

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, *Lucknow* BENCH

OA/TA/RA/CP/MA/PTof 20.....

Shri Radhey Nyaam TripathiApplicant(S)

Versus

Union of India. And.Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
①	<i>Check List</i>	<i>A1 to A2.</i>
2 -	<i>order sheets.</i>	<i>A3 to A14</i>
3 -	<i>judgment order dt. 10.5.2000</i>	<i>A15 A20.</i>
4 -	<i>copy of petition from ex-cuse</i>	<i>A21 to A45</i>
5 -	<i>lawyer</i>	<i>A46.</i>
6 -	<i>annexure</i>	<i>A47 to A74</i>
7 -	<i>Counter Affidavit</i>	<i>A75 to A87.</i>
8 -	<i>Rejoinder Affidavit</i>	<i>A88 to A96.</i>
9 -	<i>CP NO. 703/91, Notice, Lawyer</i>	<i>A97.</i>

Certified that the file is complete in all respects.

B/C. Weeded out / destroyed

Signature of S.O.

Signature of Deal. Hand

23/8/12

18/109

D.V.R.S.G.DATTATREYULU
MEMBER (J)

To

Shri S.MANICKAVASAGAM
MEMBER (A)

Pre-delivery order in OA No.251/90 is sent
herewith for consideration.

S. Manickavasagam
9.5.2000

9/5/00
(D.V.R.S.G.DATTATREYULU)
MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL: LUCKNOW BENCH

--

Wednesday the 10th day of May 2000

--

PRESENT

The Hon'ble Shri D.V.R.S.G.DATTATREYULU, MEMBER(J)

and

The Hon'ble Shri S.MANICKAVASAGAM, ADMINISTRATIVE MEMBER

--

O.A.No. 251 of 1990

--

Radhey Shyam Tripathi .. Applicant

Vs.

1.Union of India through the Secretary
to the M/o Communications, Department
of Posts, Govt. of India, New Delhi

2.The Director of Postal Services, Lucknow Region
Lucknow

3.The Superintendent of Post Offices
Sitapur division, Sitapur

4.The sub-Divisional Inspector, Sitapur North
Sitapur

5.Shri Ram Narain, IO, the then SDI, Biswan
Sitapur

.. Respondents

--

Mr.Sanjay Srivastava .. Advocate for the applicant

Mr.D.R.Sinha .. Advocate for the respondents

Order: Pronounced by the Hon'ble Shri D.V.R.S.G. DATTATREYULU
MEMBER (J)

The applicant in this OA prays for quashing the orders of removal from service under Annexures A-1 and A-2 and the orders contained at Annexures A-3 and A-6 regarding the period of putting off duty.

2. The facts as averred in the OA would go to show that the applicant was appointed as an ED BPM. It is stated that the applicant was put off duty on 7.2.1985 without any reason and he was reinstated on 16.9.1985 when there was no charge pending against him. This action according to him is incorrect. Subsequently a charge sheet was issued to him dt. 12.1.1988 to which the applicant submitted his reply. The charge sheet is at Annexure A-9 and the reply to the charge sheet is at Annexure A-10. The enquiry was conducted and it is the applicant's case that adequate opportunity was not given to him and he has protested for the same. It is further averred in the OA that he has not been supplied with copies of documents and that the inquiry officer had let in new evidence to be produced by the prosecution in the inquiry. On the basis of the inquiry report it was held that ~~the~~ ^{some} charges ~~was~~ ^{were} held as proved and some of the charges as not proved. The disciplinary ~~xxx~~ authority has passed the impugned order holding that the charges are proved and the details of the charges are mentioned in the application. It is stated that the ^{applicant} had preferred his appeal and also the review petition, but

was not successful. Hence this application.

3. In the reply filed by the respondents it is stated that on 6.2.1985 the sub-Divisional Inspector had visited the post office and found the applicant absent from duty. He also found on verification of certain irregularities in respect of some accounts. It is stated that the applicant gave the information stating that he kept the unaccounted money to the tune of Rs.174.67/- in a separate envelope. It was further found that a sum of Rs.400/- received towards deposits into postal accounts on 17.1.1985 was not reflected in the postal accounts up to 6.2.1985. Likewise the deposits dated 14.8.1984 and 7.7.1984 were brought into the postal accounts only on 16.8.1984 and 20.7.1984. The reply further proceeds to state that as there was no monetary loss the applicant was taken back into service. But again the applicant chose to commit embezzlement. The Mail Overseer visited the Post Office on 21.11.1985 and checked the accounts and found that Rs.335/- as short. Further the applicant had allowed his son to work, without obtaining orders from the competent authority. The Mail Overseer checked the post office accounts and found that a sum of Rs.360 dated 16.11.1985 was ^{shown} as paid to the payee, viz. one Kuntidevi. But it was not paid to her. The put off duty was therefore confirmed as the charge sheet was being issued. Subsequently disciplinary proceedings were initiated against the applicant for the above said charges (charges were mentioned at pages 5 and 6 of the reply).

4. The applicant was given full opportunity during the inquiry to defend himself and the inquiry officer held the charges as proved. The findings of the inquiry officer holding that the charges stood proved ~~was~~ accepted by the disciplinary authority as well as the appellate and reviewing authorities.

5. When the OA was taken up for final disposal on 8.5.2000, neither the respondents nor their counsel was present. However we have heard the learned counsel for the applicant. Since the pleadings are complete ^{this is a last time} we have decided to dispose of the OA on merits.

6. We have considered the various documents filed. On a careful analysis of the rival pleadings, the point that arises for our consideration is whether the orders passed by the Disciplinary Authority are according to the rules or not?

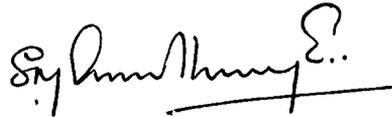
7. Though it is the contention of the applicant that the orders were not passed properly, it is clearly explained in the reply that the charges relating to non-accounting of the departmental money and also forgery of signatures of the payees and drawing the allowance for substitutes, without obtaining the prior permission of the competent authority, stood proved. The learned counsel for the applicant has elaborately argued the matter to show that the charges are not correct. But even according to the averment made in the OA itself we find that the applicant wants to try to ^{have} ~~try~~ splitting of the evidence regarding the proof ^{of} accounting of the departmental money by stating that instead of 20,

stamping was wrongly put as '7' and with regard to other amounts, the applicant's case is that the payees have received the money orders and their signatures were not forged by him and there was no proof for the same. But the reply shows that the inquiry officer had conducted an elaborate inquiry into the matter and found the charges as proved. We are of the view that ~~xxx~~ it is not for this Tribunal to make a fresh assessment of evidence. But at the same time it is the duty of the Tribunal to find out as to whether the appreciation of the evidence arrived at by the inquiry officer as confirmed by the disciplinary authority as also the appellate and reviewing authorities, are perverse or not. It cannot be said that the inquiry officer has committed any flagrant violation of either the principles of natural justice or misdirected himself with regard to appreciation of the evidence on record. We further find that the appellate authority has also considered the evidence on record in a proper perspective as could be seen from the reply. But the applicant is not able to point out whether ~~anyxxx~~ there has been any perversity in the appreciation of the evidence on record and as to how the orders passed are against the principles of natural justice or there is non-application of mind by the competent authority. As stated above the proof in a disciplinary proceeding in a departmental proceeding is different from that of a criminal proceeding. Therefore in the instant case the proof accepted by the disciplinary authority cannot be termed as insufficient or perverse.

cc

8. We further find that there is nothing on record to show that either the inquiry officer is prejudiced against the applicant or the disciplinary authority or the appellate/reviewing authority are prejudiced against the applicant. These are all inbuilt material in the case which goes to show that the authorities have acted with an open mind with regard to the consideration of the material placed before them, vis-a-v-vis the applicant, and the authorities have acted in a fair and just manner.

9. In the light of the discussion above we hold that the impugned action of the respondents does not call for interference, and the OA is dismissed as devoid of merit with no order as to costs.


 (S.MANICKAVASAGAM)
 MEMBER (A)


 (D.V.R.S.G.DATTATREYULU)
 MEMBER (J)

10-5-2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Date of ...
Date of ...

8/8/90
7/11
8/8/90

Registration No. 251 of 1989 90 (L)

APPLICANT(S) Shri Rathey Shyam Tripathi

RESPONDENT(S) V.C.G.

Particulars to be examined

Endorsement as to result of examination

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

yes

yes

yes

yes

yes

N.A.

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

yes ✓

yes

yes

yes

N.A.

yes

yes

yes

yes

yes

yes

yes

sd/
8/8/90

dinesh

CR
Neither AD nor
Undelivered notice
returned back,
issued to applicant.
on 17-8-99.

10-9-99

14.09.99

Honble Mr D.C. Verma JM
Honble Mr A.K. Misra AM

Sri Sanjay Srivastava counsel for
applicant -
None for the respondents
Applicant counsel sought adjournment,
not for hearing on 28/09/99.

A.M.

J.M.

4

CR
Pleadings
are complete except
OP No 5.
27/9/99

28/9/99

Hon. Mr. D.C. Verma, J.M.
Hon. Mr. A.K. Misra, AM.

Sri Sanjay Srivastava for applicant
Sri M.V. Ichan for Com. Asha Choudhary
for respondents.
During the course of hearing
we found that the inquiry officer's
report has not been filed by any of
the Party. we, therefore, direct the
respondents to produce the file
regarding inquiry made against the
applicant for perusal of the
Tribunal on the next date.
List for hearing on 8/12/99.

A.M.

For order on
10.5.99

J.M.

2

9/10

04-3-98

Hon Mr. V. K. Seth, A.M.
Hon Mr. D. C. Kanna, J.M.

Mr. N. Dubey, learned
counsel for applicant has
been granted general adjour-
nment of his cases.

lit on 20-5-98 for
hearing.

J.M.

A.M.

Proceedings are
completed
12/5/98

20.5.98.

Case not reached
adj to 02-7-98,

On
Bec.

02.7.98

No sitting at D.B. case is
adj to 01-9-98 for hearing.

On
Bec

01.9.98

No sitting at D.B. case is
adj to 30-11-98 for hearing.

On
Bec

Handwritten notes on the left side of the page, including dates and names, partially obscured and difficult to read.

21-11-96

AS

No sitting of D.B. Case is
adj. to 15-1-97.

~~to~~
BOC

or
Pleaings are
Completed
@ 11/19/97

15-1-97

No sitting of D.B. adj. to
14-2-97
BOC

14-2-97

No sitting of D.B. adj. to
10-4-97
BOC

10-4-97

Due to Sad Comr of
S. N. T. W. adj. to
10-2-97
BOC

2-3-97

No sitting of D.B. adj. to
11-9-97
BOC

11-9-97

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D. Verma, J.M.

Learned counsel for both
sides are on leave.

List on 12-11-97.

J.M.

V.K.
A.M.

12-11-97

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D. P. Verma, J.M.
Now to be paid by
on 13-1-98

J.M.

V.K.
A.M.

13-1-98

Due to lawyers abstained from
judicial work adj. to 4-3-98.

BOC

CP/PA
Catching
none cu-
12/19/97

QA 251/90

AK

QA (2A) Nirvan
27/9/95
27/9/95

26-9-95
D.R.

Place before me for fixing date. Office is directed to more careful about the listing & R reports. Place before the Hon'ble Bench on 09-11-95 for hearing. None for the applicant. None for the respondents. Inform the parties also.

AK

AK

9-11-95

Hon'ble Mr. V.K. Seth- A.M.

Hon'ble Mr. R.K. Saxena- J.M.

For the applicant- Sri H.P. Pathak,
learned counsel.

For respondents- None.

List for hearing on 14-12-1995.

QA (2A) Nirvan
27/9/95
27/9/95
M. Dubey
14-12-95
K.N.

K.N.

J.M.

W.S.
A.M.

14-12-95

Hon Mr. V K Seth Am.
Hon Mr R K Saxena Jm

Shri M. Dubey for applicant.
None for respondents

list for hearing on
1.2.96

J.M.

W.S.
AM

OA 251/90 $\frac{1}{4}$

Sl.No.	Date	Office report	Orders
		<p data-bbox="439 421 705 486"><u>24/1/95</u></p> <p data-bbox="548 473 1536 605">Hon. Mr. Justice B.C. Saxena, V.C. Hon. Mr. V.K. Seth, A.M.</p>	
	<p data-bbox="156 658 407 960">CS S.H. 24/12 (New)</p>	<p data-bbox="627 644 1411 855">List on 28/2/95 for hearing.</p> <p data-bbox="642 855 815 960">List A.M.</p>	<p data-bbox="1223 855 1411 1013">Per V.C.</p>

OK

CP-3RA
not filed

MP 703/91
min. - but
not complete
earlier
some exhibits
for exp. hearing
@
@

19/2/84

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

Shri M. Dubey Counsel for
the applicant is present
C.A. has been filed today
& copy - three of has been
received by counsel for the
applicant. R.A. if any, be
filed within 3 weeks. List
this case on 25/3/84
for hearing & disposal.

L.K.
A.M.

J.M.

@

25.3.84

Mr. Gilling, C.M. M. only
20.2.5-84

or
Bax

OK

CA on behalf
of respondents
filed.
no CA has been
filed.
MP 703/91 no comments
5. for order hearing

23/5/84

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

Shri M. Dubey learned counsel
for the applicant prays for
adjournment. List on 28/6/84
for hearing.

L.K.
A.M.

Bax
Bax

29/5/84 Hon Mr. V.K. Seth, A.M.
Hon Mr. D. C. ... J.M.

None for authors of the
parties. List for hearing
on 2.5.84.

OK

These have
already been
submitted for
hearing
28/6/84

S.

257-802
No

73-1281 4th Justice CC 5, 6 C

list on 14-3-91
for hearing

✓
✓

14.5.92 No sitting adj to 20.7.92

✓

20.7.92

No sitting of D.B. adj to
18.9.92

No adj filed

S.F.O. 18.9.92. Can adj. read
adj to 23.11.92

Boe

17/1/92

23.11.92 Can adj. read
22.1.93

✓

22.1.93

No sitting of D.B.
adj to 4.2.93

Boe

of
no adj. file 6.3.93

Can adj. rec. Daily
to 2.3.93

Boe

SFH

2.3.93 No sitting adj to
13.4.93

✓

13.4.93

No sitting of D.B.
adjourned to 28.5.93

✓

of
no adj. file

SFH
2
28/1/93
29/1/93
30/1/93
31/1/93

SFH

SFH

257.91

D.R.

Sri M. Dubey Id. C/A. is
present. No appearance
has been made on
behalf of the O.P. O.P. to
file counter by 26/9/91.

26.9.91

D.R.

counsel for the applicant
is present. case is listed
on 21.10.91 for filing
counter.

21.10.91

D.R.

counsel for the applicant
is present. counter has
not been filed. Respon-
dent to file counter
by 6/11/91.

6.11.91

D.R.

Applicant's side is
present. counter to be
filed by O.P. on or
before 29/11/91.

6.9.90

No sitting adjourned to 10.9.90

[Handwritten mark]

10.9.90

O.A. NO. 251/90 (L)

Hon'ble Mr. Justice K. Nath, V.C.

Hon'ble Mr. M.M. Singh, A.M.

Admit. Issue notice C.A. may be filed within four weeks and R.A. may be filed within two weeks. Listed for orders on 22.10.90.

Sd/
A.M.

Sd/
V.C.

Sd/

Notices issued
14-9-90

See original order on main petition

22.10.90

No sitting adj to 13.12.90

OR

Notices were issued on 14.9.90.

Neither replies nor any answer sept. cover 1 been return been s. p. o

10/12 10/12

13.12.90
D. R.

Mr. M. Dubey for the applicant is present today. Neither C.A. nor any R.A. has filed. O.P.'s side is not present today. case is listed before me on 29/11 for filing counter

[Handwritten signature]

AT-257/90

14.2.2000

Bench: A/H/V/C
JLN (Am)

Mr. Sanjay Srivastava
Mr. DR Simha

Shri. DR Simha, Advocate produced before us on order dt 25.1.2000 appointing him as Adl: case to appear before CAT, Bench at Lucknow and to be in charge of the Central Govt. litigation before the Bench. He says that the brief of the case has just been received only today and seeks an adjournment. Hence the case is adjourned to 7.3.2000. List this case in the top of the list first among five cases.

JLN/Am

14.2.2000

A/H/V/C

J.

07/03/2000

Lowers sustained from full work case adjourned to 30/03/2000 for hearing.

B.O.C

30.3.2000 As Member 'A' is not available

Adj. to 23.5.2000 for hearing

05.5.2000

Case not reached, adj.

As. o E. S. 2000.

JLN

818190
818190

Date of ...
Date of ...
818190

THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

S. No. 251 of 1980 (L)

Rahay Shyam Tripathi

... Applicant

Versus

Union of India & others

... Respondents

INDEX

<u>S1. No.</u>	<u>Documents relied upon</u>	<u>Page No.</u>
<u>COMPILATION No. 1</u>		
1.	Claim Petition	1 to 17
2.	Annexure No. 1 Punishment order dated 20.12.68	18 to 20
3.	Annexure No. 2 Appellate order dated 30.7.67	21 to 25
4.	Postal order for Rs. 50.00	
5.	Power	
<u>COMPILATION No. 2</u>		
6.	Annexure 3 : True copy of put off duty order dated 7.2.65	26
7.	Annexure 4 : True copy of confirmation order dated 20.2.65	27
8.	Annexure 5 : True copy of revocation order dated 7. .65	28
9.	Annexure 6 : True copy of put off order dated 23.11.66	29
10.	Annexure 7 : True copy of confirmation order dated 3.12.65	30
11.	Annexure 8 : True copies of JJ's letters dated 23.3.76, 16.1.77, 24.2.77 and 25.3.81	31 to 33
12.	Annexure 9 : True copy of charge Sheet dated 12.1.66	34 to 40
13.	Annexure 10 : True copy of representation dated 25.1.68	41 & 42
14.	Annexure 11 : True copy of proceeding dated 21.3.66	43
15.	Annexure 12 : True copy of appeal dated 6.2.67	44 to 54

Filed today

818190

*mailed by
6.0.00
H. J. ...*

21/02/80
Applicant

PL 115 : Lucknow

Date : 6.2.80

For Use in Tribunal's Office

1. Date of filing :
2. Registration

Signature
for Registrar

1/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
LUCKNOW

Radhey Shyam Tripathi, aged about 50 years, s/o Late Shri Lal Bihari Tripathi, r/o Village and Post Office Indrauli, Distt. Sitapur and Ex-E.D. Branch Postmaster, E.D.B.O. Indrauli, Distt. Sitapur.

.... Applicant

Versus

1. Union of India, through the Secretary to the Ministry of Communications, Department of Posts, Government of India, New Delhi.
2. Director Postal Services, Lucknow Region, Lucknow.
3. Superintendent of Post Offices, Sitapur Division, Sitapur.
4. Sub Divisional Inspector, Sitapur North, Sitapur.
5. Shri Ram Narain, IO, then S.D.I. Biswan Sitapur.

... Respondents

- - - - -

Details of application

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

- a) Number of the order : i) F-4/85-86/JP Singh/Disc
ii) RBL/Staff/A-8/89/3
- b) Date of the order : i) 20.12.88
ii) 30.7.1989 delivered in January 1990 through the Postal Overseer Shri Siya Ram.
- c) The authority which has passed the order: i) Superintendent of Post Offices, Sitapur
ii) Director Postal Services, Lucknow Region, Lucknow.

Annexures A-1 and A-2 respectively.

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 this Tribunal.

