A. No. 24/90 (L) of 1990 with costs.

28. That the Respondents acting upon the impugned punishment order dated 10.9.86 have caused to the applicant/deponent irreparable loss and also irregular supersession by his juniors right from 1.4.87 which could not be compensated in terms of money as the cause of action is continued to accrue in case of promotion and seniority.

29. That under the circumstances narrated above and the facts and position of the judicial pronouncement argued in this rejoinder affidavit, the deponent has succeeded to establish the merit of the application OA No. 24/90(L) of 1990 pending consideration before this Hon'ble Tribunal and as such this Hon'



H. P. Chauhan

...17...

...17...

A123

Tribunal be very graciously pleaded to grant the relief(s) prayed for by allowing the application with costs by issue of a writ of mandamus in favour of the applicant and against the Respondents.

Lucknow Dated:-

J.H. Pachauri
Deponent

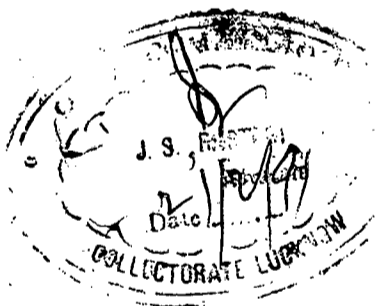
20. 2. 1991

Verification

I, the above named deponent do hereby verify that the contents of para 1 to 17 of the rejoinder affidavit are true to my personal knowledge and that of paras 18 to 29 are believed to be true on legal advice and records. No material facts has been suppressed and concealed.

Signed and verified this 20th day of Feb. 1991 in the court compound at Lucknow.

J.H. Pachauri
Deponent



23 M
R. V. Tewari
R. V. Tiwari

Advocate
High Court
Lucknow Bench
(Reg. No. 4791/88)

(J. S. K. TOGI)
Advocate
Lucknow

who is identified by...
I have...
that he...
at...
in

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,
SITTING BENCH AT LUCKNOW.

C.M. Am. No - 45/90/CS

3
SA 24/90/CA

1124

In re. :-

H.P. PACHAURI Vs. ... UNION OF INDIA & OTHERS.

O.A. of 1990

REGN. No.:

DATED :

APPLICATION U/S -21 OF C.A.P. Act, (Procedure) 1985.

For the facts and circumstances narrated in the accompanying affidavit it is very humbly prayed that the delay in filing the original application U/S 19 of C.A.P. Act, (Procedure), 1985, may kindly be condoned and the original application be admitted in the interest of justice and the applicant.

And the applicant shall ever pray.

Lucknow ;

Dated : 22.1.1990

R.V. Dwar

Counsel for the Applicant.

R. V. Dwar Adv. 22/1

Adv.

High Court, Lko Bench.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD,

SITTING BENCH AT LUCKNOW.



In re. :-

H.P. PACHAURI Vs. ... UNION OF INDIA & OTHERS.

O.A. of 1990.

REGN. No.

DATED :

A F F I D A V I T

I, Hari Prasad Pachauri aged about 55 years
Son of Shri Ram Swaroop working at present as Assistant
Accounts Officer, O/O the Director, of Accounts (Postal)
U.P. Circle, Lucknow, do hereby take oath and depose
as under :

1. That the last order against which the appli-
cation dated 22.1.90 is filed seeking redressal
against the rejection of the petition dated 24.7.87
by the Hon'ble Member (Personnel), Postal Services
Board, New Delhi was passed by the said learned member
is dated 22.11.88 bearing No. 2-484/88- VIG.-III,
enclosed as Annexure A-1, under compilation No. I
annexed to the said application, which was communicated
only on 21.12.1988 through the Comn. No. Admn.-1(S)/
Disc./HPP/TR-159, issued by the A.O. Admin.-1(S), O/O
the D.A. (P), U.P. Circle, Lucknow.

2. That while the deponant was proceeding on
Internal Check Inspection Duty as per programme of

.....2.....

A126

Party No. IInd. outside Lucknow as circulated by the A.O. (CIS-I), O/O D.A.(P) U.P. Circle, Lucknow under Office Order No. 261 dated 19.10.89 w.e.f. 26.10.89, he, the deponant handed over the relevant papers of the case to his Counsel with a request to file the application in the Hon'ble Tribunal on or before 20.12.1989 keeping the limitation in view but the same could not be filed by the counsel of the deponant on the due date in absencia on the plea of certain instructions required from the d-eponant. The Office order No. 261 dated 19.10.89 is appendixed which forms the part of this Affidavit.

3. That more specifically the deponant remained at Bareilly from 20.11.89 to 31.12.89 prefix and suffix by Sundays & Holidays including non-working days of this Hon'ble Tribunal and could not contact his counsel before today the 22nd January, 1990 i.e. date on which the application against the formal order cited above, ^{is actually filed} on account of his being busy on Govt. duties and under the circumstances beyond his control, ^{and at} Hapur wef 9.1.1990.

4. That the delay of 30 days thus accrued is bonafide on account of its being for sufficient and just cause on the part of the Counsel and the deponant being out of station during all these days.

5. That in case the delay is not condoned, the deponant will suffer irreparable loss and damages affecting his promotions and other pensionary benefits.

6. That the condonation of delay is within the jurisdiction of the Hon'ble Tribunal and being for sufficient and just cause is liable to be condoned in the interest of justice and the deponant.

Lucknow;

Dated :

22-1-90

Shri P. K. Sachan
Deponant

.....3.



127

VERIFICATION

I, Hari Prasad Pachauri, the deponent do hereby verify that the contents of paras 1 to 4 are true to my personal knowledge and believe and those of paras 5 to 6 are believed to be true on legal advise of my counsel. I have not suppressed any material facts, so help me God.

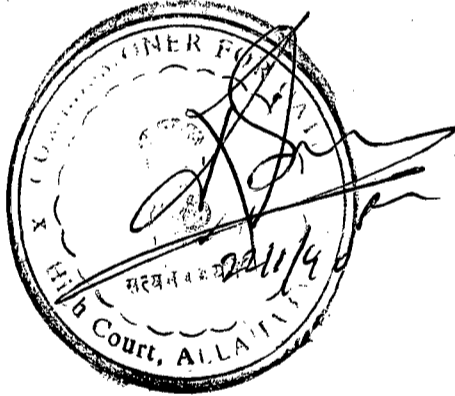
Signed and verified this day of 22nd January, 1990 ^{at 10-15 P.M.} in the court compound at Lucknow.

Lucknow ;

Dated x : 22-1-1990

Hari Prasad Pachauri
Deponent.

I identify the deponent who has signed before me.



R. V. Tiwari
Advocate
Adv.
High Court, Lko Bench

(Naresh Kumar Saxena)
OATH COMMISSIONER
High Court, Allahabad

No. 23/63
Date...
22/1/90

OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL),
U.P. CIRCLE, LUCKNOW-226018

OFFICE ORDER NO.-261 Dt. 19.10.89

(A/28)

Director of Accounts (Postal), Lucknow has been pleased to select the following personnel for Internal Check Inspection duties as per programme of Inspection Party No. I, II & III of the Vth Spell of 1989 commencing from 26.10.89, 30.10.89 & 1.11.89 respectively.

Party No. Ist.

Party No. IInd.

