

Central Administrative Tribunal

Lucknow Bench

INDEX SHEET

Cause Title

of 1993

Name of the Parties -----Applicant

Versus

-----Respondents.

Part A.E.C.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCULAR BENCH, LUCKNOW

Registration No. 261 of 1989-90 (C,

APPLICANT(S) Y. S. Mishra

RESPONDENT(S) U. O. 9.

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

A-1

21/8/90

21/8

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

dinesh/

21/8

259/90 (2)

A-3

(1)

(1)

17.9.90

No sitting Adj to 10.10.90

(2)

10.10.90

No sitting Adj to 23.10.90

(3)

(3)

23.10.90

No sitting Adj to 21.11.90

(4)

21.11.90

Hon. Mr Justice K. Mathur ve
Hon. Mr M. M. Singh AM

On the request of counsel for
applicant case is adjourned to
9.1.91

H. H. L
AM

Dr
ve

Dr

(2)

2/11/50
A-11/1959/50

(5)

9.1.91

Hon. Mr. D. K. Agrawal - J.M.
Hon. Mr. K. Chagga - Am.

Heard ADMIT. Issue notice
Counter may be filed within 8
weeks; rejoinders within 2 weeks
thereof. List before D &
on 15-4-91 for completion
of pleadings and for listing
for hearing according to
its serial number.

Dr Dinesh Chandra takes
notice of this case. Let
office deliver copies of
the claim petition to him
on demand

Re 4

J. G. 19/1/51

Am.

Am.

(6)

Je

J. M.

15.4.41
D. R.

Applicant is present
in person. O.P. is
absent. O.P. did not
file counter yet.
He is directed to
file it, by 11/7/91.

259/90 (D)

AG

(3)

4.11.91

Hon. Justice U.C. Srivastava - v.c.
Hon. Mr. A. B. Gorthi - AM.

On the request of Sri A. Chaturvedi
on behalf of Sri A. Mannan ^(Advocate) Case
is adjourned for hearing on
11.11.91.

J
AM.

VC
v.c.

11.11.91

Hon. Mr. A. B. Gorthi - AM.
Hon. Mr. S. M. Prasad - JM.

On the request of counsel
for the both parties case is
adjourned to 29.1.92 for
hearing.

JM
JM.

J
AM.

29.1.92

Hon. Justice U.C. Srivastava - v.c.
Hon. Mr. A. B. Gorthi - AM.

On the request of Counsel for
the both parties case is adjourned to
20.4.92.

J
AM.

VC
VC

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

D.A. NO 259/90 199 (L)

D.A. NO 199 (TL)

Date of Deceasion

X. S. Mehta

Petitioner.

Advocate for the
Petitioner(s)

V E R S U S

Union of India

Respondent.

Advocate for the
Respondents

C O R A M

Hon'ble Mr. Justice U.C. Sinha, Jc

Hon'ble Mr. K. Chatterjee, AM -

1. Whether Reporter of local papers may be allowed to see the Judgment . ✓
2. To be referred to the reporter or not ? ✓
3. Whether their Lord Ships wish to see the fair copy of the Judgement ? ✓
4. Whether to be circulated to other benches ? ✓

Vice-Chairman / Member

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Original Application No. 259/90

Y.S.Meshram

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

In this case the applicant has prayed for many reliefs but instead of dismissing the application on this ground, we are deciding the application in respect of relief No. 1, by which the applicant has prayed to direct the respondents to fix the applicant's basic pay at Rs 1560/- per month ^{as} on 1.2.88 and be allowed all the consequential benefits.

2. The applicant, in para 4.1 of the application stated that the present application being filed against erroneous fixation of the basic pay of the applicant at Rs 1470/- p.m. in the revised pay scale of Rs 1200-2040 vide Part II order dated 16.7.89, instead of Rs 1560/- p.m. as was being drawn by the applicant on his previous posting at Faizabad, before joining at S.H.O., Lucknow on transfer w.e.f. 1.2.88. The applicant was serving as Health Superintendent in the office of the S.H.O. Faizabad and his basic pay was Rs 1560/- p.m. in the scale of Rs 1400-2300. and

on his own request, he was transferred to SHO Lucknow with effect from 1.2.88 and as there was no post of Health-Superintendent vacant at Lucknow the applicant agreed to be transferred on the lower post of Health Inspector in the scale of 1200-2040. The applicant's basic pay was fixed as Rs 1470 on 1.2.88 in the pay scale of 1200-2040, in pursuance thereof a D.O. was issued on 16.7.89 and according to the applicant this fixation was not correct as he is entitled to the basic pay of Rs 1560 per month as on 1.1.88 at which he was drawing his salary upto 31.1.88. The applicant represented against the same and reminders were also sent but no reply was given and that is why he approached the Tribunal.

3. The respondents have stated that the applicant reported to the unit on permanent duty as Health Inspector on 1.2.1988 and was posted on compassionate ground on reversion from the post of Health Superintendent on his own request and accordingly necessary documents were forwarded to C.D.A. Lucknow for pay fixation with effect from 1.2.88 at Rs 1470/- with due increments. As this decision was not accepted by the applicant, he approached the C.D.A. for review of the case vide his letter dated 16.5.88 who rejected the application and this decision was communicated to the applicant vide letter dated 29.6.89. It is not necessary to make reference to the adverse remarks or departmental enquiry initiated against the applicant in respect of acts of omission and commission