3. Limitation :

The applicant further declares that the application is within the limitation period prescribed

21/12/89
12/11/89

in Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the Case :

i) That the applicant was appointed as Extra Departmental Branch Postmaster, in brevity known as BPM of Extra-Departmental Branch Post Office, hereinafter referred to as EDBO Indrauli after observing all formalities under the rules on a regular basis on 9.5.84. The applicant had passed High School in 1954, Intermediate in 1956, B.A. Part I in 1958 and Part II in 1966 from Agra University and did his B.A. in Hindi in 1972 from Banpur University. The applicant after appointment as BPM performed his duty sincerely, faithfully, devotedly without any complaint whatsoever.

ii) That the concerned Postal Overseer and the Sub Divisional Inspector became annoyed with the applicant for their personal reasons and because the applicant could not satisfy their illegal demands and they in collusion started harassing the applicant, so much so that the applicant was put off duty on 7.2.85 without any rhyme or reason and re-instated on 16.9.85 while no charge sheet was served on him and no disciplinary proceeding was initiated and taken against him. A true copy of the order dated 7.2.85 putting the applicant off duty is Annexure A-3. This order was passed by the Sub Divisional Inspector prejudicially in hot haste without any justification, Under the proviso to Rule 9(1) ^{of EDR (Conduct & Service) Rules 1964} the Sub Divisional Inspector can put an ED BPM off duty in anticipation in case involving fraud or embezzlement only and under DGP&T letter no. 104-11/77-Disc-I dated 24.2.77 he can do so in public interest or in case

अनुमानित 12/10/81

it is considered that the delay is likely to result in tempering by him with the evidence, but should obtain his ex-post facto approval of the competent authority within a week. While putting the applicant maliciously by order dated 7.2.85, there was no case of fraud or embezzlement and the order of putting off was not approved by the Divisional Superintendent within a week as required. The said order dated 7.2.85 was got approved by the Divisional Superintendent, Sitapur by his letter dated 20.2.85 Annexure A-4 after 13 days against the instructions of the DG P&T. No charge-sheet was, however, issued to the applicant and his lapses if any, were not made known to the applicant. The put off duty order was arbitrary, malicious and without basis and the applicant was ultimately ordered to be put back to his duty by S.P.Os Sitapur memo no. F-11/84-85 dated the 9.9.85. A true copy of this memo dated 9.9.85 is Annexure A-5. Although the applicant was not at all at fault and he was arbitrarily put off duty by order dated 7.2.85 and continued as such without any charge sheet of allegations, yet the wages for the period of put off duty over 7 months were held up and not paid to him, which he was/is entitled to get.

iii) That the applicant on re-instatement to his post of SD BPM in September, 1985 approached the Sub Divisional Inspector (North) Sitapur and the Supdt. of Post Offices, Sitapur and requested them to pay the applicant the wages for the put off period from 7.2.85 till re-instatement in September, 1985 as the order of put off was wrong, baseless, malicious in-competent, arbitrary and illegal. The said two officers on the plea that they were looking into the matter, postponed it whenever the applicant contacted

21/11/85

them personally in this regard and finally they told him on 16.1.90 and 20.1.90 respectively that the applicant is not entitled to any pay and allowances for his put off period under Rule 9(3) of the IDA (Conduct and Service Rules 1964). Their contention is wrong as the said rule cannot be pressed into service in a case of arbitrary and malicious put off order without any basis in which even a charge-sheet was never issued and a disciplinary proceeding was not even initiated.

iv) That the Sub Divisional Inspector (North) Sitapur again put the applicant off duty arbitrarily, prejudicially, maliciously and irregularly by his memo dated 23.11.85 without showing any reason. His order was incompetent and illegal and the same was also not confirmed by the competent authority, Supdt. of Post Offices, Sitapur within a week as required by DG's instructions dated 24.2.79 referred to in sub para (ii) above. The order of put off duty passed by the SSI vide his memo dated 23.11.85 was approved by the Superintendent of Post Offices, Sitapur by his memo dated 3.12.85 after 10 days. The true copies of these memos dated 23.11.85 and 3.12.85 are Annexures A-6 and A-7 respectively.

v) That guide lines for putting ED Agent off duty have been given in DG P&T letter no. 104-11/77-Disc.II dated 24.2.1979 which lays down that competent authority should exercise his discretion with proper care and due caution before passing orders placing an ED Agent off duty and such an order should be passed under certain condition when there is a strong prima facie case against the delinquent. Further by his letter dated 25.8.81, the DG P&T has issued instructions

21/11/81

that care should be taken not to put an EOA off duty without sufficient grounds for doing so and if at all it was necessary to put them off duty, then their cases should be finalised at the earliest and not later than 4 months at the maximum. Earlier by letter dated 23.3.78 ~~SECRET~~ it was held by the DG P&T that the EOA can be put off duty only during pendency of enquiry and not when one is contemplated and by letter dated 16.1.79, it was held that the question of putting off duty should arise only when there is a prima facie case against the EOA. A photo copy of these letters each, dated 23.3.78, 16.1.79, 24.2.79 and 25.8.81 contained as instruction no. 2, 3, and 4 under Rule 9 in the Swamy's compilation of Service Rules for E1 staff (1980 Edition) is annexed as Annexures No. A-8. The order putting the applicant without any prima facie case and when no enquiry was pending against him was/is wrong, indiscrete, incompetent, malafide and illegal.

vi) That after putting the applicant off duty the SDI with the help of his Postal Overseer cooked up and concocted cases against the applicant and consequently a charge sheet dated 12.1.88 was issued to the applicant by the respondent no. 3, which was replied to by the applicant vide his letter dated 25.1.88. A true copy of the charge sheet dated 12.1.88 is Annexure A-9 and a copy of the reply thereto given by the applicant is Annexure A-10. The applicant denied all the allegations/charges made against him to be wrong, malicious and baseless. It is worth consideration that the applicant was put off duty on November, 1985 and a charge-sheet was issued in January, 1988 after about 26 months which in itself is malicious, prejudicial, irregular against Di's orders and oppressive.

21/11/88

vii) That the Sub Divisional Inspector Post Offices, Biswan, Sitapur, who was appointed as Enquiry Officer in violation of DG P&T instructions contained in his letter no. 6-8/71.Disc.1 dated 21.9.74 which lays down that the Enquiry Officer may be from respective Wings of the Postal & Telecommunications Wings to which the delinquent official belongs but from a different Division preferably at the same Station or nearby, conducted the enquiry under Rule 8 of the EJA (Conduct & Service) Rules 1964, which was to be on the pattern of the provisions as laid down under Rule 14 of the CCS(CA) Rules 1965. Shri S.D.Gupta, complaint Inspector O/o SPCs Sitapur acted as Presenting Officer and the applicant was assisted by Shri Jachan Prasad Yadav, Postal Assistant, Sitapur as his defence assistant. The applicant attended the first date of enquiry on 27.2.88 and denied the charges. The next date was fixed on 21.3.88, when the prosecution was required to produce Mr. D. S. Singh's relied upon, but the P.O. did not produce the record and consequently the enquiry was adjourned for 8.4.88 to be held at Maholi P.O. at 12.30 p.m. Although there was no default on the part of the applicant at any stage, yet he was prejudicially warned by the S.O. that if he and his defence Assistant did not attend in time, the proceeding would be held ex-parte on their responsibility. A true copy of the proceeding dated 21.3.88 is Annexure A-11.

viii) That the complete relevant documents were not produced by the P.O. for inspection on 8.4.88 and 22.4.88. The P.O. was directed by the I.O. to produce the document no. 7 on the next date or else further permission would not be given. This document was never produced.

ix) That Shri Hari Krishna, Smt. Kanti Devi and

रामेश्वर प्रसाद

S/ Sri Bahipal Singh were produced as prosecution witnesses on 26.8.88 and 27.8.88 S/Shri Net Ram and Santosh Kumar were produced as witnesses on 3.9.88, the P. . presented a list of additional witnesses and records, which was wrongly accepted by the I. ., as no relevancy of these additional evidences was disclosed and the reason why they were not included in the original charge-sheet was explained. Besides the entire evidence of the prosecution was not over. The action of the I.O. in allowing new evidence was prejudicial to the applicant and in violation of note below Rule 14(13) of the CCS(CRA) Rules 1965, the pattern of which is to be followed in enquiry against an EIA. The said note below Rule 14(13) *ibid* reads :

NOTE : New evidence shall not be permitted or called for or any witness shall not ^{re-}be/called to fill up any gap in the evidence.

Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

A copy of the application moved ^{by} the P. . for the production of additional evidence was not furnished to the applicant, his objections were not invited and the I. . acted arbitrarily in allowing the same. On 3.9.88 the evidence of S/Shri Ved Prakash Tripathi, Gaya Prasad and Shyam Lal was recorded who were numbered as prosecution witness nos. PW-7, PW-6 and PW-8. The defence Assistant Shri Bhashan Prasad Yadav could not be present on 9.9.88 for unavoidable reasons and the I.O. while adjourning the enquiry for 19.9.88 warned the applicant to ensure the attendance of the defence Assistant or else the proceedings would be held in his absence. This action of the I.O. was wrong, biased

Handwritten signature

X
129

and against rule as it was obligatory on the part of the I.O. himself to procure attendance of the Defence Assistant through his controlling authority. The PU-9 and PU-10, S/Shri Ram Naresh Pandey and Siya Ram were examined on 19.9.88 and the I.O. was allowed to produce further witnesses on the next date although the I.O. had directed earlier on 27.8.88 that all the remaining witnesses should be produced on 3.9.88, the next date or else the prosecution side would be closed. This, the I.O. was acting prejudicially and indiscretely in favour of the prosecution and against the applicant for reasons best known to him. On the next date viz. 3.10.88 Shri Niaz Ahmad PU-11 was examined. The rest prosecution witnesses were dropped and the applicant was asked to submit his defence statement and produce his evidence in defence on 4.10.88. The applicant could not attend the enquiry on 4.10.89 owing to his illness. The next date was fixed on 6.10.88 and the applicant was asked to must submit his defence or else no further opportunity would be given. The applicant submitted his defence statement on 14.10.88 and also produced three witnesses S/Shri Bharat, Bhagwan Lux and Ram Kishore in his defence on the same date.

x) That the applicant did not examine himself as a witness and the Enquiry Officer did not comply with the provisions of Rule 14(18) of CCS(CCA) Rules 196 5 and did not question the applicant on the circumstances appearing against him in the evidence for the purpose of enabling him to explain any circumstances appearing ~~against him in the evidence~~ against him. The applicant was not given legitimate opportunity of defence and the I.O. acted prejudicially and maliciously and against

2/11/88

rules rendering the proceeding vitiated.

xi) That the provisions of Rule 14(17) of the CCS(CCA) Rules 1965 were also not followed and the IO did not hear the parties orally nor obtained written briefs to assess the case correctly and in so doing he acted prejudicially, irregularly and illegally rendering the proceeding as vitiated and null & void.

xii) That without questioning the applicant on the points appearing against him in the evidence and without hearing the applicant or obtaining his written brief as required under Rules 14(13) and 14(17) of the CCS(CCA) Rules 1965, as aforesaid, the I.O. submitted his report to the disciplinary authority on 20.11.88. A copy of the Inquiry Report was not furnished to the applicant to make representation and submissions against the report for consideration by the disciplinary authority before passing order of punishment against the applicant. The applicant was thus not afforded reasonable opportunity to defend and natural justice was denied to him. The disciplinary authority passed his order dated 20.12.88 (Annexure A-1) without hearing the applicant on the Enquiry report. The action of the Disciplinary Authority was malicious, prejudicial and illegal which rendered the order passed by him as illegal and null & void.

xiii) That the I.O. gave findings that the charges nos. 1, 3, 7 & 8 were not proved, charges nos. 5, 6, and 9 were partly proved and charges nos. 2, 4, 5, 6 and 9 were proved. The disciplinary authority held that the charge no. 3 was also proved. The assessment by the I.O. and Disciplinary Authority are apparently wrong as the charges nos. 5, 6 and 9 could not be proved

अनुमान सुनी

हे बेवकूफ

and partly proved as held by them. The charge no. 2 relates to demanding amount from Accounts Office on unreal liabilities which is false and baseless, as the applicant could not have any intention to keep more amount than what was actually required by him to clear off the liabilities. The applicant acted in good faith in normal course of his duty to avoid any complaint and keep the prestige of the department and no motive could be imputed on his part. The charge no. 3 relates to absence of the applicant after keeping his substitute to run the Post Office under the terms of contract of his employment under the rules and the same could not be questioned. In case where leave is not got sanctioned in advance, the department cannot insist upon prior approval of the substitute as clarified in DG's letters dated 31.3.69 and 18.4.72. The applicant had to be on leave after providing substitute in his place for which information was sent to the SOI and the same could not be subject for any charge.

The charge no. 4 alleges non credit of Rs.30/- in RD a/c 717335. The statement of the holder dated 15.12.85 was not produced before enquiry and his affidavit dated 1. .86 given before the Notary and furnished to the SP's Sitapur was maliciously denied by him under pressure of the SPP, Incharge of the P.O. and ED MP Net Ram to prejudice the case of the applicant. The account holder had categorically stated in his affidavit dated 1.2.86 that he had taken back Rs. 30/- by him and it was not deposited. The question of its crediting in the P.O. account therefore, did not arise. The allegation against the applicant was therefore, baseless, false and motivated. The statement of the Account Holder that there should be Rs. 30/- in his

2/11/86

account while there was only Rs. 170/- in the said account renders the charge incredible and the same falls flat to the ground.

Regarding charge no. 5 it is stated that the amounts were actually ~~xxxxxxxxxxxx28x7x~~ received on 20.7.84 and credited into account the same day. It was by mistake that the date stamp of 7.7.84 was impressed which was corrected to be 20.7.84 by pen. The depositors of account nos. 718525, 718524 and 455880 have admitted to have deposited the amount on 20.7.84 only. The sum of Rs. 10/- was deposited in account no. 718525 on 14.3.84 which was ~~immediately~~ taken into account on 16.8.84 by mistake bonafidely without any bad intention. The M.O. No. 2917 was paid to the payee on 16.4.85 and the amount was taken into account the same day. The paid M.O. form which could clarify the position was not brought before the enquiry.

The charge no. 6 that the applicant did not make payment to Net Ram and Santosh Kumar after taking their signatures on the bill is false and fallacious as no one can keep silent in such a situation. Besides, they preferred to make complaint after the applicant was put off duty and not earlier. The complaint is a motivated one. Both are real brothers and harboured grudge against the applicant after he refused to give his fields on Batai to them in 1985, which was with them for years. They have also denied their signatures saying that the pay for September, 1985, does not bear the signature of Santosh Kumar and the payment of bonus does not bear the signature of Net Ram. The statements of ~~of~~ S/Shri Santosh Kumar and Net Ram are false, malicious and motivated to cause in jury to the

21/12/2011

applicant and their veracity could best be tested by making a report with the police as it, if accepted, amounts to forgery and fraud. Their statements have wrongly been accepted to the prejudice of the applicant without getting their signatures examined by Government expert.

Regarding charge no. 9 it is stated that no amount was deposited against IC4 receipt no. 2 dated 17.1.85 and it could not inadvertently been cancelled for want of proper working knowledge and the SII did not guide the applicant properly and made a malicious report. The prosecution failed to establish any deposit on the said receipt and the charge could not be substantiated.

xiv) That the applicant being aggrieved by the unjust and arbitrary order of the Disciplinary Authority preferred an appeal to the appellate Authority, respondent no. 2 on 6.2.89 stating that the allegations made against the applicant were false and baseless and the applicant deserved exoneration from the charges. A true copy of the appeal dated 6.2.89 is Annexure A-12.

xv) That under Rule 27(2) of the CCS (CCA) Rules 1965 the appellate authority is required to consider ^(a) whether the procedure laid down in the said rules has been complied with and if not whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice.

(b) whether the findings of the disciplinary authority are warranted by the evidence on record, and

(c) whether the penalty or the enhanced penalty

अनुमानित मुद्दा

imposed is adequate inadequate or severe. The appellate authority did not consider the case objectively and in terms of said Rule 27(2) and ignored the fact that the I.O. was not appointed correctly in terms of DG's instruction, the procedure as laid down in Rule 14 of CCS(CCA) Rules 1965 were not followed, the list of additional evidence was wrongly accepted from the P. . by the I. . during the production of prosecution evidence against note below Rule 14(15) of the CCS(CCA) Rules 1965, the clarification of the applicant was not obtained under Rule 14(13) and he was not heard in terms of Rule 14(19) and a biased and prejudicial report was submitted by the I.O. without affording reasonable opportunity of defence to the applicant. It was further ignored by the appellate authority that a copy of the Enquiry Report was not given to the applicant, his representation thereon was not obtained and he was denied of reasonable opportunity and natural justice. The principles of natural justice demand that copy of the Inquiry report should be supplied to the charged employee before the disciplinary authority finds him guilty of the charge. The punishment was too harsh. The appellate order dated 30.7.89 (annexure -2) is bad, prejudicial, illegal and null & void. The applicant was also given personal hearing by the appellate authority.

xvi) That the applicant is vexed and aggrieved with the punishment order dated 20.12.88 and appellate order dated 30.7.89. The appellate order was delivered to the applicant by the Postal Overseer Shri Siya Ram in January, 1990. The order passed by the respondents nos. 3 and 2 respectively are bad, malicious and illegal and finding no other alternative

अमान्यता

remedy for the redressal of his grievance the applicant prefers this application before this Hon'ble Tribunal, for justice.

5. Grounds for relief with legal provisions :

a) Because the applicant was wrongly, maliciously and illegally put off duty by the Sub Divisional Inspector against rules.

b) because the orders of put off made by the SDI was not confirmed within a week as required by DG P&T letter dated 24.2.79.

c) Because the orders of put off were malicious incompetent and illegal.

d) because the charge sheet was issued on cooked up matter after inordinate delay of 22 months. It was not issued promptly as required.

e) because the postal overseer, SDI and Divisional Superintendent were biased and annoyed for personal reasons as he could not fulfil their repeated demands.

f) because the action of the SDI and SP's Sitapur were wrong and contrary to instructions issued by the DG P&T New Delhi.

g) because the entire period of put off could not be more than 4 months while the applicant was continued under put off for more than 3 years without any rhyme or reasons.

h) because the Enquiry Officer was not appointed fairly and in terms of DG's instructions.

i) because the Inquiry Officer did not conduct enquiry in accordance with rules. He violated

21/02/79

the provisions of note below Rule 14(15), and Rules 14(13) and 14(12) of the CCS (DA) Rules 1965.

j) Because the applicant was not afforded reasonable opportunity and natural justice.

k) Because the inquiry report submitted by the I.C. was malicious, perverse and wrong.

l) Because the applicant was not supplied with a copy of the enquiry report to submit his representation against it before the case was considered prejudicially by the disciplinary authority without hearing the applicant on the enquiry report and consequently the order of dismissal passed by the disciplinary authority is malicious, unjust, perverse, irregular, illegal and null & void, as held by C.A.T. Jabalpur Bench in 1(1989) ATLT(CAT) 684- Ramesh Chand Ghavari Versus Union of India and others T.A. No. 430 of 1986 decided on 4.1.89.

m) Because the disciplinary as well as appellate authority did not apply their mind correctly and objectively to the facts and circumstances of the case and passed erroneously orders which are unsustainable, perverse and liable to be quashed.

n) Because there was no misconduct on the part of the applicant and the punishment of dismissal is too harsh.

6. Details of the remedies exhausted :

The applicant submitted appeal against the order of dismissal passed by the respondent no. 3 and the appeal was rejected by respondent no. 2. There is no other departmental remedy under the rules. Hence this application.

7. Matter not previously filed or pending in any other Court :

20/11/2017 17/11/17

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

8. Reliefs sought :

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

a) That the put off order dated 7.2.85 and 23.11.85 (Annexures -3 and -6) be declared as unjust, unwarranted, irregular and illegal with consequential benefits.

b) That the impugned orders dated 20.12.88 and 30.7.89 (Annexures -1 and -2) be declared as unjust, unwarranted and illegal and the same be quashed and the applicant be ordered to be continuing in service with all consequential reliefs of pay and allowances.

c) That the cost of the case be allowed in favour of the applicant as against the respondents.

d) Any other relief deemed just and proper in the circumstances of the case be allowed in favour of the applicant.

9. Interim order, if any, prayed for.

The applicant does not pray for any interim order. It is, however, prayed that the case of the applicant be decided expeditiously to secure the end of justice.

10. That the applicant shall be presented by the applicant through his Counsel personally.

Handwritten signature

38

11. Particulars of postal order filed in respect of the application fee.

- i) No. of postal order : 802 468950
- ii) Name of P. O. of Issue : Lucknow G.P.O.
- iii) Date of issue : 6.8.90
- iv) Name of P. O. where payable : Allahabad G.P.O.

12. List of enclosures :

Annexures 1-1 to 1-12 as detailed in the Index.

LUCKNOW

M. Subhan
9/11/90

Signature of Applicant
Applicant

Dated : 6.8.90

VERIFICATION

I, Radhey Ghyan Tripathi, s/o Late Shri Lal Bihari Tripathi aged about 50 years ex-Branch Postmaster Indraulii Distt. Sitapur, r/o Village & P.O. Indraulii, Distt. Sitapur do hereby verify that the contents of paras 1 to 4, 6, 7, 9 to 12 are true to my personal knowledge and those of paras 5 and 8 are believed to be true on legal advice.

LUCKNOW

Signature of Applicant
Signature of applicant

DATED : 6.8.90

Radhey Shyam Tripathi versus U.O.I and others.