1. S/Sh. R.R. Vishwakarma. AAO-I
2. " K.S. Mittal. JAO-II
3. " Laxman Ram. SA-I
4. " Ranvijai Singh. SA-II

1. S/Sh. B.P. Misra. AAO-I
2. " H.P. Pachauri. JAO-II
3. " Ram Shanker. SA-I
4. " Harish Chander. SA-II

Party No. III.

1. S/Sh. Banwari Lal. AAO-I
2. " Haribans Ram. JAO-II
3. " Budh Sen Gupta. SA-I

2. AAO-I of the Party will be the Head of the Party wherever AO is not visiting such place and he will have to carry out all the duties that are normally required to be carried out by the AO, if he visits, like distribution of the work, writing the reports etc.

3. Accounts Officer will proceed on inspection duties as per the programme of Accounts Officer.

4. The personnel selected for internal check inspection duties will be relieved from Headquarters as per programme of internal check inspection parties will be entitled to TA/DA as admissible under rules.

[Signature]
Accounts Officer
CIS-I

Postal Accounts, Lucknow

No. CIS-I/Staff Selection/Vth Spell.1989

Dtd. 19.10.89

Copy to:-

1. All GOs and AAOs/JAOs. It may please be ensured by AAOs/JAOs (I/C) before relieving the officials selected for inspection duties that they do not have any arrear on their seats before proceeding on inspection.
2. AO/AAOs/JAOs of the Party may collect from CIS-I the necessary records/Questionnaire for internal check inspection.
3. AAO/JAO-Admn. I (S), Admn. II & GS Section
4. PA to DDPA/DPA.
5. Cashier.
6. Spare.

[Signature]
Accounts Officer
CIS-I

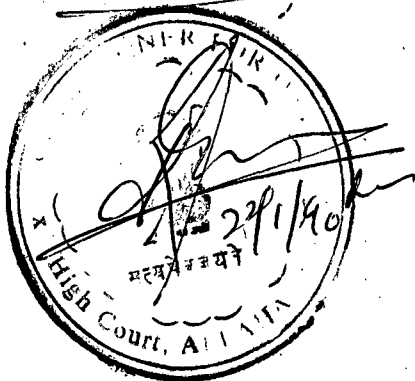
Postal Accounts
Lucknow.

M. JAHAN/19.10.89.

Handwritten: Hari Ad Pachauri. Verified. True copy attested.

[Signature]
R. V. Dey
Adv.

High Court, Lucknow Bench.



ORIGINAL

(A/29)

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH

LUCKNOW

M.P. NO. 68 /91 (L) of 1991

I N - R E

Hari Prasad Pachauri ... APPLICANT

VERSUS

Union of India and others ... RESPONDENTS

O. A. NO. 24/90(L) of 1990

APPLICATION FOR AMENDMENTS UNDER SUB - RULE (3) OF C. A. T

(Procedure) RULE - 87

For the facts and circumstances narrated in the affidavit the Hon'ble Tribunal very graciously be pleased to allow to appendix the amendments proposed and sought to be made as per schedule - 1 in the interest of justice and fair disposal of the application O. A. No. 24/90(L) of 1990.

Lucknow

Dated: 8.2.91

R. V. Tiwari
Counsel for the applicant

R. V. Tiwari

Advocate
High Court
Lucknow Bench
(Reg. No. 4791/59)

R. V. Tiwari
filed today

R. V. Tiwari
8/2/91

A130

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH

Lucknow

M.P. NO. 68 / 91(L) of 1991

IN - RE

H.P. Pachauri APPLICANT

VERSUS

UNION OF INDIA AND OTHERS ... RESPONDENTS

O.A. NO. 24/90 (L) of 1990

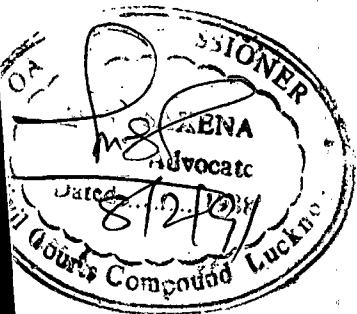
SCHEDULE - 1

(Amendments proposed and sought to be made)
in the original application.

DELETION

1. On page 12 in the array of para 18 the whole of para 19 starting with line " The applicant circumstances of the " on page 13 be allowed to be deleted.
2. On page 16 in the array of para 5 grounds of relief with legal provision - paras 5 : (vi) and paras 5 : (vii) be allowed to be deleted and paras 5 : (viii) 5 : (ix) be allowed to be re - serialized as 5 : (vi), 5 : (vii) .

...2...

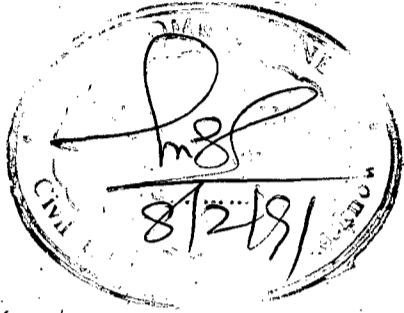


H. Pachauri

... 2 ...

A/31

3. On page 19 in the array of para 8 - Relief(s) sought the whole of the para 8 : (4) be allowed to be deleted and paras 8 : (5) , 8 : (6) and 8 : (7) be allowed to be re - serialized as paras 8 : (4), 8 : (5) and 8 : (6).



4. On page 20 in the array of para 9 interim order the whole of the para be allowed to be deleted.

Lucknow Dated:-

8. 2. 91

H. Pacham
Applicant

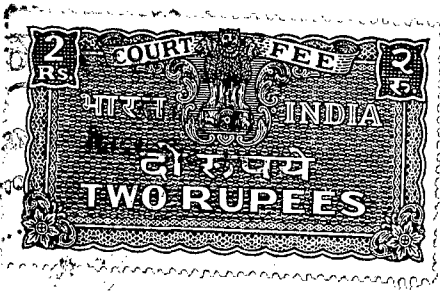
R. V. Dewari
R. V. Tiwari
Advocate
High Court
Lucknow Bench
(Reg. No. 4791/85)

A132

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCULAR BENCH,

LUCKNOW

1991
AFFIDAVIT
95 M
DIST. COURT
U. P.



M.P. NO. /91(L) of 1991

I N - R E

Hari Prasad Pachauri APPLICANT

Versus

Union of India and others RESPONDENTS

O. A. No. 24/90(L) of 1990

A F F I D A V I T

I, Hari Prasad Pachauri, aged about 55 years son of Shri Ram Swaroop working as A. A. O. (Gr.-B - Gazetted) O/o The D. A. (P) U.P. Lucknow, r/o Triveni Nagar, Lucknow do hereby take oath and state as under:-

[Handwritten signature]
8/2/91

1. That the deponent is the applicant in the aforesaid case and is fully conversant with the facts and circumstances of the case.

2. That by means of the application O. A. No. 24/90(L) of 1990, the deponent has also challenged the pendency of his appeal dated 14.8.86 submitted against the adverse entry recorded in his CR by the D. A. (P) , Lucknow for the year 1983 -84 as per Annexure A - 17 and A - 18 annexed to the original application as the entry has been wrongly taken into consideration for non - promotion and supersession by Junior most

H. Pachauri

...2...

A/32

colleagues on the date he was due to be considered for promotion to the next higher cadre.