ANNEXURE A-1

भारतीय डाक विभाग

सीतापुर 261001
सीतापुर दि० 20-12-88

श्री राधेश्याम त्रिपाठी ने डाक विभाग (सीतापुर) को
12-1-88 द्वारा सूचित किया
यह कि उनके विरुद्ध अतिरिक्त विभागीय (सेवा तथा आचार) नियमावली
1964 के नियम 8 के अन्तर्गत निम्नलिखित आरोपों के आधार पर कार्यवाही
किया जाने का प्रस्ताव है।

अनुच्छेद - 1

यह कि श्री राधेश्याम त्रिपाठी ने डाक विभाग (सीतापुर) को
दि० 21-11-85 को डाकघर में दायरे अतिरिक्त
रु० 335/- कम रखकर तथा निरीक्षण अधिकारी के सामने प्रस्तुत न करके
डाकघर नियमावली के नियम 11(2) के प्रावधानों का उल्लंघन करके
परामर्श एवं कर्तव्यनिष्ठा नहीं बनाये रखकर डाकघर अ० वि० १० नियमावली
1964 के नियम 17 (सेवा तथा आचार) का उल्लंघन किया।

अनुच्छेद - 2

यह कि उक्त श्री राधेश्याम त्रिपाठी ने डाकघर (सीतापुर)
के पद पर कार्य करते हुए दि० 21-11-85 को अवैतनिक देयताएँ दिवाकर
लेखा कार्यालय से अतिरिक्त धन की माँग करके डाकघर नियमावली 177
(2) का उल्लंघन करते हुए अ० वि० १० (सेवा तथा आचार) नियमावली 1964
के नियम 17 का उल्लंघन किया।

अनुच्छेद - 3

यह कि, श्री राधेश्याम त्रिपाठी ने डाकघर (सीतापुर)
के पद पर कार्य करते हुए दि० 2-8-85 एवं 23-11-85 को बिना किसी
वैतनिक अनुमति के अनुपस्थित होकर डाकघर नियमावली के नियम 50
(अ० वि० १० (सेवा तथा आचार) नियमावली 1964 के नियम 35
के अन्तर्गत परामर्श के द्वारा जारी किए गये प्रावधानों का उल्लंघन किया।

अनुच्छेद - 4

यह कि, उक्त श्री राधेश्याम त्रिपाठी ने डाकघर (सीतापुर)
के पद पर कार्य करते हुए डाकघर (सीतापुर) आकर्षित जमा
रु० 17535 में रु० 30/- जमा करके धन लेखा में न लेवा
करके नियमावली के नियम 11 (1), 173 (ब) व 174 (2) के
अन्तर्गत उल्लंघन किया तथा डाकघर के रु० 30/- की रशि पहुँचाई।
अ० वि० १० (सेवा तथा आचार) नियमावली 1964 के नियम 17 के
अन्तर्गत परामर्श नहीं बनाये रखकर।

अनुच्छेद - 5

यह कि, उक्त श्री राधेश्याम त्रिपाठी ने दि० 7-7-84 से दि०
1-1-85 तक डाकघर (सीतापुर) के पद पर कार्य करते हुए दि०
1-1-84 एवं 1-1-84 के अन्तर्गत डाकघर में जमा धन की क्रमाः
दि० 25-11-85 को भुगतान 25-11-85
131 रु 134 17 (3)

Radhey Shyam Tripathi

174(2) का उल्लंघन करते हुए सत्यानिष्ठा एवं कर्तव्यनिष्ठा नहीं बनाए रखकर अति०वि०ए०(सेवा तथा आचरण) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद 6

यह कि उक्त श्री राधेश्याम त्रिपाठी ने दि० 1-10-85, 17-10-85 व 31-10-85 को शशा शकपाल इन्डोली के पद पर कार्य करते हुए निम्नलिखित कार्य चारियों के वेतन व बीनस को बिना उक्त व्यक्तियों को भुगतान किये लेवा में लेकर शा०डाकवर नियमावली के नियम 180(2) के प्राविधानों का उल्लंघन करते सत्यानिष्ठा न बनाये रूकर अति०वि०ए०(सेवा तथा आचरण) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद 7

यह कि उक्त श्री राधेश्याम त्रिपाठी ने दि० 22-10-85 को शशा शकपाल इन्डोली के पद पर कार्य करते हुए, श्री धामपाल निवासी ग्राम व पो०इन्डोली से रु० 155/- मात्र नया छाता खोलने के लिए प्राप्त किया किन्तु छाता न खोलकर, तथा धन लेवा में न लेकर शशा डाकवर नियमावली के नियम 129, 130, 131, 173(ब) व 174(2) के प्राविधानों का उल्लंघन किया तथा सत्यानिष्ठा से कार्य न करके अति०वि०ए०(सेवा तथा आचरण) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद 8

यह कि उक्त श्री राधेश्याम त्रिपाठी ने शशा डाकवर इन्डोली के पद पर कार्य करते हुए दि० 6-8-85 को प्राप्त अधिलेखों के अनुसार शशा डाकवर की बकिया रु० 238-12 की जगह शशा डाकवर का चार्ज रु० 67-85 देकर शशा डाकवर नियमावली के नियम 11(2) के प्राविधानों का उल्लंघन करते हुए, सत्यानिष्ठा व कर्तव्यनिष्ठा से कार्य न करके अति०वि०ए० (सेवा तथा आचरण) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद 9

यह कि श्री राधेश्याम त्रिपाठी ने शशा शकपाल इन्डोली के पद पर कार्य करते हुए दि० 17-1-85 के पहले की तिथि में एन०सं० 14(क) रसीद पुस्तक सं० 179781 की रसीद नं० 2 पहले श्री मुन्नालाल के नाम रु० 500/- हेतु जारी किया तथा बाद में वही रसीद दि० 17-1-85 को श्री अक्षय कुमार के नाम जारी किया तथा उक्त दोनों धन को सरकारी हिस्सा में न लेकर शशा डाकवर नियमावली के नियम 154 के प्राविधानों का उल्लंघन करते हुए सत्यानिष्ठा से कार्य न करके अति०वि०ए०(सेवा तथा आचरण) नियमावली 1964 के नियम 17 का उल्लंघन किया।

श्री राधेश्याम त्रिपाठी को आरोप-पत्र दिनांक xxx की वितरित हुआ था। कर्मचारी ने अपना प्रतिवेदन दि० 25-1-88 को प्रस्तुत किया। इस कार्यालय में दि० 27-1-88 को प्राप्त हुआ। कर्मचारी ने अपने प्रतिवेदन में अपने विरुद्ध लगभग गये आरोपों को अस्वीकार का दिया जिसके फलस्वरूप हम अपरिहार्य समसंघर्षक जापन दि० 8-3-88 द्वारा श्री राम-नारायण उपमन्त्रीय निदेशक बिसवा की जीव अधिकारी व श्री सोमेश्वरलाल परीवार रक्षक सनापुर को प्रस्तोता अधिकारी नियुक्त किया गया।

... 3/4

21/10/88

(3)

जीव अधिकारी ने अपनी जीव आख्या दिनांक 28.11.88 में इस कार्रवाई में प्राप्त हुई।

मुझे जीव अधिकारी की जीव आख्या व सम्बन्धित प्रलेखों का मूल्य पूर्ण अध्ययन किया जीव अधिकारी ने आरोप 2, 4, 5, 6, 9 सिद्ध पाया तथा 5, 6, 9 अतः सिद्ध पाया है। आरोप 1, 3, 7, 8 को सिद्ध नहीं पाया है।

आरोप सं 3 के प्रति जीव आख्या में स्पष्ट कहा गया है कि आरोप का कर्मचारी को सिद्ध नहीं कर सका कि उसने कोई अवकाश या गैर-सहायता भेजा। यदि ऐसा कुछ होता तो शशा डाक्टर नियमावली के नियम 36 के अन्तर्गत शशा पोस्टमास्टर ने ब्रिटिश पुस्तक में (शापना) परिचय अ नोट किया होता तथा सूचना भेजने का विवरण भी दिया होता एवं गलतपूर्वक वह सिद्ध कर सकता था। न तो शक्ति पर भेजा न भोजना सिद्ध कर सका। यह मात्र इसलिए नकारा नहीं जा सकता कि एक ही पद पर कार्य कर रहा था जो अवैध व्यक्ति से जारी गयी अनियमित सहायता मात्र थी। अतः सत्य, क्या न तथा जीव अधिकारी के निष्कर्ष के अनुसार मैं आरोप सं 3 को भी सिद्ध पाता हूँ।

कर्मचारी ने सत्यनिष्ठा यहाँ तक नहीं बनायी रहा कि अपने कार्यालय में ही कार्यरत अधीनस्थ कर्मचारियों का भी वेतन बढ़ा दिया। जनता के धन के बारे में भी आरोप सिद्ध है। वे विभाग की सेवा में रहने योग्य व्यक्ति नहीं है।

आदेश

मुझे, के.एफ.सिन्हा अधीक्षक डाक्टर सीतापुर कर्मचारी के विरुद्ध लगाये गये आरोप सं 2, 3, 4, 5, 6, 9 को सिद्ध हो पाकर श्री राधेश्याम त्रिपाठी को शशा पोस्टमास्टर इन्डोली (कार्य विमुक्त) को सेवा से बर्खास्त करने का आदेश देता हूँ।

अधीक्षक डाक्टर सीतापुर मण्डल,
सीतापुर-261 001

प्रतिलिपि-1. श्री राधेश्याम त्रिपाठी शशा पोस्टमास्टर इन्डोली (सीतापुर) सभा में जीव अधिकारी की जीव आख्या दिनांक दि 28.11.88 को प्राप्त भी संलग्नक है।

- 2. पोस्टमास्टर सीतापुर।
- 3. शापना-अनुभाग मण्डलीय कार्यालय सीतापुर।
- 4. मदन अनुभाग पत्रावली स्फ/स्टेट-2/मथली/88
- 5-6 कार्यालय एवं अतिरिक्त।

2002 2000 2000 2000

The All-India
copy
M. Duker
Bdy

भारतीय डाक विभाग

कार्यालय निदेशक डाक सेवाएँ, लखनऊ, लखनऊ-226007

आपन संख्या: आरडीएस/रदाप/ए-8/89/3 लखनऊ दिनांक 30-07-1989

श्री राधे श्याम त्रिपाठी, पूर्व शाखा डाकघरोंत इन्दरीली
[सीतापुर] द्वारा अधीकृत डाकघर सीतापुर मण्डल, सीतापुर के आपन
संख्या: ए-11/85-86/राधेश्याम/डीक दिनांक 20-12-88 में उनके
विरुद्ध पारित सेवा से श्रेय अर्हतागत सम्बन्धी दण्डादेश के विरुद्ध
दिनांक 8-2-89 को प्रेषित अपील मेरे समक्ष विषयार्थ प्रस्तुत हुई है।
अपील का लक्ष्य नहीं है।

2. अपीलकर्ता के विरुद्ध अधीकृत डाकघर सीतापुर के दिनांक
12-1-86 के समसंख्यक आपन द्वारा डाक तार अतिरिक्त विभागीय
अभिकर्ता [आधरम एम्. देवा] नियमावली 1964 के नियम-8 के
अन्तर्गत स्थापित अनुसारिक कार्यवाही में श्रेय में निम्नलिखित
आधरम एम्. कदापार के लॉटन लगाये गये थे:-

1. दिनांक 21-11-85 को डाकघर में दस्तावे अतिशेष से 335/-
रुपये का निरोधक अधिकारी के समक्ष प्रस्तुत करके शाखा डाकघर नियमावली
के नियम-11 [2] तथा आधरम एम्. देवा नियमावली के नियम-17 का
उत्तीर्ण।

2. दिनांक 21-11-85 को अवसर्गिक देखाटे दिखाकर सेवा
कार्यवाही से अतिरिक्त धन उपलब्ध कराने की मांग करके शाखा डाकघर
नियमावली के नियम-177 [2] एम्. आधरम एम्. देवा नियमावली
के नियम-17 का उत्तीर्ण।

3. दिनांक 8-2-85 एम्. 23-11-85 को बिना पूर्व अनुमति
के अनुमति रकम शाखा डाकघर नियमावली के नियम-50 तथा
आधरम एम्. देवा नियमावली के नियम-5 का उत्तीर्ण।

4. दिनांक 22-10-85 को जाकी जमा खाता संख्या 717355
में जाकी की धरनाश रुपये 3/- को हिसाब में न लेकर शाखा
आधरम नियमावली के नियम-131 [3], 173 [प] व 174 [2] तथा
आधरम एम्. देवा नियमावली के नियम-17 का उत्तीर्ण।

5. दिनांक 7-7-74 को जाकी खाता संख्या 718824,
718525 तथा 455880 में जमा धरनाशियों को 20-7-84 तथा
खाता संख्या 718525 में 14-8-84 को जमा धरनाशियों को 16-8-84
को हिसाब में लेकर तथा दिनांक 7-11-85 को भुगतान हुये धनादेश
संख्या 2917 को धरनाशियों को 25-11-85 को हिसाब में लेकर शाखा
डाकघर नियमावली के नियम-131, 134, [3], 174 [2] और
आधरम एम्. देवा नियमावली के नियम-17 का उत्तीर्ण।

6. दिनांक 1-10-85, 17-10-85 एम्. 31-10-85 को अधीनस्थ
कर्मचारियों के वेतन एम्. एन. एन. का बिना उनकी प्राप्ति स्वीकृत
किये और बिना वार्षिक भुगतान किये अगिलेखों में भुगतान प्रदर्शित
करके शाखा डाकघर नियमावली के नियम-180 [2] तथा आधरम एम्.
देवा नियमावली के नियम-17 का उत्तीर्ण।

Radhey Shyam Tripathi

17] दिनांक 22-10-85 को ग्रामवासी श्री ब्याम बाबू से नया बाटा खोलने हेतु 155/- प्राप्त करके बाटा खोलने की औपचारिकतायें पूरी कीं और धनराशि को हिसाब में न लेकर बाटा डाकघर नियमावली के नियम-124, 130, 131, 173[1] व 174[2] तथा आपराज्य रक्षु सेवा नियमावली के नियम-17 का उल्लंघन ।

18] दिनांक 5-2-85 को प्रातः कार्यालय हस्तान्तरित करते समय अतिशेष से 174-67 रुपये का हस्तान्तरित करके बाटा डाकघर नियमावली के नियम-11 [2] तथा आपराज्य रक्षु सेवा नियमावली के नियम-17 का उल्लंघन ।

19] दिनांक 17-1-85 को रस-सी4[र] रसीद नुमा संख्या 179781 की रसीद संख्या 2 पहले 500/- रुपये के लिये श्री मुन्ना लाल के नाम जारी करके पुनः उसी दिन उसी रसीद को 400/- रुपये के लिये श्री श्रवण कुमार के नाम जारी किया परन्तु किसी भी धनराशि को हिसाब में न लेकर बाटा डाकघर नियमावली के नियम-154 व 174[2] तथा आपराज्य रक्षु सेवा नियमावली के नियम-17 का उल्लंघन ।

3. अपीलकारों द्वारा अपने 25-1-88 के लिखित प्रतिवेदन में आरोपों को अस्वीकार करने पर अधीक्षक डाकघर सीतापुर ने दिनांक 8-2-88 के समीक्षक आपन द्वारा आरोपों को सुनी जांच करने के लिये श्री राम नारायण, उप मण्डलीय निरोधक डाकघर बिस्वा को जांच अधिकारी नियुक्त किया । जांच पूर्ण करके जांच अधिकारी ने अपने जांच आख्या दिनांक 28-11-88 में आरोप संख्या-2 तथा 4 पूर्ण स्वेप रिपोर्ट लोने, आरोप संख्या 5, 6 रक्षु 9 अंशतः सिद्ध होने तथा आरोप संख्या 1, 3, 7 रक्षु 8 पूर्ण स्वेप सिद्ध न होने का निष्कर्ष प्रतिपादित किया । अनुशासनिक अधिकारी, अधीक्षक डाकघर ने आरोप पत्र जांच अधिकारी को आख्या तथा प्रस्तुत किये गये साक्ष्यों पर सम्यक विचार करके आरोप संख्या 1, 2, 4, 5, 6, 7, 8 व 9 के सम्बन्ध में प्रतिपादित जांच अधिकारी के निष्कर्षों के सम्यक होकर तथा आरोप संख्या 3 के विषय में जांच अधिकारी के निष्कर्ष से लिखित कारणों के अस्तित्व होकर आरोप संख्या 2, 3, 4, 5, 6 व 9 अपीलकारों के विरुद्ध प्रमाणित पाकर उपरोक्त दण्डादेश पारित किया जिसके विरुद्ध यह प्रस्ताव है ।

4. अपील में दिये गये तर्कों तथा अनुशासनिक कार्यवाही की प्रक्रिया में उपलब्ध अभिलेखों तथा साक्ष्यों पर गहन विचार करने के उपरान्त में अपीलकारों द्वारा दिये गये तर्कों के संदर्भ में निम्नीतिगत निष्कर्षों पर पहुँचा है:-

4.1 जांच प्रक्रिया के सम्बन्ध में अपीलकारों के तर्क यह हैं कि बहुत से अभिलेख रक्षु गयाह प्रस्तुत न किये जाने से जांच पूरी तरह नहीं हो सकी है, जांच अधिकारी द्वारा सिद्ध पाये गये आरोपों पर अनुशासनिक अधिकारी ने बिना किसी टिप्पणी के सम्यक विचार करके दण्डादेश पारित कर दिया और जांच अधिकारी द्वारा प्रमाणित पाये गये आरोप संख्या-3 को भी अनुशासनिक अधिकारी ने औपचारिक कर सिद्ध कर दिया । इसमें है कोई भी तर्क स्वीकार्य रक्षु मान्य नहीं है । यहाँ कि प्रथम तर्क के संदर्भ में अपीलकारों ने जांच में प्रस्तुत नहीं किये गये अभिलेखों/साक्ष्यों का विचार नहीं दिया है । जांच अधिकारी

राम राम राम

द्वारा पृष्ठ पाये गये आरोपों के विषय में अनुशासनिक अधिकारी द्वारा कोई टिप्पणी देना अपेक्षा नहीं है और आरोप संख्या-3 के विषय में जांच अधिकारी के निष्कर्ष से उत्तमता होने का कारण स्पष्ट रूप से दण्डादेश में लिखा गया है।

4.2 अपीलकर्ता का हक यह तर्क कि जांच अधिकारी ने आरोप संख्या 5, 6 व 7 के कुछ अंशों को अप्रमाणित पाया है किन्तु आरोप के विरुद्ध अंश अप्रमाणित है इतना विवेचन नहीं किया है। निराधार, भ्रामक स्वयं अमान्य हैं। आरोप-5 के सम्बन्ध में जांच अधिकारी ने जांच आख्या के पृष्ठ-18 पर घनादेश के भूतान से सम्बन्धित आरोप अप्रमाणित होने का उल्लेख किया है। पृष्ठ-20 स्वयं 24 पर क्रमशः आरोप संख्या 5 व 7 के संदर्भ में प्रतिपादित निष्कर्ष के क्रमशः अन्तिम व प्रथम अनुच्छेद में अप्रमाणित 2 अंशों का उल्लेख स्पष्ट रूप से हुआ है।

4.3 आरोप संख्या-3 के विषय में अपीलकर्ता द्वारा दिये गये तर्क भ्रामक स्वयं अमान्य है। जांच में यह अनिर्वच्य रूप से सिद्ध हो गया है कि दैनिक लेखा दिनांक 21.11.85 में प्रदर्शित द्रो देखाओं को पुष्टि प्रदर्श बनाये गये उक्त दिन के बीजो प्रदर्श/जर्नल से नहीं होती है अतः यह स्वयं सिद्ध है कि प्रदर्शित देखाओं अवास्तविक थी जिनकी आधार पर अपीलार्थी ने लेखा कार्यालय से अतिरिक्त धन की मांग की थी।

4.4 आरोप संख्या-3 के सम्बन्ध में अपीलकर्ता का तर्क कि दिनांक 6.2.85 को अनुपस्थित का आरोप निरोधक आख्या दिनांक 6.2.85 के परिरोधक में प्रमाणित नहीं होता और 23.11.85 को वह अनुपस्थित नहीं थे परन्तु डाक निरोधक द्वारा कार्यनिष्कृत कर दिये गये थे। अपीलकर्ता के तर्क का प्रथम अंश अमान्य है कि 6.2.85 को निरोधक आख्या में जब उन्हें बीजो के कारण अज्ञात पर होना स्वीकार किया गया था तो न तो आरोप लगाया जाना चाहिये था न ही उसे प्रमाणित माना जाना चाहिये था। 23.11.85 को अनुपस्थित के विषय में दिये गये अपीलकर्ता का तर्क स्वीकार्य नहीं है अतः आरोप 23.11.85 को अनिर्वच्य अनुपस्थित के अंश तक प्रमाणित है।

4.5 आरोप संख्या-4 के सम्बन्ध में अपीलकर्ता के तारे तर्क उनकी स्वयं को इस स्वीकृति से ही आधारहीन हो जाते हैं कि पातडुक में 30/- स्वयंकीर्ण अंश को प्रीवीड के उपरान्त जमाकर्ता ने पातडुक और स्वयं वापर ले तो और भ्रामक पातडुक में की गई प्रीवीड निरस्त नहीं की जा सकी।

4.6 आरोप संख्या-5 के विषय में अपीलकर्ता ने तर्क देकर यह कहना चाहा है कि साक्ष्यी सर्वज्ञो द्रो हरि कृष्ण स्वयं राम खेलासन के इधाने से स्वयं 7.7.84 के हजाय 20.7.84 को जमा किया जाना सिद्ध होता है। अपीलकर्ता का तर्क विषयवस्तु स्वयं अमान्य नहीं है। जांच अधिकारी द्वारा आरोप के विषय में प्रतिपादित निष्कर्ष प्रस्तुत किये गये अभिलेखीय साक्ष्यों पर आधारित हैं जिनसे अनिर्वच्य रूप से यह सिद्ध होता है कि प्रारम्भिक रसीद संख्या 83 से खाता संख्या 718524 दिनांक 7.7.84 को खोला गया था किन्तु उसकी धनराशि 10/- स्वयं 20.7.84 को हिसाब में ली गई अतः यह मानने का कोई

आपने 2 वरम मिला

25 (5)

1/5

-5-

8. अतएव मैं ^{द्वारा} स्तम्बिनिक, अपीलकर्ता की अपील अवपीकार करता हूँ तथा अधीक्षक डाकघर सीतापुर-मण्डल, सीतापुर द्वारा अपीलकर्ता को प्रदत्त दण्ड की पुष्टि करता हूँ ।

भानु प्रताप सिंह
निदेशक डाक सेवाएँ
लखनऊ क्षेत्र, लखनऊ-7

प्रतिपत्ति:

- 1. सम्बन्धित कर्मचारी को द्वारा अधीक्षक डाकघर सीतापुर
- 2-3. अधीक्षक डाकघर सीतापुर
- 4-5. क्षेत्रीय कार्यालय पत्रावली
- 6. अतिरिक्त ।

भानु प्रताप सिंह

Misled
Time Wastage
M. Dulat
B.S.