3. That during the pendency of the case before the Hon'ble Tribunal the respondent no. 2 decided the issue vide his office no. STA/48 - RH/87/7 dated 16.11.90, which was communicated to the deponent by the Respondent no.3 vide his office No. Admn. 1(s)/Sisc/CA/CR/H.P. Pachauri/403 dated 11.12.1990.

4. That on account of the new facts cropped up it has become imperative to bring amendments necessitated, if any, before the decision of the case in the interest of justice and fair disposal of the issue.

5. That the proposed amendments as per SCHEDULE -I attached, only dislay the facts without shaking the nature of the cause of action and the nature of relief(s) prayed for adjudication by this Hon'ble Tribunal while deciding the application O.A. No. 24/90(L) of 1990 without any prejudice to the Respondents and leaving the propriety of the case un-shaken and cause of action without any sift.

6. That the Hon'ble Tribunal be pleased to allow

...3...

J.Pachauri

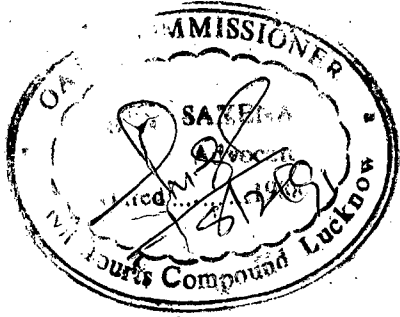
... 3. ...

A/23

the amendments as per schedule - A attached to be incorporated or even by supplanting the original application to avoid multiplicity of litigation and also in the interest of justice and fair disposal of the application.

Lucknow Dated: - 8-2-91
8.2.91

H. Pachauri
Deponent



Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 6 of this affidavit are true to my knowledge, belief and legal advise.

Signed and verified this 8th day of Feb. 1991

in the court compound at Lucknow.

H. Pachauri
Deponent

I, identify the deponent who has signed before me.

R.V. Tiwari (R.V. Tiwari) Advocate
R. V. Tiwari Advocate
High Court
Lucknow Bench
(Reg. No. 4791/83)

Solemnly affirmed before me on 8.2.91 at 10.30 a.m. by the deponent Shri H.B. Pachauri who is identified by Shri R.V. Tiwari Advocate High Court, Lucknow Bench Lucknow.

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

95.19
Solemnly affirmed before me
10.10.1991 by Hari Prasad
identified by Shri Pachauri
to Shri R.V. Tiwari
I have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read over and explained by me. fee charged Rs. 150/200
S. Saxena
8/2/91
Commissioner

In the Central Administrative Tribunal at Allahbad,
Circuit Bench, Lucknow.

Misc. Application No. _____ M.P.No. 90/91 (L) of 1990

on behalf Respondents.

In

Case No. 24 of 1990

Mani Prasad Pachauri

Versus.

..... Applicant.

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

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the written reply on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the parawise comments from the respondents, the draft-reply was sent to the department for vetting.
2. That the approved written reply has been received and is being filed without any further loss of time.
3. That the delay in filing the written reply is bonafide and not deliberate and is liable to be condoned.

WHEREFORE, it is prayed that the delay in filing the written reply may be condoned and the same may be brought on record on which the respondents shall ever remain grateful as in duty bound.

Lucknow :

Dated :

(Dr. Dinesh Chandra)
Counsel for the Respondents.

*Filed today
26/2/91*

(A134)

case as under:-

BRIEF FACTS OF THE CASE

The applicant, Shri H.P.Pachauri, while working in SBCO, Lucknow GPO during the year 1984-85 was entrusted with the task of getting the list of silent S.B.Accounts for the year 1984-85 prepared. In accordance with D.G.P&T letter No.1/34/75-SB dated 01-02-77, the incharge S.B.C.O. who is required to test check the entries in each list and sign at the bottom of each page of the list, will not be paid any honorarium as he is supposed to do the work during normal duty hours. As per rules, the U.D.Cs, S.B.C.O. Ledger Clerks and A.P.M.(SB) are entitled for honorarium for preparation and checking of S.B. Silent Accounts. Shri H.P.Pachauri, the then J.A.O., S.B.C.O., Lucknow G.P.O. was not entitled for honorarium for this work, and therefore he did not mention his name at initial stages in the honorarium bill and acquittance roll but, later-on after the bill had been passed by the competent authority, Shri Pachauri scored out the names of S/Shri D.K.Srivastava, U.D.C., Shyam Sunder U.D.C.(no amount shown against their names) and A.K.Srivastava U.D.C. in the honorarium bill and entered his own name in place of Shri A.K.Srivastava U.D.C. and managed to draw the amount on 29-12-84.

By claiming honorarium when he was not entitled and by

Contd....3/-

A 132

doing over writing in honorarium bill, Shri Pachauri was alleged to have violated Rule 3(1) of C.C.S.(Conduct) Rules, 1964. He was served with a charge-sheet under Rule 16, C.C.S.(C.C.A.) Rules 1965 vide office memo No. Admn. I(S)/P-III/H.P.P./A.O./T.R. 39 dated 02-07-86, An opportunity was provided to Shri Pachauri to reply to the charges as indicated in the Charge-sheet. The Director of Postal Accounts, U.P. Circle, Lucknow being the Disciplinary Authority in his case and in exercise of the powers conferred upon him as per rules under C.C.S.(C.C.A.) Rules 1965 ordered stoppage of increments for two years without cumulative effects vide Memo No. Admn. I(S)/P-III/HPP/10-9-86. An appeal was preferred by Shri Pachauri against the said order to Post Master General, U.P. Circle, Lucknow, who after considering all aspects of the case rejected the appeal vide Memo No. Vig./M-1/3/89/4 dated 26-03-87 which was communicated to him vide Memo No. Admn. I(S)/P-III/Disc./274 dated 17-6-87 against which a petition was preferred by Shri Pachauri to Member(Personal), Postal Services Board, New Delhi which was rejected vide order No. 2-484/89-Vig-III, dt. 22-11-88 and communicated to Shri H.P. Pachauri vide Memo No. Admn. I(S)/Disc/HPP/T.R. 159 to 162 dated 21-12-88.

ii) The applicant while working as J.A.O./S.B.C.O., Lucknow GPO was awarded an adverse entry in his A.C.R. for the year 1983-84 which was communicated to him on 02-07-1986. He made a

Contd...4/-



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// 4 //

(A/38)

representation dated 14-08-86 against the adverse entries to the Chief Post Master General, Lucknow which was decided on 16-11-90. Entry against item No.17 was ordered to be expunged. Entry against item No.6 was modified and remarks regarding attending to audit objections was allowed to stand in his ACR.

iii) The Departmental Promotional Committee met in Dec.1987 for promotion from J.A.O's cadre to A.A.O. cadre w.e.f.01-04-87. Since the applicant was undergoing punishment at that time and also on account of overall assessment of his work and conduct the applicant was found not fit for promotion as A.A.O. In the D.P.C. held in October, 1989, he was found fit for promotion and was promoted as Asstt.Accounts Officer w.e.f.30-10-89 after the expiry of punishment period.

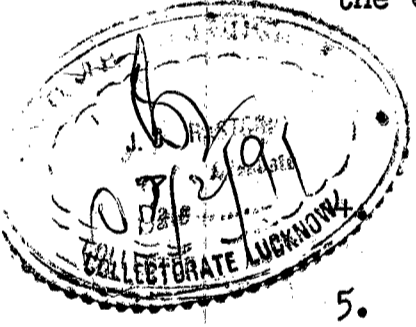
--: PARA-WISE COMMENTS :-

That the contents of paras 1 and 2 need no comments.

5. That ~~the~~ in reply to para 3 it is stated that the application is barred by limitation under Sec.21 of the Administrative Tribunal Act. The impugned order dt.21-11-88 was served on the applicant on 21-12-1988 and the application was filed in the Registry on 22-1-1990.

6. That in reply to para 4.1 it is stated that the applicant was working then as J.A.O. incharge of S.B.C.O. wing of Lucknow G.P.O. and it was his responsibility to get the work of preparation of list of silent S.B.Accounts for the year 1984-85.

Contd...5/-



SR

(A/38)

completed within time by the staff working in SBCO as per provisions contained under the rules. In case, the staff of SBCO, Lucknow G.P.O. was not attending to the work of preparation of silent S.B. Accounts on payment of honorarium, the matter should have been reported by the applicant to the higher authorities and proper action should have been taken against the defaulting officials and necessary orders for preparation list of S.B. Silent Accounts by other staff should have been obtained from competent authority. But the applicant failed to initiate any action in this regard.

7. That the contents of para 4.2 to 4.4 need no comments.

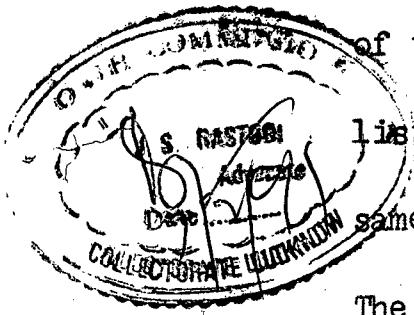
8. That in reply to para 4.5 it is stated that the action

of the applicant to deploy himself for preparation of the lists of S.B. Silent Accounts and to claim honorarium for the same without any proper authority was unjustified and irregular.

The plea of the applicant that he had reported the names of the U.D.C.s who did not attend ^{to} the work of preparation of list of silent S.B. Account at the time of completion report of the work is meaningless and it does not ^{entirely} ~~leave~~ the official to take the honorarium for the work completed by the applicant himself. Instead of it, the applicant should have initiated disciplinary action against the defaulting U.D.Cs who did not attend ^{the} work as per his office order dated 25-09-84.

9. That the contents of para 4.6 need no comments.

10. That in reply to para 4.7 it is stated that the prepa-



SR

A/140

ration of honorarium bill and A.Roll for payment of honorarium by the applicant himself and making corrections in the bill and A.Roll by scoring out the name of Shri D.K.Srivastava and inserting his own name to receive the payment without authentication by the competent authority was highly undesirable and irregular. Shri H.P.Pachauri, applicant, was thus been found guilty for :-

- 1) Irregular claims of honorarium.
- 2) Unauthorised corrections in A.Rolls ^{and} in bills.

11. That the contents of para 4.8 need no comments. The punishment imposed on the bill clerk with regard to payment of honorarium to the applicant does not exonerate the applicant from his own action of drawing unauthorised and inadmissible honorarium in his favour by scoring out the name of Shri Srivastava U.D.C. and inserting his own name in his place after the bill had been passed.

12. That the contents of para 4.9 are admitted.

13. That in reply to paras 4.10 & 4.11 it is stated that all the relevant documents requested by the applicant were made available to him for inspection vide letter dt.8-8-86. He was given adequate facilities to put up his defence.

14. That in reply to para 4.12 it is stated that the Disciplinary authority, taking a lenient view in the matter imposed the penalty of stoppage of increments for two years without

Contd...7/-



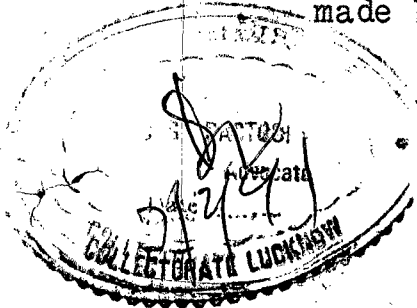
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(A/1)

cumulative effect.

15. That in reply to paras 4.13 & 4.14 it is stated that the appellate authority rejected the applicant's appeal against the order of the disciplinary authority after examining all the relevent documents in a judicious and dispassionate manner.

16. That in reply to para 4.16 it is stated that review petition of the applicant was rejected after careful consideration by the Member (Personnal), Postal Services Board, New Delhi vide Ministry's letter dt.22-11-88. In order to emphasise the gravity of the charge found established against the applicant it is worth while to reproduce a portion of the observations made by the reviewing authority as below:-



R. B. J.

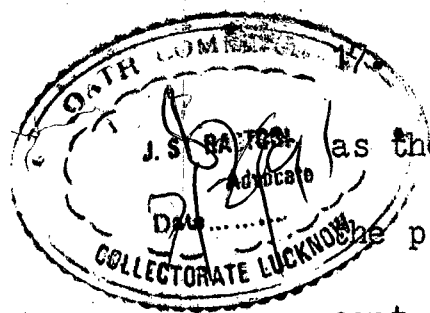
".....From the records it is seen that instead of pursuing action against the U.D.Cs who refuse to do the work, he, on his own accord, performed the said work for getting honorarium-an unintended benefit-which is irregular. Thus, reporting to A.O. I.C.O.(S.B.) regarding exigencies of work cannot hold good. A part from this the petitioner has chosen to forget an important aspect of the case i.e. substituting his name in the place of U.D.Cs, when originally he had not shown his name at all in the honorarium bills. This action on the part of the petitioner is highly undesirable. Records indicate that the Appellate Authority had come to a decision only after taking into account, the fact

Contd...8/-

412

and circumstances of the case as the Appellate order itself states that "..... the intention of the Appellant is established to be dishonest....." Thus, it is seen that the petitioner has attempted to derive an unintended benefit and contesting whether breach of a rule is an "illegality" or "misconduct" or not only amounts to side-tracking the issue. While the penalty does not effect the amount of pen^Sion, his promotion would be considered after currency of punishment, as per prescribed procedure. Thus, there is no ground to intercede on behalf of the petitioner. The petition deserves to be rejected. "

That the contents of para 4.17 need no further comments.



as the Member (Personnel) who was the reviewing authority in the present case had rejected the petition filed by the applicant after taking into consideration the various contentions raised by him in the said petition.

18. That the contents of para 4.18 are denied. The submissions made in the paras 16 and 17 are re-iterated.

19. That in reply to para 4.19 it is stated that the representation of the applicant against the adverse remarks has since been decided vide Memo No. STA/48-RH/87/7 dt. 16-11-90 a copy of which was delivered to the applicant on 11-12-90. However, a copy of the same is being filed as Annexure.R-2.

20. That in reply to para 4.20 it is stated that the

SR

// 9 //

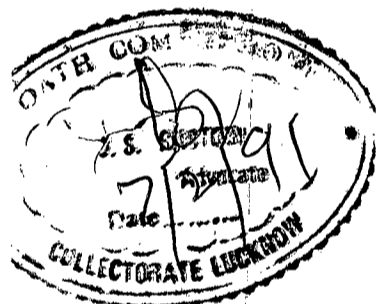
(A/13)

Departmental Promotion Committee held on Dec., 1987 considered the name of the applicant for promotion to the post of Asstt. Accounts Officer but he was found not fit for promotion on account of over all assessment of his service records and also because the applicant was undergoing punishment of stoppage of increments in the disciplinary case as mentioned above. In the subsequent D.P.C. held in Oct., 1989, the applicant was found fit for promotion after expiry of the period of punishment w.e.f. 30-10-89.