ब अदालत श्रीमान C A T, Circuit Bench, Meerut महोदय

1) [वादी] अपीलान्त

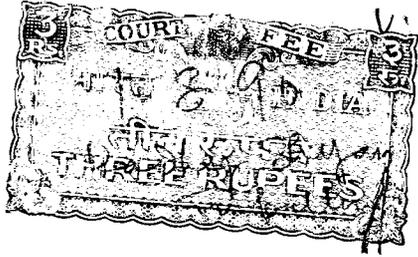
Radhey Shyam Tripathi

प्रतिवादी [रेस्पान्डेंट]

श्री

का

वकालतनामा



46

Radhey Shyam Tripathi

बनाम UOS & Mis

प्रतिवादी (रेस्पान्डेंट)

मुकदमा नं०

सन

पेशी की ता०

१६

ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

B. Solomon, Advocate, Me.

Meerut & M. Dulley Advocate, Uth Lane, Meerut वकील
Praneshgaur, Meerut एडवोकेट

नाम अदालत.....
मुकदमा नं० नाम.....
फरीकॉन.....बनाम.....

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पंरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पंरोकार को भेजता रहूँगा छपर मुकदमा अदम पंरवी 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
B. Solomon

हस्ताक्षर

Radhey Shyam Tripathi

1

M. Dulley साक्षी (गवाह)

साक्षी (गवाह)

2

दिनांक

महीना

सन् १९७० ई०

26

प्रमाणित कि यह पत्र आदि का अतिरिक्त प्रमाण है

55

Order No. 1/1990 dated 12.12.90
 In pursuance of the order of the
 & conduct Rules, 1954, so Radhey Shyam
 Tripathi, (P.O.), Director of J.O.I, is
 directed to be placed on leave with
 effect from 12.12.90 to 31.12.90.

On Radhey Shyam Tripathi
 P.O., no order will be entertained
 for any allowances during the
 absence of the Director of J.O.I.

Charge report should be

[Signature]
 Director, J.O.I
 12/12/90

To - Mr. Radhey Shyam Tripathi, P.O.,
 J.O.I, for his attention.
 The Hon. Secretary, J.O.I, for his
 info. The Director of J.O.I, is
 directed to place Mr. Radhey Shyam
 Tripathi, P.O., on leave with effect
 from 12.12.90 to 31.12.90.
 The Director of J.O.I, is directed
 to take over the charge of the
 J.O.I, during the absence of Mr.
 Radhey Shyam Tripathi, P.O.,
 and to ensure the smooth running
 of the J.O.I, during his absence.
 The Director of J.O.I, is directed
 to ensure that Mr. Radhey Shyam
 Tripathi, P.O., is placed on leave
 with effect from 12.12.90 to 31.12.90.

27/12/90

Admitted
 T.C
 M. D. J. [Signature]
 Adv

O.A. No. of 1990

Radhey Shyam Tripathi versus U.O.I and others. (27)

ANNEXURE A-4

3

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE SUPDT. OF POST OFFICES, SITAPUR DN.261001.

Order No. P-11/84-85,

Dated at Sitapur the, 20.2.85.

The orders issued by the S.O.I (North) Sitapur vide his memo no. A/Indrauli, dt. 7.2.85 under rule 9 of CCAo. (Conduct and Service) rules, 1964 to put Sri Radhey Shyam Tripathi EDBPM Indrauli (in a/c with Sitapur HO) off duty are hereby confirmed.

(Signature)
Supdt. of Post Offices
Sitapur In.261001.

Copy to:-

1. The S.O.I (North) Sitapur w/r/t his memo no. A/Indrauli, dt. 7.2.85 for info.
2. ~~T.O. PM Sitapur.~~
3. Sri Radhey Shyam Tripathi EDBPM Indrauli (Under putt off duty) Sitapur.
4. Lett. Br. D.O. Sitapur.
5. O/C.
6. ~~...~~

(Signature)

(Signature)
Te
M. Duley
P.O.

Vaish/-

O.A. No. of 1990

Radhey Shyam Tripathi versus U.O.I and others. (28)

ANNEXURE A-5

8/9

DEPARTMENT OF POSTS
OFFICE OF THE SUPDT. OF POST OFFICES, SITAPUR DN. 261001

Memo No. F-11/84-85,
Dated at Sitapur the, 3.9.85.

The orders issued under Rule 9 of EDAs. conduct Rules, 1964 regarding put off duty to Sri Radhey Shyam Tripathi EDBPM Indrauli in account with Sitapur HO vide SDI North (Sitapur) memo no. A/Indrauli dt. 9.2.85 and confirmed vide this office memo of even no. dt. 20.2.85 are hereby revoked.

Sri Radhey Shyam Tripathi EDBPM Indrauli is hereby ordered to be put back to duty with immediate effect

[Signature]

Supdt. of Post Offices
Sitapur, Dn, 261001

Copy to:-

- 1. Sri Radhey Shyam Tripathi EDBPM Indrauli (Sitapur) (under put off duty).
- 2. The SDI North Sitapur. Ms for information and n/a.
- 3. The PM Sitapur.
- 4. The Estt. Branch D.O. Sitapur.
- 5. O/C.
- 6. Spars.

Vaish/-

21/9/85

M. D. ...

1/10

डिप्टी कमिश्नर (23-11-85 को पत्र आदका अदेश श्री निचल मंत्रालय का)

56

2

Post. Deptt. Lucknow
आयुक्त निदेश (आयुक्त)
कीर्ति-261001

Memorandum N. No. 10001 dated 23-11-85

Under rule 9 of E.O.S. Service & Conduct-2.1.1964, Sr. Radhey Shyam Tripathi (B.P.M), Indrauli, Staff No. 10001 is hereby ordered to be put off from duty with immediate effect.

The said Sr. Radhey Shyam Tripathi (B.P.M), Indrauli, Staff No. 10001 shall not be entitled for any allowance during the period he remains under put off duty.

Signature
आयुक्त निदेश (आयुक्त)
कीर्ति-261001

Copy to - 1. Sr. Radhey Shyam Tripathi, B.P.M, Indrauli Staff No.

2. The Mail Overseer, West, Staff No. for taking over the charge and handing over verification of post code of the staff no. Indrauli Staff No.
3. Mr. Staff No. for Mr.
4. Mr.
5. Sr. Staff No. for information and conforming the order

अनुमति देना

Received
Te. No. 10001
Date

O.A. No. of 1990

Radhey Shyam Tripathi versus U.O.I and others. (30)

ANNEXURE A-7

DEPARTMENT OF POSTS
OFFICE OF THE SUPNT. POST OFFICES, SITAPUR DN. 261801.

Memo No. F-11/84-85,

Dated at Sitapur ths, 3.12.85.

The orders issued by the S.D.I. (North) Sitapur vide his memo No. A/Indrauli, dated 23.11.85 under Rule 9 of E.D.Aa. (Conduct & Service) Rules, 1964 to put Sri Radhey Shyam Tripathi EDBPM Indrauli (In A/c with Sitapur HQ) off duty are hereby confirmed.

[Signature]
Supdt. of Post Offices
Sitapur Dn. 261801.

Copy to:-

1. Sri Radhey Shyam Tripathi EDBPM Indrauli (Under put off duty) Sitapur.
2. The S.D.I. (North) Sitapur w/r/t his no. A/Indrauli dt. 23.11.85 for information.
3. The P.M. Sitapur for n/a.
4. The Estt. Branch D.O. Sitapur.
5. C/C.
6. Spare.

[Signature]
Vaish/-

[Signature]
Te
M. Dubey

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW.

O.A. No. of 1990

Radhey Shyam Tripathi versus U.O.I and others.

ANNEXURE A-8

E.D.A. CONDUCT AND SERVICE RULES

authority to which the Appointing Authority is subordinate. Since the provisions of Rule (2) *ibid* in regard to confirmation of order made by an Inspector of Post Offices within fifteen days is mandatory, it is requested that the Divisional Superintendents may issue suitable instructions to their Inspectors to refer all such cases to them immediately after orders for put off duty are issued by the IPOs to ensure that timely action is taken in this regard.

[D.G., P. & T., Letter No. 43-115/73-Pen., dated the 26th July, 1974.]

(2) Placing ED Agents under suspension and grant of allowance.—The question of placing ED Agents under suspension and paying them subsistence allowance, in place of the present practice of putting them off duty without any allowance has been examined in all its aspects in the light of the Supreme Court judgment, dated 22-4-1977 and in consultation with the Ministry of Law. The service conditions of the EDAs are regulated by the EDA (Conduct & Service) Rules, 1964. Rule 9 of these rules provides that pending an enquiry into any complaint or allegation of misconduct, an ED Agent may be put off duty and that during the period he is put off duty he shall not be entitled to any allowance. It has been held by the Ministry of Law that this rule has not been affected by the judgment of the Supreme Court. Rule 9 still remains and this being special law in respect of ED Agents it would prevail over the general provisions of Fundamental Rules. That being the legal position and having regard to the fact that EDAs being part-time employees, cannot be equated with regular employees of the Department in the matter of grant of service benefits, the Government have decided that the present practice of putting them off duty without allowance should continue. No allowance would, therefore, be payable to the ED Agents for the period any enquiry is pending against them and they remain put off duty. It may, however, please be noted that the ED Agents may be put off duty only during the pendency of the enquiry and not when any enquiry is contemplated.

[D.G., P. & T., Letter No. 151/7/77-Disc. II, dated 23rd March, 1978.]

(3) Put off duty only during pendency of enquiry and not when one is contemplated.—The implication of the Supreme Court's judgment declaring ED Agents as holders of civil posts was clarified in Instruction above. One of the clarifications was that an ED Agent can be put off duty only during the pendency of the enquiry and not when any enquiry is contemplated. Enquiries have been made whether the enquiry refers to the fact-finding enquiry or the formal enquiry which is required to be held before imposing the penalty of removal or dismissal from service. It is clarified that ED Agents can be put off duty even before the initiation of the disciplinary proceedings. However, it is not the intention of the rule that an ED Agent be put off duty merely on the ground of suspicion, without making any enquiry whatsoever. The question of putting off an ED Agent from duty should arise only when

Handwritten signature

(32)
15/13

there is a *prima facie* case against him and the nature of the offence is such that dismissal will be the probable penalty.

[D.G., P. & T., Letter No. 157-7/77-Disc. II, dated the 16th January, 1979.]

(4) **Guidelines for putting off duty.**—Putting an ED Agent off duty may cause a lasting damage to his reputation if he is ultimately exonerated or is awarded only a minor penalty. The competent authority is, therefore, expected to exercise his discretion with proper care and due caution. The following guidelines by way of precaution are, therefore, to be followed by the competent authority before passing orders placing an ED Agent off duty:—

- (a) Enquiries made into a complaint or the process of inspection of that office should have revealed a strong *prima facie* case against the delinquent.
- (b) The offence thus coming to notice should be of such a serious nature that dismissal or removal from service would be the probable ultimate punishment and it would be inadvisable that the offender should be allowed to continue to perform his duties pending finalisation of the disciplinary case against him.
- (c) Petty breaches of discipline and minor departmental offences would not justify putting an ED Agent off duty.
- (d) Wilful, obstinate or repetitive refusal to carry out an order, rendering his retention on duty a hurdle to proper conduct of enquiry would justify an ED Agent being put off duty.
- (e) An agent against whom a criminal charge involving moral turpitude is pending, may be put off duty during the period when he is not actually detained in custody or imprisoned (i.e., while he has been released on bail), if the charge made or proceedings taken against him are connected with his duties or is likely to embarrass him in the discharge of his duty.

Whenever it is necessary to put an ED Agent off duty, the Sub-Divisional Inspector should inform the Divisional Superintendent within a period of seven days of the action taken by him. Prior approval of the Divisional Superintendent should be obtained in cases where the Sub-Divisional Officer is not the appointing authority. However, in case it is in the public interest to place such an ED Agent off duty immediately or in case it is considered that delay is likely to result in tampering by him with the evidence, the Inspector may order put off duty in anticipation of the approval of the Divisional Superintendent, but should obtain his *ex-post facto* approval within a week.

It is also necessary that disciplinary authority makes every effort to finalise the disciplinary proceedings and pass final orders so that an ED

Handwritten signature

Agent may not remain put off duty for a period exceeding 120 days. Heads of Circles should draw up a time-table for ensuring finalisation of disciplinary cases within this period. In case, for any unavoidable reasons, it has not been possible to finalise a case within this period, the matter should be reported immediately to the next superior authority giving full justification why the ED Agent cannot be taken back to duty pending finalisation of the case. The superior authority should, on receipt of the report, immediately review the case and consider—

- (i) whether there is justification to continue the ED Agent concerned off duty for a further period, and
- (ii) what steps should be taken by the disciplinary authority to eliminate all avoidable delay in finalising the case.

The Heads of Circles are requested to bring these instructions to the notice of all concerned, for very strict compliance. It should be understood by the competent authorities that it would be their personal responsibility to adhere to the guidelines given in the previous paragraphs.

[D.G., P. & T., Letter No. 104-11/77-Disc. II, dated the 24th February, 1979.]

It has been brought to the notice of this office that the cases of put off duty of EDAs are being unnecessarily delayed in spite of the instructions in this regard. Putting an EDA off duty causes lasting damage to his reputation as well as undue hardship to him during the period that he is put off duty. It was, therefore, emphasised in the earlier instructions in this regard, that care should be taken not to put an EDA off duty without sufficient grounds for doing so. If at all it was necessary to put them off duty, then their cases should be finalised at the earliest and not later than 4 months at the maximum.

It appears from the complaint received from various quarters including the Unions that these instructions are not being followed. It is, therefore, brought to the notice of the competent authorities that the guidelines mentioned above may be strictly followed. Statements of put off duty cases may be called for from all the divisions and scrutinised. Strict action should be taken against any instance where it is found that put off duty cases of EDAs have been unnecessarily delayed due to negligence.

[D.G., P. & T., ND., Letter No. 151/3/81-Vig. III, dated the 25th August, 1981.]

In spite of these instructions, instances have come to notice where disciplinary proceedings against EDAs who are put off duty for some reason or the other, are not completed for years, with the result such officials continue to be under put off duty for an indefinitely long period. This is contrary to the instructions issued. You are, therefore, requested to strictly follow the instructions issued in the Directorate Letter, dated 24-2-1979. The content of the letter may be brought to the notice of all concerned.

[D.G., P. & T., Letter No. 43-33/85-Pen., dated the 30th September, 1985.]

Handwritten signature

*Attested
T E
11 July
Ddv*

34
K

भारतीय न्याय विभाग
कार्यालय- अधीक्षक डाक्टर सीतापुर प्रखण्ड, सीतापुर-261001.
आपन 10/2/90 11/8/85/21/88/90/सप/दि० 12/1/88

अधिकाधिकारी और राज्य सरकार विभागीय स्तर पर के विरुद्ध अफतार अतिरिक्त विभागीय स्टेज (आचार्य एवं सेवा) नियमावली 1964 के नियम 8 के अन्तर्गत जीव प्रस्तावित करते हैं। दवाचार्य और दुर्व्यवहार के सार जिनके विषय में जीव प्रस्तावित है परिशिष्ट में वर्णित है। आरोप में सार से संबंधित दवाचार्य और दुर्व्यवहार का विचार संलग्न परिशिष्ट में दिया हुआ है। उन दस्तावेजों की सूची एवं उनके आधार पर आरोप सिद्ध होता है इस महः परिशिष्ट है और परिशिष्ट 4 में दिया गया है जो संलग्न है।

2- श्री 2-3-2000 दिवस की तारीख को निर्देश दिया जाता है कि इस आपन की प्राप्ति के 10 दिनों के अन्दर अपने वचन का लिखित बयान प्रस्तुत करें यह भी कतलाये कि क्या व्यक्तिगत रूप से इन्हें चाहते हैं।

3- उनसे यह भी सूचित किया जाता है कि उन्हीं आरोपों के सार के बारे में जीव ही नहीं लिखते वे स्वीकार नहीं करते हैं उन्हें इसलिए स्पष्ट रूप से प्रहरीक आरोप के सार को स्वीकार या अस्वीकार करना चाहिए।

4- श्री 2-3-2000 दिवस की तारीख को निर्देश दिया जाता है कि यदि वह पैरा 2 में वर्णित तिथि के पहले अथवा उसके भीतर (दरहते) अपना लिखित बयान वचन को नहीं देते हैं या व्यक्तिगत रूप से जीव अधिकाधिकारी के सम्मुख नहीं आते हैं अथवा अतिरिक्त विभागीय स्टेज (आचार्य एवं सेवा) नियमावली 1964 के नियम 8 के प्रावधानों को ध्यान नहीं करते हैं या उक्त नियम के अन्तर्गत जारी निर्देशों का पालन नहीं करते हैं तो जीव अधिकाधिकारी उनके विरुद्ध एक लाख रुपये का कार्यवाही कर सकता है।

5- श्री 2-3-2000 दिवस की तारीख को निर्देश दिया जाता है कि अतिरिक्त विभागीय स्टेज (आचार्य एवं सेवा) नियमावली 1964 के नियम 25 के अंतर्गत किया जाता है जिनके अन्तर्गत उच्च-शिक्षण में या ताकती कर्तव्यी दवाचार्यी प्रकार के राजनीतिक या अन्य बाहरी दबाव प्रभाव प्रयुक्त है जो उसके सेवा से सम्बन्धित है यदि उनके तारफ से कोई भी प्रतिवन्ध इस मामले में किसी दूसरे व्यक्ति से प्राप्त होता है तो यह माना जायेगा कि प्रतिवन्ध के बारे में अवगत है तथा यह उनके ही निर्देश पर एवं प्रयत्न से किया गया है। इसलिए अफतार अतिरिक्त विभागीय स्टेज (आचार्य एवं सेवा) नियमावली 1964 के नियम 25 के अन्तर्गत के लिए उनके विरुद्ध कार्यवाही की जायेगी।

6- इस आपन की प्राप्ति ध्वंशर करें।

अधीक्षक डाक्टर सीतापुर प्रखण्ड,
सीतापुर-261001

सीतापुर में,
... श्री. राज्य सरकार विभागीय
... का. शर्मन लुका... जगदीश चौधरी मास्टर
... उन्नीसवीं... सीतापुर ...

21/1/2000

Attested
Te
M. Duley
Adv.