21. That in reply to para 4.21, submissions made in para 20 above are re-iterated. Procedure of sealed cover is not applicable to the present case as the disciplinary proceedings against the applicant were finalised and the penalty of stoppage of increment had been imposed on the applicant before the D.P.C. had met in Dec., 1987. The applicant was considered fit for promotion w.e.f. 30-10-89 after the expiry of the period of punishment imposed on him as a result of disciplinary proceedings. In the earlier D.P.C. held in Dec., 1987, the applicant was under going punishment and he was found not fit for promotion. The other candidates through junior to the applicant were found suitable for promotion and were accordingly promoted.

22. That the grounds for relief as indicated in the various sub-paragraphs of para 5 have been adequately dealt with in the above paragraphs.

Contd...10/-



SR

A/4h

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

24. That in view of the submissions made in the foregoing paragraphs the relief sought for in para 8 and interim relief prayed for in para 9 are not admissible. The application lacks merit and is liable to be dismissed.

(Signature)
Deponant.
7/2/91



:- VERIFICATION :-

I, the above named deponant do hereby verify that the contents of paras 1, 2 of this affidavit are true to my personal knowledge and those of paras 3, 4, 29 are believed by me to be true based on records and as per legal advise of my counsel. That nothing material facts has been concealed and no part of it is false, so help me God.

Signed and verified this the 7th Feb. day of 1991 within the court compound at Lucknow.

Lucknow.
Dated 7-2-91

(Signature)
(DEPONENT)

I identify the deponant who signed before me.

I have explained to the deponant that he understands the contents of the affidavit and that he is signing it voluntarily.

(Signature)
57/2/91
(ADVOCATE)

(J. S. RASTOGI)
Advocate, Oath Commissioner
Collectorate, Lucknow

Shri H.P. Pachauri vs Union of India & Others

No. 2-484/88-Vig. III
 GOVERNMENT OF INDIA
 MINISTRY OF COMMUNICATIONS
 DEPARTMENT OF POSTS

A145

DATED: 22.11.1988

DAK BHAWAN
 PARLIAMENT STREET
 NEW DELHI

ORDER

Shri H.P. Pachauri, JAO & Director (Postal Accounts), Lucknow has submitted a petition dated 24.7.87 against the orders of Director of Accounts (Postal) LW dated 10.9.86 imposing the penalty of withholding of his next increment for two years without cumulative effect and upheld by PMG U.P. Circle LW by order dated 26.3.87.

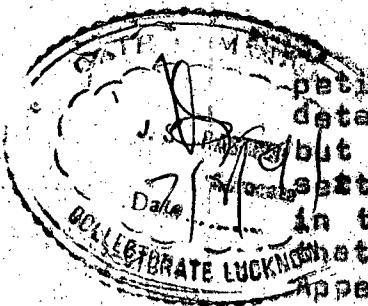
2. Minor penalty proceedings were initiated against him on 2.7.86 on the imputation stated below briefly:-

"While working as J.A.O. SBCO LW, he was entrusted with the work of getting the list of silent S.B. Accounts for the year 1984-85 prepared. For doing this work UDC SBCO, Ledger Clerk and APM(SB) are only entitled to get honorarium as per Directorate instructions. J.A.O. is not entitled to any honorarium. The J.A.O. is expected to test check few entries in each list and this work he is expected to do during office hours. The petitioner is alleged to have claimed an honorarium of Rs. 211.10 by scoring out the name of S/Shri D.K. Srivastava and Shyamsunder UDCs and including his name and managed to draw honorarium although he was not entitled for the said honorarium." Thus it is alleged he contravened Rule 23(1) (i) of CCS (Conduct) Rules 1964.

The crux of the problem in this case is that the petitioner is not entitled to claim honorarium of the work detailed in the foregoing para. He not only draw honorarium but in the process deleted the names of two UDCs and inserted his name, although his name did not figure originally in the said honoraria bills. The Appellate Authority held that "though the amount is small, the intention of the Appellant is established to be dishonest". While rejecting the appeal of the petitioner.

4. Besides tracing the history of the case, the petition brings out that (a) the petitioner attended the work personally by sitting late beyond normal duty hours and claimed Rs. 211.10 towards honorarium and thus this act of the petitioner is not against the spirit of Directorate's instructions; (b) that the said punishment affects his pension and promotion; (c) that AO ICD(SB) was informed of the exigencies of work and his permission sought to allow the petitioner to do the work on honorarium basis; (d) that the Appellate Authority had not applied its mind properly; (e) that breach of a rule made by the department is merely an irregularity and not an illegality or 'misconduct' and finally prays for setting aside the appellate order.

Contd...2.



Han. Pdy Pachauri

DEPARTMENT OF POSTS

Annexure R-2

Wingy Ind. Office

OFFICE OF THE CHIEF POSTMASTER GENERAL, U.P. CIRCLE, LUCKNOW

A/47

Memo No. STA/48-RH/87/7

Dated at LKO: 16.11.1990

This is an appeal preferred by Shri H.P. Pachauri, the then JAO SBCO, Lucknow GPO and at present working as AAO % DPA Lucknow against adverse remarks recorded in his C.I. for the year 1983-84 by the D.P.S. Lucknow Region, Lucknow No. DFC/CR/Con-281 dated 2.7.86.

2. Though the reporting officer recorded adverse remarks against a number of items, the reviewing authority i.e. DPS Lucknow Region, Lucknow, did not agree entirely with the reporting officer and accepted the adverse remarks only against items 6 and 17 and communicated the same to the official on 2.7.86.

3. I have gone through the appeal dated 14.8.86 preferred by Shri H.P. Pachauri along with comments of the reporting authority. I find that against item no. 6 the remark about the appellant's non cooperative cannot be sustained by saying that he committed irregularities due to lack of knowledge. Non cooperative attitude is not the same as committing irregularities on account of lack of knowledge of SBCO work. This entry therefore does not appear supported by any facts. Against item 17, the entry as recorded does not carry any sense. As it stands, it is neither adverse nor favourable, but an expression of opinion without any context.

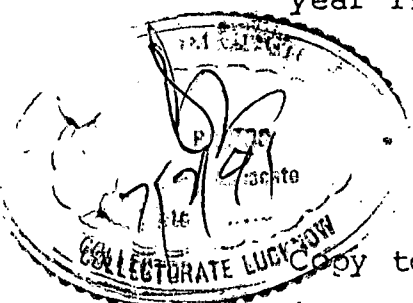
4. Keeping in view the foregoing facts, I hereby order that entry against item no. 17 may be removed entirely. Entry against item no. 6 may be modified to say that " He did not receive the cooperation of the staff nor was able to motivate them to cooperate with him". Remarks regarding attending to audit objections is positive and may stand.

5. The present reporting officer will make suitable modifications and ammendments in the concerned C.R sheet for the year 1983-84 of the officer as ordered above.