मसौदा जारी बत्र

अनुबन्ध - 1

श्री राधेश्याम त्रिपाठी कार्य विमुक्त शाखा हाकमाल इंदौली के बिन्दु बिबिध आरीनों के अनुच्छेदों का बिबिध-

अनुच्छेद- 1

यह कि श्री राधेश्याम त्रिपाठी ने शाखा हाकमाल इंदौली के बद्द पर कार्य करते हुए दि० 21-11-85 को हाकमाल में दक्षि अतिरिक्त में 335/- का रखकर तथा निरीक्षण अधिकारी के सामने प्रस्तुत न करके शाखा हाकमाल नियमावली के नियम 11 (2) के प्राविधानों का उल्लंघन करके सत्यनिष्ठा एवं कर्तव्यनिष्ठा नहीं बनाये रखकर हाक तार अ०वि०ए० नियमावली 1964 के नियम 17 (सेवा तथा आचार) का उल्लंघन किया।

अनुच्छेद- 2

यह कि उक्त श्री राधेश्याम त्रिपाठी ने शाखा हाकमाल इंदौली के बद्द पर कार्य करते हुए दि० 21-11-85 को अवास्तविक दायताएं दिशाकर सेवा, कार्यालय से अतिरिक्त धन की मांग करके शाखा हाकमाल नियमावली 177(2) का उल्लंघन करते हुए अ०वि०ए० (सेवा तथा आचार) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद- 3

यह कि, श्री राधेश्याम त्रिपाठी ने शाखा हाकमाल इंदौली के बद्द पर कार्य करते हुए दि० 6-2-85 एवं 23-11-85 को बिना किसी अनुमति के अनुचित शीकर शाखा हाकमाल नियमावली के नियम 50 तथा अति०वि०ए० (सेवा तथा आचार) नियमावली 1964 के नियम 5 के अन्तर्गत महानिदेशक के द्वारा जारी किए गये प्राविधानों का उल्लंघन किया।

अनुच्छेद- 4

यह कि, उक्त श्री राधेश्याम त्रिपाठी ने शाखा हाकमाल इंदौली के बद्द पर कार्य करते हुए इंदौली शाखा हाकमाल अवती जमा खाता सं० 717335 में 30 30/- का किराया धन लेना में न लेकर शाखा हाकमाल नियमावली के नियम 131(3), 173(ब) व 174(2) के प्राविधानों का उल्लंघन किया तथा राजकोष की 3030/- की शानि पड़नाह और अ०वि०ए० (सेवा एवं आचार) नियमावली 1964 के नियम 17 के अन्तर्गत धारित सत्यनिष्ठा नहीं बनाये रखा।

अनुच्छेद-5

यह कि उक्त श्री राधेश्याम त्रिपाठी ने दि० 7-7-84 से 25-11-85 तक शाखा हाकमाल इंदौली के बद्द पर कार्य करते हुए दि० 14-8-84 एवं 7-7-84 को अ०वि०ए० अवती खाता में जमा धन को क्रमशः 2 एवं 13 दिन लेना में न लेना तथा 7-11-85 का भुगतान 25-11-85 को लेना में लेकर शाखा हाकमाल नियमावली के नियम 131 के व 134, 173(ब), 174(2) का उल्लंघन करते हुए सत्यनिष्ठा एवं कर्तव्यनिष्ठा नहीं बनाए रखकर अति०वि०ए० (सेवा तथा आचार) नियमावली 1964 के नियम 17 का उल्लंघन किया।

... 2/-

राधेश्याम त्रिपाठी

36 15
98 21
B/c

(2)
अनुच्छेद-6

यह कि उक्त श्री राधेश्याम त्रिपाठी ने दि० 1-10-85, 17-10-85 व 31-10-85 को शाखा डाकघर इंदौली के पद पर कार्य करते हुए निम्नलिखित कर्मचारियों के वेतन व बोनस को बिना उक्त व्यक्तियों को भुगतान किये तथा नैकर शाखा डाकघर नियमावली के नियम 180(2) के प्राविधानों का उल्लंघन करके सत्यनिष्ठा न बनाये तथा अति०वि०ए०(सेवा तथा आचार) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद-7

यह कि उक्त श्री राधेश्याम त्रिपाठी ने दि० 22-10-85 को शाखा डाकघर इंदौली के पद पर कार्य करते हुए, श्री श्याम लाल निवासी ग्राम व पी०- इंदौली से रु० 155/- मात्र नया बीता बीतने के लिए प्राप्त किया किन्तु बीता न बीतकर, तथा धन लेना में न लेकर शाखा डाकघर नियमावली के नियम 129, 130, 131, 173(च) व 174(2) के प्राविधानों का उल्लंघन किया तथा सत्यनिष्ठा से कार्य न करके अति०वि०ए०(सेवा तथा आचार) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद-8

यह कि उक्त श्री राधेश्याम त्रिपाठी ने शाखा डाकघर इंदौली के पद पर कार्य करते हुए दि० 6-2-85 को प्राप्त अधिलेखों के अनुसार शाखा डाकघर की बकिया रु० 258.12 की जगह शाखा डाकघर का चर्ज रु० 65.45 देकर शाखा डाकघर नियमावली के नियम 11(2) के प्राविधानों का अतिक्रमण करते हुए, सत्यनिष्ठा व कर्तव्यनिष्ठा से कार्य न करके अति०वि०ए० (सेवा तथा आचार) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद-9

यह कि श्री राधेश्याम त्रिपाठी ने शाखा डाकघर इंदौली के पद पर कार्य करते हुए दि० 17-1-85 के पहले की तिथि में रु० 4(क) रसीद बुस्तक नं० 179731 की रसीद नं० 2 पहले श्री मुन्ना लाल के नाम रु० 500/- देतु जारी किया तथा बाद में वही रसीद दि० 17-1-85 को श्री ब्रज कुमार के नाम जारी किया तथा उक्त दोनों धन की सरकारी विज्ञाप में न लेकर शाखा डाकघर नियमावली के नियम 154 के प्राविधानों का उल्लंघन करते हुए सत्यनिष्ठा से कार्य न करके अति०वि०ए०(सेवा तथा आचार) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुबन्ध 2

श्री राधेश्याम त्रिपाठी कार्य विमुक्त शाखा डाकघर इंदौली झीलापुर के विद्यमान निरावृत्त जारीपों के अनुच्छेदों के समर्थन में विरचित अवधारण व कदाचार के तथ्यों का विवरण-

अनुच्छेद-1

श्री राधेश्याम त्रिपाठी ने शाखा डाकघर इंदौली के पद पर कार्य करते हुए दि० 21-1-85 को डाकघर में दायि अतिरिक्त से रु० 335/- केवल को कम रखकर

माने श्याम त्रिपाठी

(3)

शाखा डाकघर नियमावली के नियम 11(2) के प्राविधानों का उल्लंघन किया।

इस प्रकार यह आरोपित है कि उक्त कार्यालय में, उक्त दिवस में उक्त पद पर कार्य करने हुए श्री राधेश्याम त्रिपाठी ने शाखा डाकघर नियमावली के नियम 11(2) के प्राविधानों का उल्लंघन करके सत्यनिष्ठा एवं कर्तव्यनिष्ठ से कार्य न करके डाक तार अ०वि०ए० (अन्तस्व तथा सेवा) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद-2

श्री राधेश्याम त्रिपाठी ने शाखा डाकघर इंदौर की पद पर कार्य करने हुए दि० 21-11-85 को अवास्तविक देयता दिवाकर लेना कार्यालय से अतिरिक्त धन की गणना करके शाखा डाकघर नियमावली 177(2) का उल्लंघन किया।

अतः यह आरोपित है कि उक्त कार्यालय में उक्त दिवस में, उक्त पद पर कार्य करते हुए श्री राधेश्याम त्रिपाठी ने शाखा डाकघर नियमावली 177(2) का उल्लंघन करने हुए अति०वि०ए० (अन्तस्व तथा सेवा) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद-3

श्री राधेश्याम त्रिपाठी ने शाखा डाकघर इंदौर की पद पर कार्य करते हुए दि० 6-2-85 व 23-11-85 को डाक अधिदंड के वसूल के दौरान बिना किसी पूर्व अनुमति के अनुपस्थिति रहकर शाखा डाकघर नियमावली के नियम 50 तथा डाक्टर अ०वि०ए० (सेवा तथा आचरण) नियमावली 1964 के नियम 5 तथा उसके अन्तर्गत महा निदेशक द्वारा अधि गये अवकाश नियम के प्राविधानों का उल्लंघन किया। अतः इस प्रकार यह आरोपित है कि उक्त कार्यालय में, उक्त अवधि के दौरान, उक्त पद पर कार्य करते हुए श्री राधेश्याम त्रिपाठी ने शाखा डाकघर नियमावली के नियम 50 का अतिक्रमण करते हुए अति०वि०ए० (अन्तस्व तथा सेवा) नियमावली 1964 के नियम 5 तथा उसके अन्तर्गत अधि गये नियम महा निदेशक डाक के पत्रांक 43/38/72 पेन दि० 24-4-72 के प्राविधानों का उल्लंघन किया।

अनुच्छेद-4

दिनांक 22-10-85 को श्री रामनीस निवासी ग्रा०व पी० इंदौर की सितापुर में अपने अर्की जमा खाता सं० 717355 में ₹ 30/- मात्र को जमा किया। इस परिप्रेक्ष्य में श्री राधेश्याम त्रिपाठी ने उक्त खाते की पासबुक में उक्त जमा धन की प्राविधि भी कर दिया किन्तु उक्त धन को सरकारी हिसाब में न लेकर शाखा डाकघर नियमावली के नियम 131(3), 173(च) व 174(2) के प्राविधानों का उल्लंघन किया।

इस प्रकार यह आरोपित है कि उक्त कार्यालय में, उक्त अवधि के दौरान, उक्त पद पर कार्य करते हुए श्री राधेश्याम त्रिपाठी ने शाखा डाकघर नियमावली के नियम 131(3), 173(च) व 174(2) के प्राविधानों का अतिक्रमण करते हुए सत्यनिष्ठा न बनाये रहकर अ०वि०ए० (सेवा तथा आचरण) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद-5

श्री राधेश्याम त्रिपाठी ने निम्नलिखित तिथियों पर शाखा डाकघर इंदौर की पद पर कार्य करने हुए निम्नलिखित धन को बकत बैंक/आवर्ती जर्नल,

रामनीस निवासी

(4)

दैनिक लेखा तथा शाखा डाकघर लेखा में न लेकर शाखा डाकघर नियमावली के नियम 171(3) व 134, 173(ब), 174(2) के प्राविधानों का उल्लंघन किया।

क्रमांक डाकघर खाता सं० जमा धन दि० जिस दिन धन जमा किया गया दिनांक जिस दिन धन हिसाब में लिया गया।

10-	इंदरौली	71 8525	1000	14-8-84	16-8-84
2-	..	718525	1000	7-7-84	20-7-84 (पै० आ० 1964)
3-	..	718524	1000	7-7-84	20-7-84
4-	..	455880	16000	7-7-86	20-7-86
5-	..	455880	36000	7-11-85	25-11-85

इस प्रकार आरोपित है कि उक्त कार्यालय में उक्त अवधि के दौरान, उक्त पद पर कार्य करते हुए श्री राधेश्याम त्रिपाठी ने शाखा डाकघर नियमावली के नियम 131 व 134, 173(ब), 174(2) का अतिक्रमण करते हुए सत्यनिष्ठा व ईमानदारी पूर्वक कार्य न करके अति० वि० ए० (अतिरिक्त सेवा) नियमावली 1964 के नियम 17 के प्राविधानों का उल्लंघन किया।

अनुच्छेद-6

श्री राधेश्याम त्रिपाठी ने दि० 1-10-85, 17-10-85 व 31-10-85 को शाखा डाकघर इंदरौली के पद पर कार्य करते हुए निम्नलिखित कर्मचारियों के वेतन व बोनस फर्डी हस्ताक्षर से भुगतान दहिया परन्तु सम्बन्धित कर्मचारियों के न तो हस्ताक्षर लिये न उन्हें भुगतान किया गया न यह नकदी राजकोष में जमा पाई गई। इस प्रकार वेतन व बोनस को सम्बन्धित कर्मचारियों को भुगतान न करके शाखा डाकघर नियमावली के नियम 180(2) के प्राविधानों का उल्लंघन किया।

क्रम सं०	भुगतान धन	पूर्ण विवरण
10	119-75	श्री नेतराम ई० वी० एम० पी० इंदरौली का वेतनमाह 9/85
20	255-40 10/85
30	71-50 बोनस 11/85
40	127-70	श्री सन्तोष कुमार वर्मा का वेतन दि० 1-9-85 से 16-9-85 तक।

इस प्रकार यह आरोपित है कि उक्त कार्यालय में, उक्त अवधि के दौरान, उक्त पद पर कार्य करते हुए श्री राधेश्याम त्रिपाठी ने अपने उक्त कृत्यों द्वारा शाखा डाकघर नियमावली के नियम 180(2) के प्राविधानों का अतिक्रमण करते हुए, सत्यनिष्ठा व ईमानदारी से कार्य न करके अति० वि० ए० (अतिरिक्त सेवा) नियमावली 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद- 7

श्री श्यामलाल निवासी ग्रा० व पो० इंदरौली ने दि० 22-10-85 को रु० 150/- श्री राधेश्याम त्रिपाठी को नया खाता खोलने के लिए दिया किन्तु श्री राधेश्याम ने उक्त पै० आ० जारी किया न जर्नल में या दैनिक लेखा में लिखा और न उक्त

राधेश्याम त्रिपाठी

11. उपरोक्त उक्त पद पर कार्य करने वाले न लेका शाखा
के नियम 129, 130, 131, 173(च) व 174(2) के प्राविधानों

इस प्रकार यह आरोपित है कि उक्त कार्यालय में, उक्त अवधि में,
उक्त पद पर कार्य करते हुए उपरोक्त श्री राधेश्याम त्रिपाठी ने शाखा डाकघर नियमावली
के नियम 129, 130, 131, 173(न) व 174(2) के प्राविधानों का अतिक्रमण करते हुए
सत्यानिष्ठ व ईमानदारी से कार्य न करके अतिवि०ए० (अन्वेष तथा सेवा) नियमावली
के 1964 के नियम 17 का उल्लंघन किया।

अनुच्छेद-8

दिनांक 6-2-85 को प्रातः अधिलेखी के अनुसार शाखा डाकघर की बकाय
रु० 23412 थी किन्तु श्री राधेश्याम त्रिपाठी ने पूर्ण अक्षर के बाद भी रु० 6345
ही हस्तान्तरित किया। इस प्रकार श्री राधेश्याम त्रिपाठी ने रु० 17467 कम कार्य में
देकर शाखा डाकघर नियमावली के नियम 11(2) तथा इसके अन्तर्गत उल्लिखित प्राविधानों
का उल्लंघन किया।

इस प्रकार यह आरोपित है कि उक्त कार्यालय में, उक्त अवधि में,
उक्त पद पर कार्य करते हुए उपरोक्त श्री राधेश्याम त्रिपाठी ने शाखा डाकघर
नियमावली के नियम 11(2) के प्राविधानों का अतिक्रमण करते हुए सत्यानिष्ठ से कार्य
न करके अतिवि०ए० (अन्वेष तथा सेवा) नियमावली 1964 के नियम 17 का उल्लंघन
किया।

अनुच्छेद-9

श्री राधेश्याम त्रिपाठी ने शाखा डाकघर इंदौर की वेद पर कार्य करते
हुए एन.सी.4(ए) एपीड पुस्तक के सं० 179781 की रसीद सं० 2 दि० 17-1-85 के
पत्रों की जांच में रु० 500/- के व्यय श्री मुन्नालाल के नाम जारी किया था।
किन्तु वही रसीद दि० 17-1-85 को श्री प्रकाश कुमार के नाम रु० 400/- से जारी किया
परन्तु दोनों बार सरकारी हिसाब में न लेका शाखा डाकघर नियमावली के नियम 154 व
174(2) के प्राविधानों का उल्लंघन किया।

इस प्रकार यह आरोपित है कि उक्त कार्यालय में उक्त अवधि में,
उक्त पद पर कार्य करते हुए उपरोक्त श्री राधेश्याम त्रिपाठी ने शाखा डाकघर नियमावली
के नियम 154 व 174(2) के प्राविधानों का अतिक्रमण करते हुए, सत्यानिष्ठ से कार्य
न करके अतिवि०ए० (अन्वेष तथा सेवा) नियमावली 1964 के नियम 17 का उल्लंघन
किया।

अनुबन्ध-3

उन प्रलेखों की सूची जिनके द्वारा श्री राधेश्याम त्रिपाठी कार्यविमुक्त
शाखा डाकघर इंदौर की विरुद्ध विरचित आरोपों के अनुच्छेदों को पुष्ट करने का
प्रयास है-

- 1. शाखा डाकघर एकाउन्ट इंदौर दि० 22-11-85
- 2. श्री शाखा डाक निरीक्षक दि० 26-11-85
- 3. इंदौर की आवर्ती जमा खाता सं० 717335 की पासबुक
- 4. शारदीय जर्नल इंदौर दि० 22-10-85
- 5. एकाउन्ट खाता सं० इंदौर 718525 की पासबुक
- 6. शिवाजी सं० 8 दि० 7-1-84

.....6/-

श्री राधेश्याम त्रिपाठी

(19)
(210)
A/C

(6)

- 17. इंदौली आवर्ती मा डाता सं० 718524 की पासबुक
- 18. इंदौली एस०बी०पी०आर० सं० 083 दि० 7-7-84
- 19. इंदौली आवर्ती जरील दि० 7-7-84 व 20-7-84
- 20. इंदौली जशा हक्या एकाउन्ट दि० 7-7-84 व 20-7-84
- 21. कतन चिदख 236(2) व 316
- 22. जना पत्नी दि० 22-10-85 को 155/- के लिए।
- 23. शाजा हकिया एकाउन्ट दि० 6-2-85
- 24. बयान श्री नेतराम ई०डी०एम०पी० इंदौली दि० 27-1-86
- 25. बयान श्री सन्तोष कुमार वर्मा निवासी ग्रा०पी० इंदौली सीतापुर दि० 27-1-86
- 26. बयान श्री सतीश कुमार वर्मा निवासी ग्राम०पी० इंदौली, सीतापुर दि० 23-11-85
- 27. बयान श्री पुल्लन सिंह निवासी ग्राम०पी० इंदौली दि० 23-11-85
- 28. बयान श्री नेतराम ई०डी०एम०पी० दि० 23-11-85
- 29. बयान श्रीमती कान्ती देवी पत्नी स्व० श्री बजरंगनाथ मिश्रा ग्राम० पी० इंदौली, सीतापुर।
- 30. बयान श्री गया प्रसाद निवासी ग्रा०पी० इंदौली, सीतापुर दि० 5-7-85
- 31. बयान श्री रामबेलावन निवासी ग्राम०पी० इंदौली, सीतापुर दि० 5-7-85
- 32. बयान श्री शरीकृष्ण निवासी ग्राम०पी० इंदौली, सीतापुर दि० 5-7-85
- 33. बयान श्री मरियाल सिंह निवासी ग्रा०पी० इंदौली दि० 6-2-85
- 34. बयान श्री केशवप्रकाश निवासी ग्राम०पी० इंदौली सीतापुर दि० 6-2-85
- 35. बयान श्री मुन्नालाल निवासी ग्राम०पी० व पी० इंदौली दि० 6-2-85

अनुबन्ध-4

उन सभों के द्वारा श्री राधेश्याम मिश्रा की कार्य विमुक्तता आश्वासन इंदौली के विद्वध विरचित जारीपी के अनुबन्धों की पुष्टि होती है-

- 1. अशमद ठोक निरिधक उत्तरी, सीतापुर।
- 2. नेतराम ई०डी०एम०पी० इंदौली, सीतापुर
- 3. सन्तोष कुमार वर्मा नि०ग्राम०पी० इंदौली, सीतापुर
- 4. पुल्लन सिंह नि०ग्राम०पी० इंदौली, दि० 23-11-85
- 5. कान्तीदेवी पत्नी स्व० श्री बजरंग नाथ मिश्रा, ग्राम०पी०-इंदौली, सीतापुर
- 6. गया प्रसाद नि०ग्राम० व पी० इंदौली, सीतापुर।
- 7. रामबेलावन नि० ग्राम०पी० इंदौली, सीतापुर
- 8. शरीकृष्ण नि०ग्राम० व पी० इंदौली, सीतापुर।
- 9. मरियाल सिंह नि०ग्राम०पी० इंदौली, सीतापुर।
- 10. केशवप्रकाश नि०ग्राम०पी० इंदौली, सीतापुर।
- 11. मुन्नालाल नि०ग्राम० पी० इंदौली, सीतापुर।
- 12. श्याम सार नि० ग्राम० व पी० इंदौली, सीतापुर।

श्रीमती कान्ती देवी

M. J. Mehta
T. Mehta
M. J. Mehta

अधीक्षक कार्यालय,
सीतापुर-मण्डल, सीतापुर-2610

Radhey Shyam Tripathi versus U.O.I and others.