(Signature)

(S.R. FARUJI)

CHIEF POSTMASTER GENERAL, U.P. CIRCLE, LUCKNOW



Copy to:

- 1. The Director of Accounts (Postal), Lucknow ~~and~~ ~~for information and necessary action~~
- ✓ 2. Shri H.P. Pachauri, AAO, % DPA Lucknow.
- 3. D.P.S. Lucknow Region, Lucknow.
- 4. P.F of the official.
- 5. Office copy.

Deputy Registrar (T)

CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH LUCKNOW

Review Petition No. 398 of 991

In - re

Ex O. A. No. 24/90 (L) of 1990

Ex parte Judgment dated 5.7.1991

Hari Prasad Pachauri ... Applicant
Versus
Union of India and Others ... Respondents

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Lucknow Dated:-

15.7.1991

R. V. Tiwari
(R. V. Tiwari), Advocate

Counsel for the applicant

R. V. Tiwari
Advocate

High Court
Lucknow Bench
(Reg. No. 479/89)

A149

CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH LUCKNOW

Review Petition No. 398 of 1991

In - re

O. A. No. 24/90(L) of 1990

Ex Parte Judgement dated 5.7.1991

Hari Prasad Pachauri ... Applicant

Versus

Union of India and Others ... Respondents

REVIEW PETITION UNDER RULE 17 OF C. A. T. (Procedure),

Rules 1987

APPLICANT above named very respectfully submits

as under :-

1. That the imputations vide Annexure A -7 of O. A. No. 24/90/(L) of 1990 and proceedings initiated under Rule 16 of CCS (CCA) Rules 1965 by the Respondent No. 3 were challenged on the grounds of allegations being vague and findings of the proceedings being based on no legal evidence. The appellate order dated 20.3.87 and Reviewing orders dated 22.11.88 were also assailed as non - sustainable on account of being camouflages for the orders dated 10.9.86 of the Disc. Authority without making of mind, by these Administrative Authorities required to adjudicate the allegations and evidence on records

HP Pachauri

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A150

semi-judicially by passing a speaking orders on the basis of a series of judicial observations on the points of issues raised by filing O. A. No. 24/90(L) of 1990 before the Hon'ble Tribunal, Circuit Bench, Lucknow.

2. That the pleadings at the initial stage also contained averments on the issue of delayed pendency of the representation dated 14.8.86 against the adverse entries made for the year 1983-84 in the CR of the applicant consequently relief regarding deferment of date of promotion with the date of his juniors be declared as bad in the eyes of Law accordingly the applicant's date of promotion be directed to be shifted from 30.10.87 to 1.4.1987, was prayed for.

Mean while the Respondent no. 2 decided the representation dated 14.8.86 before the application O. A. No. 24/90(L)/ of 1990 was heard by the Hon'ble Tribunal for admission. Accordingly plaint needed amendments which was made by the move of M.P. No. 68/91 (L) of 1991 and were incorporated under orders of the Tribunal only on 19.4.91 before the Dy. Registrar concerned.

3. That on receipt of counter and Rejoinder in the case the Ld. Dy. Registrar ordered for listing of the case for final hearing before the bench of the

HP Sachau

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A151

Hon'ble Tribunal on 3.7.1991 in absence of the applicant and also no notice was served upon the applicant as per proceeding-sheets dated 19.4.91 as maintained by the court.

4. That on 3.7.1991 the Hon'ble Bench consists of Hon'ble Mr. Justice U. C. Srivastava, V. C. and Hon'ble Mr. A. B. Gorthi, Member (A) of this Hon'ble Tribunal summarily dismissed the case on the back of the applicant without affording any opportunity to be heard as prayed for in breach of the principle of NATURAL JUSTICE i. e. Principle of reading down and constitutional safe guards envisaged in Art. 311(2) of the Constitution of India.

The Ex -parte judgement dated 5.7.91 is annexed to this petition as Annexure - A - 1.

Hence this review petition on the following grounds amongst many others :-

GROUND AND REASON FOR REVIEW OF EX PARTE JUDGEMENT

DATED 5.7.1991

5. That the Hon'ble Tribunal has erred to dismiss the case summarily on the back of the applicant and also without affording opportunity to be heard in breach of the principle of reading down and constitutional safe guards thereby the judgement dated 5.7.91 is bad for all fairness since justice should not be done only but it should be shown to be done.

HP Chauhan

(A15)

6. That the departmental authorities have been prompted by a mistaken fact and belief that in charge SBCO is not entitled to claim honorarium for the work of preparation of lists of SB silent accounts for the year 1984 -85 by wrong application of service rules and also in existence of D.G. P&T Letter no. 1/34/76 -SB dated 1.2.77, which is a non-existing fact or circumstances as per Annexure A-2 annexed to this petition.

The Hon'ble Tribunal has erred therefore not to adjudicate these issue raised by the applicant.

7. That re-joinder dated 20.2.91 filed by the applicant against the respondent's reply has not been entertained by the Hon'ble Tribunal as a written-representation even though the Tribunal has otherwise wide powers to entertain such supplementary pleadings in the interest of justice where no prejudice is caused thereby to the other parties.

Moreover the new rule 2(b) of C. A. T. (procedure) rules 1987 specifically provides for a re-joinder. Thus as held in RAGHAVAN NADARAJAN VS CAPT. D.G.M. (Admn) reported in (1989) 9 A T C 671, the Hon'ble Tribunal has erred to act in derogation of its own rules while dismissing the application ex-parte by judgement dated 5.7.91.

H. P. Acharya

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D153

8. That where an application under section - 19 of C. A. T. Act, 1985 is summarily dismissed it is under the amended provision of Section - 19 (3) of the said Act obligatory to give reasons whereas the Hon'ble Tribunal has failed to accord reasons for dismissal of the application summarily except copying down the findings enumerated by the Administrative Authorities entrusted to act under CCS(CCA) Rule 1965 without any arguments or narratives of Law to erradicate inconsistency raised for judicial review and adjudication before the Hon'ble Tribunal.

The judgement thus delivered is bad in the eyes of Law on account of non-applications of mind and proper discharge of obligation with reasons for conclusion therefore deserves to be reviewed to set aside in the interest of justice and all fairness.

9. That the Hon'ble Tribunal has erred by acting upon erroneous facts by discussing through out the major part of the judgement dated 5.7.91 a patent error of facts of adverse entries recorded in C. R. of the application for the year 1983 -84 and disposal of the representation dated 14.8.86 by the Chief P.M.G., U.P. Circle, Lucknow Respondent no. 2 as these facts had become irrelevant for adjudication purposes and unwarranted subject-matter after incorporation of the

H.P. Sachauw

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A155

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20.5.85 is quoted here below :-

Page 5 Para 3 : * Shri Badloo Ram Bill Clerk Account branch in his W/S dt. 14.3.85 stated that the bill and A roll was received by him and there were already corrections in the bill and error. He further added that he signed the A Roll and bill and no knowledge as to who had brought these bills and A Roll."

Page 6 Para 2 : " As regards correction in the bill and A Roll , it is found that Shri Pachauri has stated that the correction was made by him on 28.12.84 The bill was sanctioned by the P.M. on 28.12.84 could not be examined "

Thus the orders of punishment made vide Annexure A4 annexed to the original application be held to be inflicted with an abuse of power and thereby judgement dated 5.7.91 for its better part is not immuned from judicial in validation for lack of universal application and reasons as laid down by a Long line of decisions ending with the case N. M. Desaid Vs. Testeels Ltd. reported in (1979) 3 S6C 225.