ANNEXURE A

21.3.88

18/11/88

81

11

आज दि० 21-3-88 को श्री राधेश्याम त्रिपाठी शांजोभा संवरीली (कार्यनिष्ठक) के विरुद्ध अ० दि० अ० (आयुष्य संशोधन) 1960 के नियम 3 के अंतर्गत प्राथमिक शिकायत खेपान में निम्न आशयित है।

1. श्री राधेश्याम त्रिपाठी शा.जे.भा संवरीली (कार्यनिष्ठक) आरोपित कार्यवाही
2. श्री एस डी० शुभ परिणाम निरीक्षण एवं प्रत्येक अधिकारी
3. श्री बलराम प्रसाद पाठक शक प्रहणक खेपान एवं वचान - सचिवक

आज अनुबंधित दाता वेजों का निरीक्षण हेतु प्राक्त प्राप्ति के अधिकाधिक प्रोत्साहित दस्तावेज प्राप्ति नहीं मिल गये जिसके कारण श्री. कार्यवाही स्थगित करते हुए आगामी तारीख 0-4-88 को अंतिम शिकायत में सचिव 1230 वजे सुनिश्चित की जायेगी।

प्राप्त अधिकारी सभी दाता वेज अत्र मिलने प्राप्ति काय सुनिश्चित करें तथा वचान सचिव एवं आरोपित कार्यवाही भी समाप्त आशयित है अथवा प्रकृतिय कार्यवाही अन्तर्गत जोकेली या प्राप्ति काय की जायेगी।

21/3/88
कार्यवाही करवाया।

अथवा
वचान सचिव

प्रत्येक अधिकारी

जाय अधिकारी
21/3

प्राप्ति हेतु - अंतिम शिकायत सीतायु - सुपुत्र वचान सचिव

श्री बलराम प्रसाद पाठक को सचिव से माफ कराने का

कार्यवाही

श्री बलराम प्रसाद

जाय अधिकारी
21/3

Mesled
Time only
M. Juley
Date

सेवा में,

माननीय आदरणीय निदेशक डाक सेवाएं,

लखनऊ मण्डल, लखनऊ।

विषय: - श्रीमान अधीक्षक डाक्टर सीतापुर के द्वारा स.0 स्फ 4/85-86/वी.पी.सिंह/डि.से/सीतापुर दिनांक 20-12-88 के द्वारा प्राप्ति की सेवाएं समाप्त करने के दण्ड आदेश के विरुद्ध याचिका }

मान्यवर,

प्राप्ति डाक्टर प्रकाश सीतापुर के अन्तर्गत शाहना डाक्टर इन्दरोली के शाहना डाक्टर के पद पर दिनांक 16-6-84 से कार्य पर लगाया गया था। प्राप्ति को बिना उचित कारण के ही दिनांक - 23-11-85 को डाकीनरीडाक उत्तरी सीतापुर ने अपने आदेश स/इन्द्रोली के द्वारा कार्यवस्तुतः पु.0 आफ.0 आदेश पारित किया।

2- अधीक्षक डाक्टर सीतापुर ने अपने द्वारा स.0 स्फ 11/84-85/राधेश्याम त्रिपाठी, डि.से.0 दिनांक 12-1-88 के द्वारा प्राप्ति के विरुद्ध एक आरोप पत्र लगाया जिसमें निम्न प्रकार के विभिन्न 9 आरोप लगाये गये हैं। जिनका संक्षिप्त विवरण निम्न प्रकार है:-

आरोप सं.01:- दिनांक 21-11-85 को डाक्टर की अकोटा में 335/-रुपया कम रहना।

आरोप सं.02:- दिनांक 21-11-85 को अवैतनिक देयताएं दिखाकर लेखा कार्यालय से अतिरिक्त धन की मांग करना।

आरोप सं.03:- दिनांक 6-2-85 व 23-11-85 को बिना किसी पूर्व अनुमति के शाहना डाक्टर से अनुपस्थित रहना।

आरोप सं.04:- दिनांक 22-10-85 को आरोप सं.01 का धाता की पासबुक संख्या 717335 में जमा किए गये 30/-तीस रुपया को सरकारी हिसाब में न लेना।

आरोप सं.05:- आरोप सं.01 का धाता सं.0 718525 में दिनांक 7-7-84 को जमा 10/-रुपया व 718524 में 10/-रुपया, स.0 ही धाता 455880 में 160/-रुपया में जमा धन दिनांक 20-7-84 को डाक्टर के हिसाब में लेना तथा धाता सं.0 718525 में दिनांक 14-8-84 को जमा धन 10/-रुपया दिनांक 18-8-84 को हिसाब में लेना।

Radhey Shyam Tripathi

2
MS

इसके अतिरिक्त इसी आदेश के तहत एक धनादेश संख्या 2917 रु 36/- को 7-11-85 को भुगतान करके 25-11-85 को प्राप्तकर्ता के रूप में देना ।

आरोप 06:- इंदरौली के ई0डी0एम0पी0 श्री नेतरात के माह सितम्बर 85 व अक्टूबर 85 तथा उन्होंने का बोनस नवम्बर 85 का भुगतान न करना एवं उसी डाक्टर के ई0डी0एम0पी0 सन्तोषा कुमार का भी माह 1-9-85 से 16-9-85 तक का वेतन भुगतान न करना परन्तु उपरोक्त भुगतानों को सरकारी हिसाब में लेना ।

आरोप 07- दिनांक 22-10-85 को श्यामलाल द्वारा 155/-रुपया का नया बपत छाता ढालने के सम्बन्ध में रुपया प्राप्त करना और उसे सरकारी धन में न जमा करना और न छाता ढालना ।

आरोप 08- दिनांक 6-2-85 को पूर्व अवसर के बाद भी 174-670/- कम धांध में देना ।

आरोप 09- दिनांक 17-1-85 को ^{५८}सब सी 4 सप्लक 179781 की रसीद सं 2, 50/-रुपया मुन्नालाल के नाम और पुनः उसी को 400/-रुपये श्रवण कुमार के नाम , परन्तु किसी भी धन को सरकारी हिसाब में न लेना ।

⑥ डाक्टर शीतापुर ने प्राणी के विरुद्ध उपरोक्त लगे आरोपों की जांच के लिए डाकीनरीहाक बिस्वा की जांच अधिकारी एवं श्री एस0डी0गुप्ता परिवार निरीहाक को विभाग प्ले का जांच में प्रस्तुत करने के लिये नियुक्त किया। जांच में बहुत से शिथिलता एवं गवाह उपस्थित नहीं किए गये जिस कारण मामले की जांच पूरी तरह से नहीं हो सकी। जांच अधिकारी की जांच के अनुसार सिद्ध किस्स हुए प्राणी के विरुद्ध आरोपों पर शीतापुर डाक्टर शीतापुर ने बिना कोई रिपोर्टि किस्स स्वीकार किया और प्राणी की सेवा समाप्त करने के आदेश पारित किए। इसके अतिरिक्त शीतापुर डाक्टर शीतापुर ने आरोप संख्या 3 जो जांच

रामेश्वर

अधिकारी ने जांच में निराधार पाया था उसे भी आपने छींचतान और हठधामी पूर्वक सिद्ध होना सुद्ध पुष्टि किया ।

(ख) जांच अधिकारी ने अपनी जाहया में आरोप सं० 2, 4, 5, 6 और 9 को सिद्ध होना और तथा आरोप सं० 1, 3, 7, 8 को सिद्ध न होना बताते हुए यह भी स्वीकार किया है कि आरोप सं० 5, 6, 9 का कुछ अंश भी नहीं सिद्ध होता है परन्तु इस प्रकार का कोई विवेचन नहीं है कि उन आरोपों में से कितना प्रतिशत संदेहात्मक है और उसका लाभान्याय, प्राप्ती के पक्ष में क्या किया गया। इस प्रकार का जाहया में दिया गया निर्णय अपने में स्वयं विवादास्पद है परन्तु फिर भी उपरोक्त आरोपों के सम्बन्ध में प्राप्ती के साथ कोई न्याय नहीं किया गया। वरन सभी आरोपों को पुष्टि मान लिया गया ।

(घ) श्रीमान जी मैं अब केवल उन्हीं आरोपों के सम्बन्ध में विनय करना चाहता हूँ जिन्हें हमारे जांचाधिकारी महोदय ने अपने अन्तिम पौरा में प्राप्ती के सिद्ध सिद्ध होते हुएपाया है।

आरोप सं० 2:-

दिनांक 21-11-85 को अवास्तविक देयताएं दिखाकर लेखा कार्यालय से धान की मांग करना -

श्रीमान जी, इस संदर्भ में मैंने जांच अधिकारी के समक्ष यह निवेदन किया था कि शाहजा हाथार इन्दौरा की देयताओं का बी०बी० के दैनिक लेखा दिनांक - 21-11-85 पर दिखाया गया और उसी के आधार पर धान की मांग की गई। जांच में अभियोग पत्र की ओर से इस आरोप के सम्बन्ध में कहा गया कि देयताओं का विवरण बी०बी० जनरल और बी०बी० एकाउन्ट में नहीं किया गया है अतएव यह आरोप पुष्टि होता है।

निष्कर्षात् जांच में उक्त जांच अधिकारी ने पाया कि

श्रीमान जी

अभियोजन पत्र के द्वारा यह स्वीकार किया गया है कि देयताओं का विवरण दैनिक लेखा दिनांक 21-11-85 पर किया गया था। इस बात का कोई भी प्रमाण अभियोजन पत्र की ओर से नहीं प्रस्तुत किया गया। कि जो वे देयताएँ डेली सकाउन्ट पर लिखी थीं वह झूठे पूर्ण अथवा वास्तविक थीं। जोष में बीओओ डेली सकाउन्ट दिनांक 21-11-85 अथवा देयताओं के झूठेपूर्ण होने की कोई जाँच प्रस्तुत नहीं की गयी।

(43) → दिनांक 23-11-85 को ही प्राणी के पूरक कर्मचारी से बाबू डाक्टर का डाक अधिदशक महोदय ने ले लिया था और उनके द्वारा बनाये गये डेली सकाउन्ट पर भी किसी भी देयताओं का वर्णन नहीं लिखा गया और सीमा से अधिकांश डाक्टर से रकमा लिखा गया।

(44) → श्रीमान जी, देयताओं के सम्बन्ध में श्री पुतानसिंह निवासी इन्द्रौली का ब्यान भी डाक निरीक्षक उत्तरी सीतापुर ने दिनांक 23-11-85 को लिया था परन्तु मेरे विरुद्ध आरोप को मात्र पुष्टि करने के लिये ही उक्त ब्यान को जाँच में प्रस्तुत नहीं किया गया। इसकी फोटो कापी जो प्राणी को जाँच में दी गई है। संलग्न कर रहा है। जिससे इस बात की पुष्टि होती है कि दिनांक 21-11-85 को डाक सं. 15572 लेखा कार्यालय से पास किया हुआ विद्वान भुगतान के लिये बीओओ इन्द्रौली से धान की कमी के कारण पड़ा हुआ था।

आरोप सं. 3-

अवकाश बिना पूर्व अनुमति के दिनांक 6-2-85 व 23-11-85 का अनुपस्थिति

(45) → श्रीमान जी, उक्त आरोप को जाँच में अभियोजन पत्र ने सत्यता के साथ प्रस्तुत नहीं किया और वास्तविकता को छिपाकर ही मेरे विरुद्ध यह आरोप सिद्ध करने का प्रयास किया है। यह सत्य है कि दिनांक 6-2-85 को अपनी बीमारी के कारण बाहर सीतापुर को जाया था और पोस्ट-ऑफिस का कार्य करने के लिए अपने स्थान पर श्री वेदप्रकाश त्रिपाठी को लगा दिया था और छुट्टी का प्राधान्य पत्र पूरक कर्मचारी को देकर यह कहा गया कि मेरा प्राधान्य डाक निरीक्षक उत्तरी सीतापुर को स्वीकृत के लिये भेज देना। श्री त्रिपाठी ने अपने ब्यान दिनांक 3-9-88 में स्पष्ट कहा है कि अवकाश का प्राधान्य पत्र डाक निरीक्षक को उन्होंने साधारण डाक से भेज दिया था। प्राणी के पास इतना समय नहीं था कि वह

अनुमति

एक दिन ज्ञात हेतु जाने के लिये भी पहले डाकीनरीहाक म्होदय से छुपी स्वीकार करा पाये और उसके बाद ही जा तके प्राणी अति-परेशानी के कारण गया टा जिसका प्रमाण भी जाच में प्रस्तुत किया है।

(ब) → श्रीमान जी, इस सम्बन्ध में हमारे डाकीनरीहाक उत्तर सीतापुर का मेरे प्रति व्यवहार अत्यन्त ही कठोर है और इस छोटी सी बीमारी की अनुपस्थिति पर प्राणी को दिनांक 7-2-85 को कार्यावसृत पुष्ट आफिस जन्ही के आदेश से किया गया टा। इसके अतिरिक्त दिनांक 6-2-85 को डाकीनरीहाक सीतापुर उत्तर ने शाहा डाक्टर इन्दरोली का स्वयं निरीक्षण किया है और निरीक्षण के समय अपने भाई/भार इन्दरोली के पेटा एक में यह लिखा है "दिनांक 6-2-85 को शाहा डाक्टर श्री राधेश्याम त्रिपाठी कार्य पर नहीं पाये गये वे बीमारी के कारण छुट्टी पर हो गया उनके पुत्र श्री वेदप्रकाश त्रिपाठी शाहा डाक्टर के पद पर कार्य करते पाये गये।"

उपरोक्त निरीक्षण रिपोर्ट से यह स्पष्ट है कि प्राणी बीमारी के कारण छुपी पर टा जिसका पूर्ण ज्ञान डाकीनरीहाक म्होदय को था।

(स) → दिनांक 22-11-85 को प्राणी अति आवश्यक कार्य के कारण बाहर गया टा और अपने स्थान पर श्री वेदप्रकाश त्रिपाठी को पूरा बार्ज देकर पोस्ट आफिस का कार्य सौंप गया टा उक्त दिनांक को डाक-अधीन कि श्री सियाराम स्वयं भी डाक्टर में वीक्षण हेतु उपस्थित हो। मुझे पूर्ण भाषा दी कि मैं 23-11-85 को अपने कार्य समय से जा जाआ परन्तु मैं 23-11-85 को पोस्ट आफिस नहीं जा सका क्योंकि मैं अचानक बीमार पड़ गया, बीमारी का इलाज मैंने सीतापुर के डाक श्री ओमप्रकाश शुक्ला से कराया टा और उनके द्वारा दिया हुआ बीमारी का प्रमाण पत्र अलग है।

(द) → दिनांक 23-11-85 को स्वयं डाकीनरीहाक सीतापुर उत्तर इन्दरोली पहुँचे और अकारण ही बिना प्राणी का स्पष्टीकरण लिए मेरे पूरब कर्मचारी से पूरा बार्ज डाकअधीन कि को देखा दिया और पोस्ट आफिस भी मेरे घर से हटवाकर अन्यत्र स्थान पर श्री नेतराम इ ही सम पी के घर रखा दिया और साथ ही प्राणी को कार्य-

21/11/85

6
49
8/69

विमुक्ति का (पुट आफ) का आदेश अपने पत्र संख्या ए/इन्दरोली दिनांक 23-11-85 से जारी कर दिया। जिसकी प्रति संलग्न है।

उक्त स्थिति से प्राप्ति दिनांक 23-11-85 को अनुपस्थित नहीं था वरन डाकनिरीक्षा के आदेशानुसार जो इन्दरोली में ही उपस्थित थी, कार्य विमुक्त हो गया था। अतएव 23-11-85 को अनुपस्थिति का आरोप निराधार है।

आरोप सं 4:-

दिनांक 22-10-85 को आर डी डाक सं 717335 की पासबुक में जमा 300/-रुपया को हिसाब में न लेना।

② → इस आरोप के संदर्भ में श्रीभायोजन पट्टा ने मात्र हिसाबदार की पासबुक जांच प्रस्तुत की, साथ ही साथ जमाकर्ता का बयान भी दिलाया। जमाकर्ता ने अपने बयान दिनांक 20-4-86 में यह कहा है कि उसने जो बयान 15-12-85 को दिया था वह सत्य है परन्तु उक्त बयान श्रीभायोजन पट्टा ने जानबूझकर जांच में प्रस्तुत नहीं किया। साथ ही साथ जमाकर्ता ने दिनांक 1-2-86 को एक शपथपत्र नोटरी का अधीक्षक डाक्टर सीतापुर को भेजा था जिसमें यह कहा था कि वह 300/-रुपया जमा करने के लिये डाक्टर गये थे परन्तु उन्होंने यह धन जमा नहीं किया था और रुपये प्राप्ति से लेकर वापस चले गये थे। परन्तु इस शपथपत्र के बाद दिनांक 20-4-86 को जमाकर्ता पर किताब वर्तमान कार्यरत शाखा डाकाल व ई डी सम पी के द्वारा प्रभाव - डालकर उसे झूठ बोलने के लिये प्रभावित किया गया। उक्त स्थिति में ही उसने अपने शपथपत्र को अस्वीकार किया और उसी के अनुकूल अपने बयान भी प्रस्तुत जांच में दिनांक 19-9-88 को दिए जांच में जमाकर्ता ने यह भी कहा है कि उसके हाते में कुल धन 300/-रुपया होना चाहिए। परन्तु डाक्टर के अभिलेखा में 170/-रुपया ही जमा है। यदि वर्तमान 300/-रुपया जमा को भी मान लिया जाय तो भी उसके द्वारा बताई हुई बकाया 300/-रुपया से भेस नहीं खाता है।

इस प्रकार जमाकर्ता का बयान विश्वसनीय नहीं, तक है, श्रीमान जी के विचार पूर्व निर्णय का विषय है।

श्रीमान मल्ल

(स) → मैंने अपनी रिपोर्ट को स्पष्ट करते हुए यह विजय किया था कि प्राणी ने उक्त छाते की पासबुक में 30/-रुपया का जमा इन्ट्राब किया परन्तु उसी समय जमाकर्ता का भाई आया और उसने अपने भाई जमाकर्ता से कहा कि रुपया आज मत जमा करो जरूरत है। इस प्रकार जमाकर्ता रुपया तथा पासबुक लेकर चला गया। भूलकरा पासबुक में जमा की प्रीवीष्ट हारिण करने से रह गई। और यह मेरे विरुद्ध आरोप का कारण बनाया गया। उक्त जमा का डाक्टर के किसी भी अभिलेख में कोई भी विवरण नहीं है। जमाकर्ता ने अपने बयान दिनांक 19-9-88 में यह स्वीकार किया है उक्त धान जमा करने का कोई फार्म नहीं भारा था। यह कैसे सम्भव है कि कोई भी जमा, जमापथी के बिना की जा सके। यदि धान जमा किया गया होता तो जमापथी भी स्वयं बनायी गई होती।

(स) → प्रस्तुत शपथ पत्र की फोटोकॉपी संलग्न कर रहा हूँ जिस पर जमाकर्ता के हस्ताक्षर उसके द्वारा पूर्व दिस गये बयानों से पूर्णस्वेण मेल छाते हैं, केवल अब उसने अपने बयानों में मामले बाद पाण्डेय शब्द जोड़ना प्रारम्भ किया है। जिसे उसने अपने बयान 20-4-86 में स्वीकार किया है।

(द) → यदि जॉब अधीकारी ने जमाकर्ता द्वारा दिस गये शपथपत्र के हस्ताक्षर का मिलान उसके द्वारा दिस गये बयानों पर किये हस्ताक्षरों से मिलान ध्यानपूर्वक किया होता तो यह आरोप प्राणी के विरुद्ध सिद्ध करने का औचित्य न पाया जाता।

श्रीमान जी से विजय है कि शपथ पत्र पर किये गये जमाकर्ता के हस्ताक्षरों का मिलान उसके द्वारा दिस गये बयानों पर किये हस्ताक्षरों को स्वयं आप देखा लेंगे और न्याय देने की मंजुरी कृपा करें।

आरोप सं० 5-

निम्न प्रकार भागों में है:-

क्रमिक	छाता सं०	दिनांक जमा	धान जिसदिन	हिसाब में लिया गया	अन्य विवरण
1-	718525	7-7-84	10-00	20-7-84	पोआर 83
2-	718524	7-7-84	10-00	20-7-84	पोआर 82
3-	455880	7-7-84	160-00	20-7-84	पोआर 81
4-	718525	10-8-84	10-00	15-8-84	

श्रीमान श्रीमान

छात्र (ब) धानादेशा सं 2917 दिनांक 17-11-85 को भुगतान 360/- रूपय।

(ब) → वधत छात्रा सं 455880 पी०आर० ८।

दिनांक 20-7-84 व जमा 160/- रूपया व छात्रा सं 718525 पी०आर० सं 82 जमा 10-00 रूपया के द्वारा श्री हरीकृष्ण पुत्र भगवानदीन निवासी इन्दरौली ने नये छात्रे छात्रे ए० उक्त जमाकर्ता के ह्यान जाँच में दिनांक 5-7-85 को छात्रनिरोधक सीतापुर उत्तर द्वारा व दिनांक 26-8-88 को जाँच अधिकारी द्वारा लिये गये ए० जमाकर्ता ने यह स्पष्ट कहा कि उक्त नये छात्रे छात्रे के लिये उसने धन 20-7-84 को ही जमा किया है। मैं भी विनय किया था कि भूलवशा तारीखा मुहर पी आर पर गलत लग गई जिसकी सुधार मैंने तुरन्त ही जलम से किया था। जमाकर्ता द्वारा दिये गये हयानों से यह स्पष्ट हो गया कि धन 20-7-84 को ही जमा किया गया था।

(ब) → छात्रा सं 718524 के जमाकर्ता श्री रामचोलाक ने अपने हयान दिनांक 5-7-85 को यह स्वीकार किया था कि उन्होंने उक्त नया छात्रा छात्रे के लिये धन 10/- रूपया दिनांक 20-7-84 को ही जमा किया था।

(ब) → छात्रा सं 718525 में 10-00 रूपया दिनांक 14-8-84 को जमा किया गया था परन्तु प्राप्ति उक्त धन को उस दिन हिसाब में लेने से भूल गया था अतएव उसे दिनांक 16-8-84 के हिसाब में शामिल किया गया था। प्राप्ति की किसी प्रकार की बेहमानी की नियत नहीं है केवल भूलवशा हुआ जिसके लिये क्षमा की प्राप्ति करता हूँ।

(ब) → धानादेशा सं 2917 का भुगतान प्राप्तक ^{कर्त्री} श्रेष्ठ को दिनांक 16-11-85 को किया गया था और धन उसी दिन सरकारी हिसाब भुगतान - दिखाया गया था। जाँच में अभियोजन ए० ने सम्बन्धित मनीआर्डर भुगतान फार्म जाँच में प्रस्तुत नहीं किया। मनीआर्डर को पाने वाली बहुत कम पढ़ी लिखी है और उसकी उम्र भी 60 या 65 वर्ष की है।

भारोप सं 6:-

नेतराम व संतोषकुमार के हस्ताक्षर रैरोल पर लेने के बाद उनके वेतन व बोनस का भुगतान न करना।

सि. 2000

अ) श्रीमान जी, नेतराम ईं डी एम पी इन्द्रौली व संतोषाकुमार दोनों को भाई है। और एक ही परिवार में रहते हैं। नेतराम के पास कई वर्गों में मेरी जमीन ब्लाई पर एनी उसे मैंने सन् 85 में ब्लाई देने से मना कर दिया तथा रुकने लगा। इस बात से नेतराम और संतोषाकुमार प्राणी से अत्यन्त नाराज हो गये और प्राणी को हाथ पकड़वाने का मार्ग तलाश करने लगे। दिनांक 23-11-85 को जब डाकनिरीक्षाक सीतापुर उदतर ने मुझे अपने पत्रांक स-इन्द्रौली दिनांक 23-11-85 के द्वारा पुट आफ डियूटी कर दिया और मेरे विरुद्ध बर्हिषत्र करने के लिये श्री नेतराम ईं डी एम पी व संतोषाकुमार मेरे विरुद्ध इस प्रकार बयान देने की उन्हें पिछले माह अक्टूबर में दिनांक 1-10-85 को वेतन व 17-10-85 को बोनस का भुगतान नहीं किया गया। बूठा बयान देने के लिये अक्सर मिला ताकि मेरे विरुद्ध बूठा आरोप लग सके।

ब) श्रीमान जी, सन्दीर्भित सेरोल 236 व 316 जिन्हें जाँच में प्रदर्शक 13 प्रदर्शक-14 व प्रदर्शक-15 क्रमशः बनाया गया है। इन सभी सेरोलो पर नेतराम व संतोषाकुमार के हस्ताक्षर रसीदी टिकट के ऊपर है और उन्होंने अपने वेतन व बोनस का भुगतान प्राप्त किया है। संतोषा कुमार का यह कहना कि सितम्बर 85 के वेतन पिछड़े पर और नेतराम का यह कहना कि वेतन पिछड़ा 316 बोनस के भुगतान पर उनके हस्ताक्षर नहीं है यह पूर्णतः असत्य है।

→ पिछले कितने ही वेतन श्री नेतराम को दिये गये परन्तु इस प्रकार कोई शिकायत उन्हें न एनी। वर्तमान माह अक्टूबर व नवम्बर 85 में वेतन व बोनस के न मिलने की कोई शिकायत उन्होंने डाकनिरीक्षाक व अन्य किसी अधिकारी को नहीं दी। दिनांक 23-11-85 को प्राणी के विरुद्ध अधानक जाँच करने व बूठा आरोप लगाने के लिये की गई और नेतराम व संतोषा कुमार ने इस सम्बन्ध में बूठे बयान दिए।

स) श्रीमान जी, से निवेदन है कि विवादग्रस्त सेरोल 236 प्रदर्शक-13 प्रदर्शक-14 पर श्री संतोषाकुमार व नेतराम के हस्ताक्षर विवादग्रस्त है, क्योंकि वह दोनों व्यक्ति इसे नहीं हवीकार कर रहे हैं। इस सम्बन्ध में प्राणी की विनय है कि ऊपर दोनों विवादग्रस्त हस्ताक्षरों को उन लोगों के वर्तमान के हस्ताक्षर लेकर लेटा विशोबाइ की जाँच एवं परीक्षा के लिये

श्रीमान जी

भोजने की कृपा की धाय। यदि हस्ताक्षरों के परीक्षण के लिये कोई फोस आवा टयव निष्कारित हो उसे प्राप्ती रख्य वहन कर लेगा।

आशा है कि श्रीमान जी द्वारा हस्ताक्षर का परीक्षण करने के उचित निर्देश किये जाने और प्राप्ती के प्रति किये गये अन्याय का निर्णय दिया जायगा।

आरोप सं० 9:- ^{NC} सब सी० की रसीद सं० 2 दिनांक 17-1-85 का धान 500/- रूपया हिसाब में लेना।

→ दिनांक 6-2-85 को डाक निरीक्षक सीतापुर उत्तर ने अपने निरीक्षण आख्या के पैरा 21 में निरीक्षण के समय उक्त रसीद को देखा था और मेरा स्पष्टीकरण भी लिया था मैंने इनको यह बताया था कि उक्त रसीद पहले श्री मुन्नालाल के नाम और पुनः श्री श्रवणाकुमार के नाम 400/- रूपया को लिखी गई परन्तु दोनों जमाकर्ताओं ने धान का प्रबन्ध न कर पाया। इसीलिये वह धान नहीं लिया गया। और रसीद इस स्थिति में कैंसल सम्झी गई। दिनांक 6-2-85 के पूर्व ही डाक निरीक्षक उत्तर से मैंने इसे कैंसल करने के लिये प्राप्ती किया था तब उन्होंने यह कहा था कि वह हमारे डाक्टर का बल्दी ही निरीक्षण करने वाले है। तथा सब सी० की रसीद 2 को कैंसल करने की कार्यवाही कर देंगे। मुझे नहीं पता कि उन्होंने इसे निरीक्षण के समय इस सम्बन्ध में क्या निर्णय लिया परन्तु उनकी निरीक्षण आख्या दिनांक 6-2-85 के पैरा नं० 23 4111 में उल्लेख है कि उक्त रसीद के सम्बन्ध में उन्होंने मण्डलीय कार्यालय को रिपोर्ट भेजी है।

आरोप पत्र के अनुबन्ध 2 के अनुच्छेद 9 में जिस रसीद 2 सब सी० 2 का आरोप मेरे विरुद्ध लगाया गया है उसमें प्रदर्श करने का विवरण अनुबन्ध 3 में दिये गये भी-भालेदारों में नहीं।

जांच में श्रीमान जी उक्त रसीद की दोनों प्रतियां जो डाक्टर में उपलब्ध भी नहीं प्रस्तुत की गई। इस सम्बन्ध में श्री मुन्नालाल का बयान दिनांक 8-2-85 व श्री गया प्रसाद का पिता जमाकर्ता श्री श्रवणाकुमार का बयान 5-7-85 जांच में प्रस्तुत किये गये। उक्त बयानों में यह स्पष्ट कहा गया है कि उन लोगों ने रूपये जमा करने के लिये पहले डाक्टर आर एं परन्तु साथ में रूपये नहीं लाये एं और बाद में भी उन लोगों ने

श्रीमान मुन्ना

जमा करने के लिये रुपये नहीं दिए। इस स्थिति में उक्त रसीद पर दिनांक 17-1-85 को अर्थात् इसके पूर्व जमा करने के लिये कोई धान प्राप्ति को नहीं प्राप्त हुआ। अतः इसे सरकारी धान में जमा न करने का आरोप नितान्त असत्य है। केवल प्राप्ति को नियमों का ज्ञान भली प्रकार न था इसी कारण जमाकर्तियों के पहली बार ही उन्हें बख्खड़े पर रसीद लिखा दिया परन्तु धान न मिलने पर मैंने साधा कि यदि दूसरा कोई रूपया जमा कर दे ताकि इसे कौन्सल न करना पड़े परन्तु दूसरी बार भी जमाकर्ता ने रूपया न दिया अतः इसे कौन्सल करने के लिये ही मैंने डाक निरीक्षक से कहा था और ऐसी गल्ती हो गई थी उसे बता दिया था। परन्तु डाक निरीक्षक महोदय ने इस बख्खड़े पर कोई धान न देकर जांच की परन्तु जमाकर्तियों के द्वारा दिए गये ब्यानों पर भी कोई धान न देकर यह झूठा आरोप लगाया गया।

प्रस्तुत जांच अधिकारी के समक्ष भी श्री गंगा प्रसाद ने अपने ब्यान में उक्त रसीद पर कोई धान न जमा करने की पुष्टि की है और साथमें यह भी स्वीकार किया है कि उक्त रसीद उन्होंने प्राप्ति से अपने लड़के श्रवण कुमार के नाम पर जमा करने के लिये लिखा था कि परन्तु रूपया का प्रत्यक्ष न कर पाने के कारण जमा न किया।

उपरोक्त स्पष्टीकरण से यह स्पष्ट है कि प्राप्ति को उक्त रसीद के द्वारा कोई भी धान जमा करने के लिये प्राप्त नहीं हुआ।

अतस्वस्त आरोप निराधार एवं झूठा है।

अतः श्रीमान जी से विनम्र निवेदन है कि प्राप्ति के प्रति किये गये अन्याय की पूरी छानबीन करने की कृपा करें और प्राप्ति के विरुद्ध -

कार्यवाही शुरू लगाये गये सभी आरोपों के दोषासक्त करने की कृपा करें। तथा श्री गंगा प्रसाद को पद पर (आपके) के आदेश प्रदान की जायेगी।
मैं आपके इस उच्च न्याय के लिये सदैव आभारी रहूंगा।

- संलग्नक:-
- 1- आरोप पत्र
 - 2- जांच आहूतियां जांच अधिकारी, डाक निरीक्षक रस्ता, प्राप्ति,
 - 3- श्रीमान डाक निरीक्षक सीतापुर का आदेश।
 - 4- श्री पतानसिंह का ब्यान
 - 5- श्री नियामक महमद डाक निरीक्षक उत्तर का 6-2-85 की निरीक्षण आहूतियां।
 - 6- पेट आफ का आदेश दिनांक 7-2-85
 - 7- पेट आफ का आदेश दिनांक 23-1-85
 - 8- मेडिकल प्रमाण पत्र

दिनांक:- 6-2-89 ई

इन्दरोली जिला सीतापुर

प्रतिलिपि श्रीमान डाक निरीक्षक महोदय सीतापुर को कान्चनकुमार्य नाही हेतु एवं रचनाय प्रेषित

राजेश कुमार
M. S. Te. Duler
M. N. Moh

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

C.A. NO. 251 of 90(L)

Radhey Shyam Tripathi .. Applicant

-versus-

Union of India and others .. Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS

1 TO 4.

I, P. N. Mishra

aged about 54 years, son of Late Kalyan Mishra
at present posted as Superintendent of Post Offices,
Sitapur Division, Sitapur do hereby solemnly affirm
and stat as under:-

That the deponent is respondent no.3
the above mentioned original application and
is well conversant with the facts of the case. The
deponent has read and understood the contents of
the original application filed by the applicant
as well as the facts deposed herein in reply thereof.

2. That before giving parawise reply to the
application it would be expedient in the interest
of justice to give brief history and facts of the
case as follows:

BRIEF HISTORY OF THE CASE.

Shri Radhey Shyam Tripathi was working as EDRPM Indraul, on 6.2.1985 when SDI (North) Sitapur visited Indraul Branch Post Office, Sri Radhey Shyam Tripathi EDRPM was found absent from duty unauthorisedly. His son Sri Ved Prakash Tripathi was found working as BPM Indraul in his place as substitute managed by Sri Tripathi himself. On enquiry Shri Radhey Shyam Tripathi was stated to be ill and gone away. The SDI North checked the Post office accounts and found the following position of the balances held by the Post office.

	Closing balance of yesterday as shown in the A/c.	Balance found physically on the opening of P.O.	Shortage.
Cash	63.12	21.95	41.17
Postage	150.00	35.70	114.30
Revenue stamp	20.00	0.80	19.20
N.S.S.	5.00	5.00	..
	<u>238.12</u>	<u>63.45</u>	<u>174.67</u>

Handwritten signature

The above shortage of a 174.67 was made good by the substitute Shri Ved Prakash Tripathi, Later on Shri R.S. Tripathi stated in his W/S. that Rs.174.67 was kept in box in a separate envelope, On further investigation it was found that Rs.400/- received for deposit on 17.1.85 was not taken into Post office accounts upto 6.2.85 by him. Similarly deposits dated 14.8.84 and 7.7.84 were taken into Post office accounts on 16.8.84 and 20.7.84 respectively detaining public money by 2 days and 13 days with him. On these grounds Shri Radhey Shyam Tripathi "PM Indrauli" was put off duty and verification of his past work was ordered. During this periods Sri Radhey Shyam Tripathi remained out off duty. Sri Santosh Kumar LDDA and Sri Net Ram LDDA worked vice him. Since there was no monetary loss to the department by the irregularities committed by BPM Shri Radhey Shyam Tripathi, he was ordered to be out back to duty. On rejoining the post of BPM Indrauli the petitioner again started

[Handwritten signature]

[Handwritten signature]

misappropriation of Govt money. He took payment himself of the allowances and bonus money payable to aforesaid substitute viz. Shri Santosh Kumar EDDA and Sri Net Ram EDDA by making bogus signatures of above said substitutes on the Acquittance rolls (Receipts of money). The Mail Overseer again visited the Post office on 21.11.85 and checked the accounts and found Rs.335/- short in Branch Post office cash balance. Sri RS Tripathi was working as BPI on this day. This was not made good by him. On 22.11.85 Sri Tripathi again allowed his son Sri Ved Prakash to work vice him without obtaining orders from the competent authority and gone away. Though Sri Radhey Shyam Tripathi was advised by the Mail Overseer on duty on the spot, not to do this arrangement. The Mail Overseer checked the P.O. Accounts also and found that a payment of Rs.360/- dated 16.11.85 shown as paid to the payee was not actually paid to the payee Smt. Kanti-Devi. A report of the case was sent by the Mail Overseer to the SDI (North) who again put Sri Radhey Shyam Tripathi off from duty on the charges of misappropriation of public money. This order was confirmed

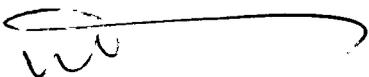


by the Supdt of Post offices Sitapur, Later on Sri Radhey Shyam Tripathi submitted photocopies of affidavits of the depositors/payees. These affidavits was stated bogus by the depositors/payees during the course of enquiry. Verification of past work of the BPM was completed and many cases of misappropriation of Govt money were brought to the notice.

A disciplinary proceedings under rules of FDA (Service and Conduct) Rules 1964 against Shri Radhey Shyam Tripathi was initiated for the lapses on his part and for non-devotion of duty.

The following charges were imposed upon him:-

1. That Shri Radhey Shyam Tripathi while working as EDBPM on 31.11.85 kept Rs.335/- short in BQ Balance.
2. That Shri Radhey Shyam Tripathi while working as EDBPM remained absent from duty on 6.2.1985 and 23.11.85 without any prior intimation.
3. That Sri Tripathi made requisition for cash from Account office showing false liabilities on 21.11.1985.





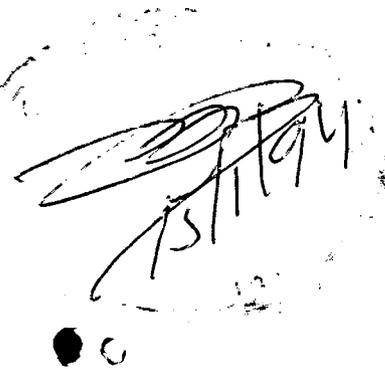
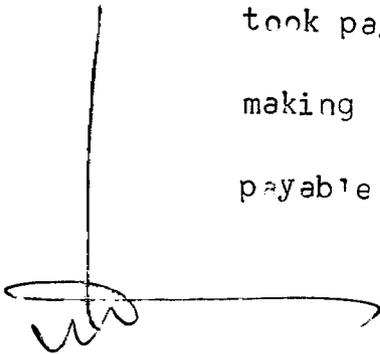
4. Sri Tripathi misappropriated Rs.30/- received by him on 22.10.85 for deposit in Indrauli RD Account No.717355. The entry of deposit made in pass book but this was not taken into P.O. Account.

5. Sri Radhey Shyam Tripathi while working as BPM Indrauli received the amount on the dates mentioned below for deposit and entered these deposit in the respective Pass Books but did not take the amount into P.O. Account on the same day.

Sr.No.	Account No.	Amount deposit ed.	Date on which cash was deposit- ed.	Date on which cash was taken into P.O. A/c.
--------	-------------	--------------------	-------------------------------------	---

1.	FD 718525	10/-	14.8.84	16.8.84.
2.	RD 718525	10/-	7.7.84	20.7.84
3.	RD 718524	10/-	7.7.84	20.7.84
4.	RD 455880	160	7.7.86	20.7.86
5.	MO No.2917	360	7.11.85	25.11.85

6. Shri Radhey Shyam Tripathi while working on BPM Indrauli on 11.8.85, 17.10.85 and 31.10.85 took payment of allowance and bonus himself by making forged signature on the acquittance Rolls payable to following named officials.



Sr.no.	Name of DDA	Particulars of payment.
1.	Sri Ram EDDA Indrauli	Rs.119.75 allowance for 9/85.
2.	-do-	Rs.255.40 allowances for 10/85.
3.	-do-	Rs.71.50 Bonus for 11/85.
4.	Sri Santosh Kumar Verma	Rs.127.70 allowance from 1.9.85 to 16.9.85.
7.	Sri Radhey Shyam Tripathi while working as BPM received Rs.155/- on 22.10.85 from Sri Shyam Lal for opening of new Account. He neither issued receipt nor took the amount into P.O. Account of that day.	
8.	Sri RS Tripathi transferred Rs.174.67 short at the beginning of office work on 6.2.85 to the substitute Sri Ved Prakash working on 6.2.85. As per P.O. records the closing balance of the yesterday was 238.12 and he actually handed over Rs.63.45 only in charge.	
9.	Sri Radhey Shyam Tripathi while working as BPM Indrauli issued NG-4(a) receipt No.2 from the receipt book No.179781 on any date prior to 17.1.85 for Rs.500/- in the name of Sri Munna Lal and later on the same receipt	

[Handwritten signature]

4/82

was issued for Rs.400/- in the name of Sri Sarwan Kumar. Both the amounts were not taken into P.O. accounts.

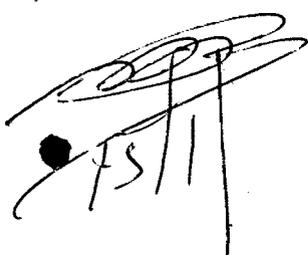
For the above irregularities a charge-sheet under Rule 8 of EDAs (Service and Conduct) Rules, 1964 was issued to Sri Radhey Shyam Tripathi vide office Memo No.F.11/84-85 / RCT/ Disc. dated 12.1.88 Sri Tripathi vide his representation dated 25.1.88 did not admit any charge imposed upon him. Resultantly an enquiry was set up to enquiry into the charges framed against him.

Charges No.2,3,4,5, 6 and 9 framed against him was proved in the course of enquiry and resultantly Sri Radhey Shyam Tripathi was dismissed from service vide office Memo No.F.4 /85-86 DP Singh/Disc. dated 21.12.88. An appeal against the order of 'dismissal' was submitted to the DPS Lucknow Region Lucknow which was rejected and punishment imposed was confirmed vide DPS Memo No.FDL/Staff/A-1/89/3 dated 30.7.89.

Now the same RPT has submitted this in CAT against these orders.