J.P. Pachauri

12. That it is submitted further that the adjudi .

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A156

cation erred in rushing through without giving a proper and effective chance to the applicant to state its cause and as such the very essence of the guarantee epitomised in Art. 14 and 16(i) has been infringed as observed in case Ila Chaudhari Vs. Union of India reported in (1989) 10 ATC 631.

In John Lucas Vs. Addl. Chief Mech. Engr. reported in (1987) 3 ATC 328 it is held that it is obligatory on the Tribunal even in its orders of summary rejection to write a reasoned order so that it may be clear beyond doubt that the Tribunal had applied its mind to the issues raised.

The judgement passed by this Hon'ble Tribunal on 5.7.91, it is submitted, is the result of exercise of adjudication of issue raised arbitrarily or without rhyme or reasons as the Tribunal has no power to decide the application even on merit in applicant's absence.

P R A Y E R

WHEREFORE the applicant very respectfully submits and prays that the Hon'ble Tribunal be very graciously pleased to set aside the Ex parte judgement delivered in O. A. No. 24/90(L) of 1990 Hari Prasad Pachauri Vs. Union of India and others on 5.7.1991 by restoring the case at its original number and placing orders to list the case for final hearing on notice to

H.P. Pachauri

7157

...9)...

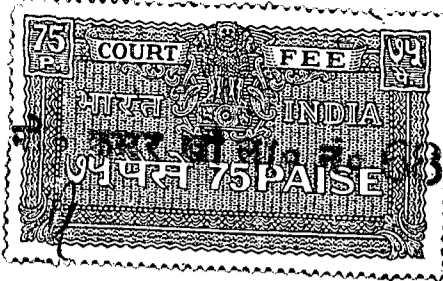
the parties in the interest of justice and fair disposal of the case .

Lucknow Dated:-

15.7.1991

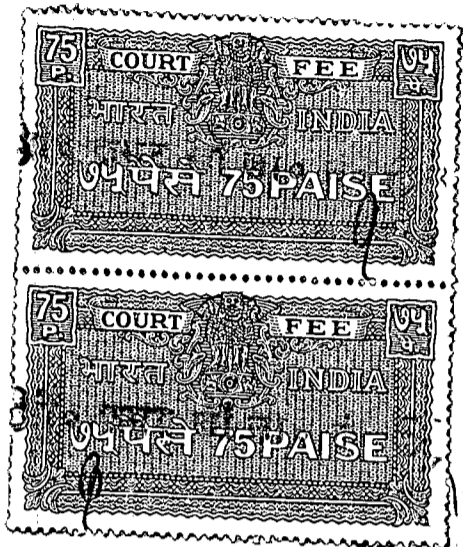
R. V. Tiwari
Counsel for the applicant

R. V. Tiwari
Advocate
J. H. Prasad
High Court
Lucknow Bench
(Reg. No. 4791/89)



A158

CENTRAL ADMINISTRATIVE TRIBUNAL AT ALIHAHABAD



CIRCUIT BENCH LUCKNOW

Review Petition No. _____ of 1991

In - re

O. A. No. 24/90(L) of 1990

Ex Parte Judgement dated 5.7.1991



*Copy
- kept ready*

Hari Prasad Pachauri

...

Applicant

Versus

Union of India and others

..

Respondent_s

A F F I D A V I T

I, Hari Prasad Pachauri aged about 56 years son of Shri Ram Swaroop working as A. A. O. O/O The Director of Accounts, (Postal) U.P. Circle, Aminabad Lucknow do hereby solemnly affirm and state on oath as under :-

1. That the deponent is the petitioner- applicant in the case and is fully conversant with the facts and circumstances of the case deposed herein as under .

2. That consequent upon the disposal of the representation dated 14.8.86 filed by the deponent against the adverse entries recorded in his C. R. for the year 1983 -84 by the Respondent no. 2 amendments in the plaint in O. A. No. 24/90(L) of 1990 were

H.P. Pachauri



..2..

necessitated and under the permission of the Hon'ble Tribunal in M.P. No. 68/91(L) of 1991, the amendments were accordingly incorporated on 19.4.91 before Dy. Registrar of the Tribunal.

3. That on receipt of counter and rejoinder, Ld. Dy. Registrar listed the case for final hearing before the bench available in absence of the deponent and his counsel on 3.7.1991 without any notice with the result that neither the applicant nor his counsel could appear before the Hon'ble Bench of the Tribunal on 3.7.1991 to state cause and issues raised for judicial adjudication. The deponent further declares that the Annexures annexed to the review petition are the photocopy of the original documents.

4. That the cause of non-appearance of the deponent and his counsel on the date fixed for final hearing of the case i.e. 3.7.1991 is bonafide as per proceedings ~~maintained~~ sheets maintained by the court.

5. That the ex parte judgement dated 5.7.1991 deserves to be restored on its original number and the case be listed for final hearing on notice to the parties concerned in the interest of justice and fair disposal of the case.

Lucknow Dated:-

J.P. Sachau
Deponent

15.7.1991

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A160

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Verification

I, the above named deponent do hereby verify that the contents of para 1 to 5 of this affidavit are true to my own knowledge and are believed by me to be true.

Signed and verified this 15th day of July,

1991 in the court compound at Lucknow.

JH Sachan
Deponent



[Handwritten signatures and names, including 'R.V. Tiwari']

I, identify the deponent who has signed before me.

[Signature]
(R. V. Tiwari)
Advocate

R. V. Tiwari
Advocate
High Court
Lucknow Bench
(Reg. No. 4791/89)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH LUCKNOW.

(A/6)

Hari Prasad Pachauri Applicant

Versus

Union of India and others ... Respondents

REGISTERED ADDRESS

HARI PRASAD PACHAURI SON OF SHRI RAM SWAROOP
WORKING AS A.A.O. O/O THE DIRECTOR OF
ACCOUNTS (POSTAL), U.P. CIRCLE, AMINABAD
LUCKNOW.

LUCKNOW DATED: -

15.7.91

R. V. Tiwari
APPLICANT'S Counsel
Advocate.

R. V. Tiwari
Advocate

High Court
Lucknow Bench
(Reg. No. 479/189)

H. P. Pachauri

ANNEXURE-A-2 page no 2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

A 162
of 1990

O.A. _____
Dated : _____

In re.:

N.P. Pachauri	APPLICANT
	versus.
Union of India & Others	RESPONDENTS.

ANNEXURE No. A-2

EXTRACT OF D.G. P&T letter No. 1-34/76-SB dated 1.2.1977.

RATES OF HONORARIUM AND NORMS OF O.T.A.

"The control organisation is required to do some additional work of periodical nature on regular basis For preparation of the silent accounts lists and doing other connected work the staff of the control organisation and Savings Bank branch is entitled to the following rates of honorarium w.e.f. 1.2.77

This extract is as per POSTAL MANUAL OF S.B.C.O., PARLI
CO PROCEDURES.

.....
 Verified, true copy attested
R.V. Tiwari
 R. V. Tiwari
 Adv.
 High Court, Lucknow Bench.

JH Pachauri

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW.