Parawise comments are given below:-

3. That the contents of para no.1 of the original application needs no comments.
4. That the contents of para 2 of the original application needs no comments.
5. That the contents of para no.3 of the original application needs no comments.
6. That in reply to the contents of para 4(i) of the original application only this much is admitted that the applicant was appointed.
7. That the contents of para 4(ii) of the original application are not admitted. The action of putting the applicant off duty was owing to his involvement in misappropriation of Govt money on 6.2.85 and which is based on post office records and is not imaginary. The saying of the applicant that concerned Sub-divisional Inspector and Overseer were annoyed with him is incorrect and was no presumption only. In handing over charge of PC on 6.2.88, the applicant transferred Rs.174.67 short from PC cash balance and that was made good by the substitute. Later on


FS/11



12/12/85

when the SDI concerned visited the PO and found Rs. 174,667 short and therefore applicant was put off duty vide SDI North Memo No. 4/Indrauli dated 7.2.85 confirmed vide office Memo No. F. 11/84-85 dated 20.2.85.

8. That in reply to the contents of para 4(iii) of the original application it is stated that the same are not admitted. Allowance to the applicant for the period of put off duty are not admissible under rules.

9. That the contents of para 4(iv) of the original application are not admitted. The order regarding putting the petitioner off duty was legal/regular and under rules and was based on reasons that the petitioner again misappropriated Govt money and therefore it was necessary to put him off duty to facilitate the further enquiry and to save further mis-appropriation of Govt money.

10. That the contents of para 4(v) are not admitted. The order of putting off duty was passed with proper care and due cautions and is under rule with prima facie case against the petitioner.

15/1/85

[Handwritten signature]

11. That the contents of para 4(vi) of the original application are not admitted. Not a single action was malicious, prejudicial and irregular.

12. That the contents of para 4(vii) of the original application are not admitted. All the actions regarding production of documents were taken as per rules and orders.

13. That the contents of para 4(viii) of the original application are not admitted. All the actions regarding production of documents were taken as per rules and orders.

14. That the contents of para 4(ix) are not admitted. The actions of Enquiry officer regarding calling of witnesses, additional witnesses were in order. Other actions taken by the I.O. as explained in the para are also in order.

15. That the contents of para 4(x) of the original application are not admitted. Actions taken are in order.

16. That the contents of para 4(xi) ^{to 4(xiii)} of the original application are not admitted.

17. That the contents of para 4(xiv) of the original application are admitted to the extent that

lu

an appeal was preferred by the petitioner against the dismissal order.

18. That the contents of para 4(xv) of the application are not admitted. Action of the appellate authority is in order.

19. That the contents of para 4(xvi) of the O.A are not admitted specially that the orders were passed maliciously or illegally.

20. That the grounds taken by the applicant are not tenable in the law and the application is liable to be dismissed ~~xxx~~ with costs to the opposite parties.

21. That the rest of the paras need no comments.

23. That the applicant is not entitled to get any relief in view of the facts stated above and the opposite parties are entitled to get special costs from the applicant.

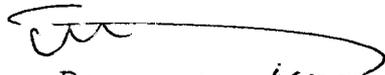

Deponent. 15/1/94.

?Lucknow,

Dated: 15 Jan. 1994.

Verification.

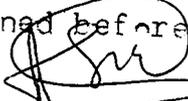
I, the deponent above named do hereby verify the contents of paras 1 to 3 are based on my own personal knowledge and that of brief history of the case and paras 4 to 22 are believed to be true by me on the basis of legal advice and records. No part of this affidavit are false and no material fact has been concealed.


Deponent. 15/1/94

Lucknow,

Dated: 15/1/94

I do hereby identify the deponent who is personally known to me and has signed before me.

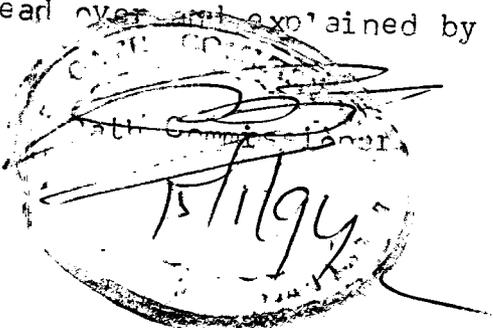


(Asha Chaudhary)

Adv. Standing Counsel for Central Govt.
(Counsel for the opposite parties)

Solemnly affirmed before me on 15/1/94 at 5:20 pm by the deponent, who is identified by Km Asha Chaudhary, Advocate, High Court, 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.


15/1/94


15/1/94

(182)

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

O.A. No. 251 of 1990 (L)

Radhey Shyam Tripathi Applicant
Versus
Union of India & others Respondents
23.5.94
Fixed for ~~25.3.94~~

REJOINDER AFFIDAVIT

I, Radhey Shyam Tripathi, aged about 53 years, son of late Shri Lal Behari Tripathi, resident of village and Post Office Indraul, District Sitapur, do hereby state on oath as under :-

- J.S.
21-4-94
1. That the deponent is the applicant in the above noted case and is well conversant with the facts deposed to in this rejoinder affidavit. The deponent has been read out the counter/written statement filed by the respondent no. 3, explained its contents in Hindi, which he has fully understood and is replying to the same.
2. That in reply to the contents of para 1 of the counter affidavit/written statement, it is stated that the reply has been filed by the respondent no. 3 only. No counter/written statement has been filed by any other respondent.
3. That in reply to para 2 of the counter affidavit/written statement, it is stated that there is no

Filed today
2/4/94

7/2/94

provision in the rules for filing a purported brief history of the case. Rule 12 of the C.A.T. (Procedure) Rules 1987 lays down that in the reply filed, the respondent shall specifically admit, deny or explain the facts stated by the applicant in his application and may also state such additional facts as may be found necessary for the just decision of the case. In view of this legal provision the brief history sought to be inducted is irrelevant and unwarranted. It is an attempt to create prejudice in the case and as such, it is liable to be ignored and needs no reply

4. That paras 3, 4 and 6 of the counter affidavit/written statement need no reply.
5. That the contents of para 6 of the counter affidavit/written statement are evasive, while the appointment of the applicant as mentioned in para 4(1) has been admitted, the remaining part has not been denied or disputed.
6. That the contents of para 7 of the counter affidavit/written statement are merely afterthought and they are denied. The lapses of the applicant, if any, was not brought to his notice and no charge sheet was given to him, although he was maliciously kept under put off (suspension) for over 7 months. The put off duty, was wrong, prejudicial, arbitrary and illegal and the applicant was/are entitled to the wages for the period he was arbitrarily restrained from duty. The

7/12/87

para contents of ~~para~~ 4(ii) of the application are reiterated. There is no averment from respondent No. 4 who was personally prejudiced with the deponent for his ulterior motive. The put off was not confirmed by the S.P.Os within a week, hence it became void. It has been held in A.p. Augustine vs. Supdt. of Post Offices, Alwaye Division and others 1984(1) SLJ 353 (Kerala) that putting an employee off duty without payment of ~~his~~ salary and allowances for an unduly long period is malafide and unauthorised. A photo copy of the said decision is contained in ~~Sw~~ Swamy's compilation of Service Rules for E.D. staff in Postal Department is Annexure R-1.

7. That the contents of para 8 of the counter affidavit/
written statement are denied and those of para 4(iii)
of the application are reiterated. As the put off
order passed by the S.P.Os was not ~~not~~ confirmed by
the S.P.Os within a week as required by the D.G., P&T
instructions, it became inoperative and null and void
and shelter of Rule 9(3) of the E.D. (Conduct and
Service) Rules 1964 cannot be taken. This rule is
null and void, being in violation of Article 14 of the
Constitution of India as held in Peter JD'sa and
another vs. Supdt. of Post Offices and others 1988(3)
SLJ (CAT) 407 and (1989) 9 A.T.C. 225 (Bangalore Bench).
Besides no charge sheet was issued and the applicant
was never informed of his lapses leading to put off
and in view of this matter the put off order was
solely arbitrary and malicious and the applicant
cannot be denied of his pay and allowances.
- 7/2m

11/91

8. That the contents of para 9 of the counter ~~affidavit~~ affidavit/written statement are denied as stated and the contents of para 4(iv) of the application are re-asserted. It may be stated that the I.P.Os orders putting the applicant off duty were not approved by the S.P.Os within a week as required by the D.G., P&T instructions and as such it became inoperative and void, after expiry of one week.
9. That the contents of para 10 of the counter affidavit/written statement are denied and the contents of para 4(v) of the application are reiterated..It may be stated that the respondent no. 3 has not given any reply to the various points raised by the applicant in para 4(v) of his application. The counter affidavit, written statement is simply evasive and untenable.
10. ~~That~~ the contents of para 11 of the counter affidavit/written statement are denied. They are vague and evasive. There could/can be no justification for issuing a charge sheet after 26 months, this alone fact is sufficient to indicate that the authorities were having grudge against the applicant and trying to wreak their vengeance. The contents of para 4(vi) of the application are re-asserted.
11. That the contents of para 12 of the counter affidavit/written statement are vague, and evasive and they are denied and the contents of para 4(vii) of the

11/91

application are re-stated.

12. That the contents of para 13 of the counter affidavit/
written statement are denied and those of para 4(viii)
of the application are reiterated.
13. That the contents of para 14 of the counter affidavit/
written statement are denied. It may be stated that
the Inquiry Officer has been made a party by name,
but he has furnished no reply regarding the allega-
tions made against him. As stated in para 4(vii) of
the application, the very appointment of the Inquiry
Officer was irregular, prejudicial and against the
instructions issued by the D.G., P&T and he acted
arbitrarily and prejudicially against the interest of
the applicant. The contents of para 4(ix) of the
application are re-asserted.
14. That the contents of para 15 of the counter affidavit/
written statement are denied. It is wrong to say that
the action taken is in order. The Inquiry Officer
acted against the mandatory provisions of rules and
his action was arbitrary, prejudicial, irregular and
illegal and deserves to be struck down. The contents
of para 4(x) of the application are reiterated.
15. That the contents of para 16 of the counter affidavit/
written statement are evasive inasmuch as the
averments made in paras 4(xi) to 4(xiii) have not
specifically been denied, as such they are misconce-

9/12/44

A
1/23

ived, & wrong and are denied and the contents of paras 4(xi) to 4(xiii) of the application are re-asserted.

16. That the contents of para 17 of the counter affidavit/ written statement need no reply.
17. That in reply to the contents of para 18 of the counter affidavit/written statement, it is stated that they are vague, evasive and incompetent. The provisions of rule and denial of personal hearing have also not been admitted prejudicially. It may further be stated that there is no reply from the appropriate authority viz., the respondent no. 2, and the respondent no. 3 cannot hold any brief for the respondent no. 2. The contents of para 4(xv) of the application are re-stated.
18. That the contents of para 19 of the counter affidavit/ written statement are vague and evasive and they are denied and the contents of para 4(xvi) of the application are re-asserted.
19. That the contents of para 20 of the counter & affidavit/ written statement are denied. The grounds taken by the applicant are cogent and tenable and the application is liable to be allowed with costs. The contents of para 5 and its sub-paras from (a) to (n) are re-stated.
20. That the contents of para 21 of the counter affidavit/ written statement need no reply.

[Handwritten signature]

12/2/94

21. That the contents of para 22 wrongly numbered as ¶ 23 are denied. On the facts and circumstances of the case detailed in the application as well as in this rejoinder affidavit, the application deserves to be decreed with costs and special costs against the respondents.

Lucknow :

Dated : .3.1994

DEPONENT

VERIFICATION

I, the above named deponent, do hereby verify that the contents of paras 1 to 18 and 20 are true to my personal knowledge and those of paras 19 and 21 are believed to be true on legal advice. No part of it is false and nothing material has been concealed or suppressed.

Signed and verified this day of March 1994 at
Lucknow.

Lucknow :

Dated : .3.1994

DEPONENT

I identify the deponent, who has
signed before me.

(M. DUBEY)
Advocate

A
C/S

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALIHAHABAD,
LUCKNOW BENCH, LUCKNOW

O.A. No.251 of 1990 (L)

Radhey Shyam Tripathi ... Applicant
Union of India and others ... Respondents

ANNEXURE NO. R-1

(27) Putting an employee off duty without enquiry and without payment of salary and allowance for an unduly long period, mala fide and unauthorised.—The petitioner, who was an Extra-Departmental Branch Post Master at Meenkunnam, was put off duty by the Sub-Divisional Inspector on 20-5-1981. This order was confirmed by the Superintendent of Post Offices, Alwaye, on 27-5-1981. He was not paid any subsistence allowance or salary. Though two and a half years expired no enquiry was conducted and no charges were framed. No steps were taken in that direction. In a petition filed by the petitioner challenging the order:

Held: it cannot be gainsaid that the object of Rule 9 (1) is to enable the department to keep a delinquent employee out of office during the pendency of disciplinary action against him. An enquiry for this purpose should have actually commenced, or should have been intended to commence without delay before the employee is put off duty. The employer has no right to keep an employee out of office and deny him salary, so long as the *vinculum juris* between them of master and servant continues except for the purpose of conducting an enquiry of that nature or as a punishment imposed on him under the Rules on the basis of an enquiry. Exercise of the power of suspension for any other purpose would be an unauthorised act.

72/11

The fact that even after two and a half years the enquiry has not commenced shows that the respondents had no intention of taking any immediate steps in that direction when the petitioner was ordered to be kept off duty. The order putting him off duty was, therefore, not an order which was intended to operate in terms of Rule 9 (1). To put an employee off duty without any enquiry and payment of salary or allowances for an unduly long period is a *mala fide* and unauthorised act. The subsequent conduct of the respondents has destroyed any semblance of validity in the impugned orders.

While it may be still open to the respondents to conduct an enquiry against the petitioner in respect of the alleged misconduct, I should have thought that any such belated enquiry is unlikely to be fair, for at this distance of time it would almost be impossible for the employee to defend himself effectively by adducing evidence in regard to matter alleged to have occurred over two and a half years ago, and in respect of which he has not yet been informed of the charges and the nature of evidence relied on against him. His own witnesses may have disappeared or their memory faded. Whatever evidence that he could have adduced in his favour, had the enquiry commenced promptly would in all probability have by now vanished. No fair and effective enquiry can be conducted unless it commences within a reasonable time after the incident. To call upon an employee to defend himself at this distance of time is probably to put him at considerable disadvantage and thus deny him the benefits of Natural Justice.

Whatever be the ultimate fate of any such enquiry, on which I do not wish to express any final view, the petitioner is in law deemed to have continued uninterruptedly in service and is thus entitled to all the benefits of his service, including the emoluments payable under the relevant rules, which have been unlawfully denied to him by unlawful orders.

[A. P. Augustine v. Superintendent of Post Offices, Alwaye Division and others, 1984 (1) SLJ 353 (Kerala).]

(28) 'Put off duty' only on ground of pendency of inquiry into misconduct and to be prospective.—The applicant who was working as Extra-Departmental Branch Post Master, Pali Village, was put 'off duty' by the order of the first respondent, senior Superintendent of Post Offices, on the ground, that a report had been received that he was arrested on a charge of theft and was under police custody exceeding 48 hours.

The applicant challenged the order alleging that the order was in violation of the relevant provision in the Extra-Departmental Agents (Conduct and Service) Rules, 1964 (the Rules for short) and the guidelines given thereunder.

It was contended by the respondents that it was incorrect to state that the applicant was put 'off duty' only on the ground that he was

A
26

TRM

A/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,

CIRCUIT BENCH, LUCKNOW

M.P. No 703/91(L)

O.A. No. 251/90L

Lx

R.S. Tripathi Applicant

Versus

Union of India and others Respondent

Fixed for 29.11.91

The applicant respectfully states as under :-

1. That the above noted case has been pending since long and the respondents have not filed counter affidavit/written statement so far despite several adjournments, which indicates that either they are not willing to file any reply or are intentionally delaying the matter to cause harassment and vexation to the applicant.
2. That it would be expedient in the interest of justice that the Hon'ble Tribunal considers ex-parte hearing of the case in absence of counter affidavit/written statement.

3
filed today

cyw
14/11/91

It is, therefore, most respectfully prayed that the case be placed before the Bench for its ex-parte hearing.

Lucknow :

Dated : 14.11.91

M. Dubey

COUNSEL FOR THE APPLICANT

FORM (12)
Central Administrative Tribunal
Lucknow Bench

1340
17-0-99

2 Rana Pratap Marg,
Moti Mahal
Lucknow

FORM 9

ORIGINAL APPLICATION NO. 251 of 19.90

APPLICANT(S)

R.S. Tripathi
BY ADVOCATE SHRI.....

Versus

RESPONDENT(S)

U.O. 516

BY ADVOCATE/CENTRAL GOVT
STANDING COUNSEL/GOVT
PLEADER.....

Radhay Shyam Tripathi S/o Late Sri L. B. Tripathi
R/o Village & Post office - Gndrauli District -
Sitapur incl Ex. E D Branch Postmaster, E D B F
Gndrauli, District - Sitapur



Where as an application filed by the above named applicant (s) under section 19 of the administrative Tribunal Act, 1985 as in the copy annexed here in has been registered and upon preliminary hearing the Tribunal has admitted the application. Sri M. Dubey Counsel for respondent as stated to have appeared before you in person on 08.01.99 as per order of Tribunal.

Notice is hereby given to you that if you wish to contest the application, you may file, your reply alongwith the documents in support thereof and after serving copy of the same on the applicant or his legal Practitioner within 30 days of receipt of the notice, before this Tribunal, either in person or through a Legal Practitioner/Representing Officer appointed by you in this behalf, In default, the said application may be heard and decided in your absence on or after the date without any further Notice.

List for hearing on 14.1.99.

Issued under my hand and the seal of the Tribunal this the the day of 1999.

ENCL:-

BY ORDER OF THE TRIBUNAL
Dy. REGISTRAR

Handwritten signature/initials

Handwritten signature/initials

Vakalatnama

100

In the Hon'ble High Court of Judicature

at Allahabad, Lucknow Bench

Rajesh Shyam Tripathi

VERSUS

472/2000 of Lucknow

No. W.P. 25/ of 1990

I/we the undersigned do hereby nominate and appoint **Km. Asha Chaudhary** Addl Central Govt. Standing Counsel High Court, Lucknow Bench, and Shri. Sanjay Sonawane Advocate

.....
be counsel in the above matter and for me/us and on my/our behalf to appear, plead, act and answer in the above Court or any appellate Court or any Court to which the business is transfer in the above matter, and to sign and file petitions, statements accounts, exhibits compromises or other documents whatsoever, in connection with the said matter arising there from and also to apply for and receive all documents or copies of documents, depositions, etc, etc and to apply for and get issued and arrest, attachment or other execution warrant or order and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration :

Provided, however, that, if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town; then, and in such an event my our said Advocate shall not be bound to appear before the court and if may-our said advocate deth appear in the said case he shall be entitled to an out station fee and other expenses of travelling loding etc. Provided ALSO that if the case be dismissed by default, or if it be proceedee exparte, the said advocate (s) shall not be held responsible for the same. And all whatever my/our said advocate (s) shall lawfully do, I do here by agree to and shall in future ratify and confirm.

ACCEPTED :—

(Signature)
.....
Advocate

- 1. Advocate
- 2. Advocate

Signature of Client.....
(P.N. Mishra)
.....
.....

ब अदालत धीमान

[बादी अपीलान्त]

प्रतिवादी [रेस्पाडेन्ट]

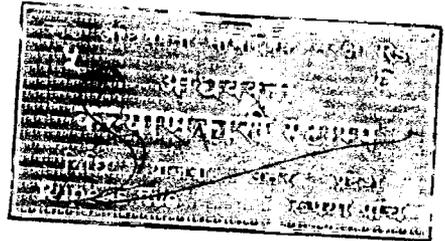
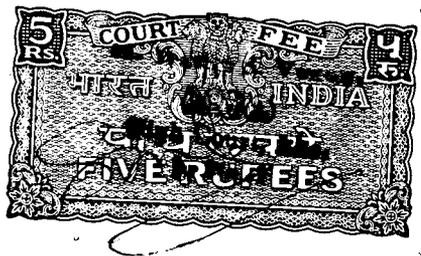
London Bench

महोदय

A/101

वकालतनामा

Rodhaya Shyam Kapat



C. C. - Another

बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा 251 सन् 90 पेशी को ता० 14-9 1899ई०

उपर लिखे मुकद्दमा में अपनी ओर से श्री ...

व ... Dhamendra - Prasad ...

वकील
महोदय
एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच वियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होबा में यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अंदम पैरवी 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
14/9/99

हस्ताक्षर ... शिवप्रसाद मिश्रा

साक्षी (गवाह) ... साक्षी (गवाह) ...

दिनांक ... 14. 9. 99 ... महीना ... सन् 1899ई०

स्वीकृत