O.A. _____
DATED : _____

153
1990

In re. :

H.P. Pachauri APPLICANT
Union of India & Others RESPONDENTS

ANNEAURE No. A-1.

EXTRACT OF PARA 24 (4) OF POSTAL MANUAL OF SBCO, PAIRING, & ICO PROCEDURES TO BE READ WITH D.G. POST'S LETTER NO. 1.2/86-SB DATED 26.2.1986.

PREPARATION OF LIST OF SILENT ACCOUNTS

"(4) When action The official incharge of the SBCO will test check few entries and sign at the bottom of each page of the lists The official incharge SBCO will be held responsible for timely preparation of lists of silent accounts and will record the following certificates under his dated signature."

Verified, True copy attested

R. V. J. [Signature]

R. V. J. [Signature]

Adv.

High Court, Lucknow Bench.

H.P. Pachauri

ANNEXURE-A-1

16

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH

Registration C.A. No.24 of 1990(L)

Hari Prasad Pachauri Applicant

Versus

Union of India & Others Respondents

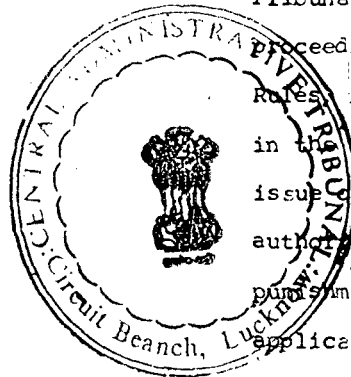
Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Member(A)

(Handwritten initials)

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

The applicant who was working as J.A.O. Incharge SECO: Lucknow G.P.O. during the year 1984-85 and the preparation of lists of Silent S.B. Accounts for the year 1984-85 was pending, has prayed this Tribunal that the imputations levelled against the applicant are vague and based on no evidence, this Tribunal may be pleased to drop the charges and proceedings initiated under Rule 16 of CCS (CC&A) Rules, 1965 and the punishments inflicted are bad in the eyes of law and without ^{application of} making of mind by issue of a non-speaking order of the disciplinary authority which is liable to be quashed. The punishment of stoppage of next increment of the applicant for two years without cumulative effect may be also be set aside and the review order also be set aside and the withholding of promotion and non-consideration of the applicant for promotion on due date alongwith the officers who are junior to him was not legal and that the respondents may be directed to modify the date of promotion of the applicant from 30.10.89 to 1.4.87 with retrospective date. On 2.7.86 the applicant was served with the



(Handwritten initials)

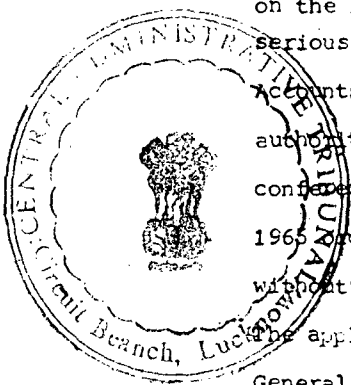
FC Member
(Handwritten signature)
A.M.

1165

following imputations of charges while he was working as J.A.O.

" While working as J.A.O. SBCO LW, he was entrusted with the work of getting the list of silent S.P.Accounts for the year 1984-85 prepared. For doing this work UDC SBCO, Ledger clerk and APM (SB) are only entitled to get honorarium as per Directorate instructions. J.A.O. is not entitled to any honorarium. The J.A.O. is expected to test check few entries in each list and this work he is expected to do during office hours. The applicant is alleged to have claimed an honorarium of Rs.211-10 by scoring out the name of S/Shri D.K.Srivastava and Shyamsunder UDCs and including his name managed to draw honorarium although he was not entitled for the said honorarium."

Departmental proceedings took place and the punishing authority after taking into consideration the material on the record held that the applicant has committed serious irregularity. The Director of Postal Accounts U.P.Circle, Lucknow being the disciplinary authority in his case, in exercise of the powers conferred upon him as per Rules under CCS(CCA) Rules, 1965 ordered stoppage of increments for two years without cumulative effect vide order dt. 10.9.86. The applicant preferred an appeal to the Postmaster General U.P.C. Circle Lucknow against the said stoppage of increments order who after considering all aspects of the case rejected the appeal vide order dt. 26.3.87 and which communicated to him vide letter dt. 17.6.87.



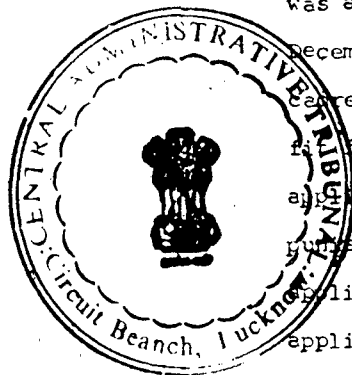
The applicant was not entitled for Honorarium for the work which was done by him and that is why the applicant did not mention his name at initial stage in the honorarium bill and acquittance roll but, later on after the bill had been passed by the competent authority, he

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scored out the names of S/Shri L.K.Srivastava, UDC
 and Shyam Sunder, UDC and A.K.Srivastava, UDC in
 the honorarium bill and entered his own name in place
 of Shri A.K.Srivastava, UDC and managed to draw the
 amount on 29.12.84. The matter was referred to the
 Member (Personnel) Postal Services Board and he also
 did not find any ground either to set aside or review
 the punishment. The applicant had also made
 representation against the adverse remarks to the
 Chief Postmaster General, Lucknow which was decided
 on 16.11.90. The entry against item No.17 was ordered
 to be expunged. Entry against item No.6 was modified
 and remarks regarding attending to audit objections
 was allowed to stand in his ACR. The D.P.C. met in
 December, 1987 for promotion from JAO's cadre to MCO
 cadre w.e.f. 1.4.87 but the applicant was found not
 eligible for promotion. Ultimately in the year 1989 the
 applicant was given promotion after expiry of the
 punishment period. The charge levelled against the
 applicant is vague as per assertion given by the
 applicant. We have gone through the charge and we
 do not find that the charge is vague and is
 misconstituted. Facts are clear that when the
 applicant was not entitled for honorarium even then
 he managed to draw the same as stated above. The
 punishment order has also been challenged on the ground
 that it is a non-speaking order and there was no
 application of mind. The Postmaster General has
 rejected the applicant's representation after
 considering all the aspects of the case. The Member
 (Personnel) Postal Services Board also did not find
 any ground to review the punishment. It is true



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that during this period his juniors have been promoted from the JAO cadre to AAO cadre in the year 1987. His case was also considered but the applicant was not found fit for promotion by the D.P.C. in the year 1987. He was given promotion in the year 1989 after expiry of the punishment period. The promotional post was a selection post and it was within the jurisdiction of the review D.P.C. to select or not to select. The Departmental Promotion Committee after going through the service record and after considering all the aspects of the matter did not find the applicant to be promoted from the year 1987. In the above circumstances, we do not find any ground to interfere with the punishment order which has been passed on the material on record with reasons. Accordingly, the application is dismissed with no order as to costs.



sd ← ← *sd*
 Member (A) Vice Chairman

Dated the 5 July, 1991.

RKM

Attested True copy

(Signature)
 Section Officer
 Central Administrative Tribunal
 Circuit Bench
 LUCKNOW

C.T.C.

(Signature)
10/7/91