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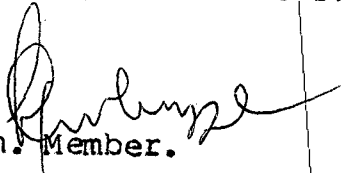
on his behalf. The respondents have pointed out that the Controller of Defence Accounts, Lucknow fixed the pay of the applicant in accordance with the provisions contained in Clause A-III of F.R. 22(1) which states that when a government servant is appointed to a lower post at his own request under F.R. 15(a) and if the maximum pay in the time scale of the new post is lower than the pay drawn by the government servant in the old post by him on regular basis, his initial pay in the new post shall be fixed at the maximum of the pay scale of that post. The maximum pay in the time scale of the new post of Health Inspector which the applicant agreed to accept worked out to Rs 1470/- which is lower than the pay of Rs 1560/- drawn by him as a Health Superintendent, but as per the provisions referred to above the applicants' pay was fixed in the pay scale of Health Inspector i.e. Rs 1200-2040. According to the applicant the maximum of scale of pay of Health Inspector is not Rs 1470 but it is Rs 2040 which is evident from the pay scale itself i.e. Rs 1200-2040.


4. From the record including the Annexure -5 it is evident that the respondents themselves fixed the pay of the applicant even though the final fixation of pay of the applicant has been lowered down and yet a decision has been taken by the respondents which is not in conformity with the F.R. 22-A. Accordingly, this application deserves to be allowed in part and the order

u

dated 16.7.89 fixing the salary of the applicant at Rs 1470/- is quashed and the respondent are directed to fix the correct salary of the applicant as per rules within one month of the receipt of a copy of this order by them and arrears be paid within another one month.

No order as to costs.


Adm. Member.


Vice Chairman.

Shakeel/-

Lucknow: Dated: 5.1.93.

A-10
Central Administrative Tribunal
Circuit Bench Lucknow
Date of Filing 21/8/90
Date of Receipt by Post.....

Before The Central Administrative Tribunal
Additional Bench Lucknow.

Deputy Registrar(J)

O.A.NO. 259/...OF 1990. (2)

COMPILATION - I.

Y. S. Meshram

Applicant

versus

The Union of India & others ...

Respondents

INDEX.

SNo.	Document	Pages.
1.	Application	1 - 14

P.T.
Sd/-
21/8/90
Lucknow.
Dated: 20-08-90

Signatures of the
Applicant.

Noted for
17/9/90
Sd/-
21/8/90

Before the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

Y.S.Meshram, aged about 37 years,
son of Sri Shalikram, Health Inspector,
Station Health Organisation, (Army)=
Lucknow Cantt, Lucknow. 226002.

--- .. Applicant.

Versus.

1. The Union of India, through Secretary,
Ministry of Defence, Govt. of India, New Delhi.
2. The Director General of Medical Services
(Army), A.G's Branch, Army HQ, DHQPO,
New Delhi. 1100011.
3. The Senior Executive Medical Officer, C/O
Base Hospital, Lucknow Cantt, Lucknow-2.
4. The Officer Commanding, Station Health
Organisation, (Army), Lucknow Cantt, Lucknow-2.

... .. Opp.Parties.

DETAILS OF APPLICATION.

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

Meshram

- (i) Order No. D.O. Part II, Sl. No. 9/89, Dated 16.7.89, issued by O.C., S.H.O., fixing pay at Rs. 1470/- on 1.2.88;
- (ii) For Non-payment of full salary for two months of Sept. & Oct. 89, against which no order has been served on the applicant;
- (iii) For Non-payment of C.D.S. Amount, against which no order has been served on the applicant;
- (iv) For treating period from 31.8.89 to 7.9.89 and from 11.9.89 to 23.10.89, as on earned leave without the applicant's application; and for this no order has been served on the applicant;
- (v) Against the order on application No. 786/MS/29 Dated 09 Nov. 89 for not giving conveyance allowance to the applicant.
- (vi) Against non-payment of Salary for the period 18.12.89 to 23.12.89, and 15.20, 22 and 30 Jan., 1990, vide Order No. 125/22/Disc/SO/PC. dated 24.5.90.

2. Jurisdiction of the Tribunal:

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

[Signature]

3. Limitation:

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985. *Applicant is ill from 15-07-90 and on medical leave & so is being filed now.*

4. Facts of the Case:

4.1 That the present application is being filed against the erroneous fixation of the basic pay of the applicant at Rs. 1470/- p.m. in the revised scale of 1200-2040 on 1.2.88; vide part II Order dated 16.7.89, instead of Rs. 1560/- p.m. ~~was~~ was being drawn by the applicant on his previous posting at Faizabad, before joining at S.H.O. Lucknow on transfer w.e.f. 1.2.88.

4.2 That upto 31.1.88, the applicant was serving as Health Superintendent in the office of the S.H.O. Faizabad, and his basic pay was Rs. 1560/- p.m. in the scale of 1400-2300;

4.3 That at the applicant's own request the applicant was transferred to S.H.O. Lucknow w.e.f. 1.2.88. Since there was no post of Health Superintendent, vacant at Lucknow, the applicant agreed to the transfer on the lower post of Health Inspector in the scale of 1200-2040.

4.4 That on 7.3.89, the C.D.A. (CC), Lucknow, fixed

Sharma

t the applicant's basic pay as 1470/- on 1.2.88, in the scale of 1200-2040 of the Health Inspector, and in pursuance thereof the D.O. Part II Order dated 16.7.89 was issued accordingly by opp. party respondent no.4.

4.5 That the pay fixed at 1470/- was erroneous and incorrect because even on reversion to lower post the pay being drawn by an employee is protected as provided under Fundamental rights.

4.6 That the applicant is entitled to the basic pay fixation at Rs. 1560/- p.m. as on 1.2.88, at which pay he was drawing his salary upto 31.1.88;

4.7 That the applicant on 4.12.89, represented/ appealed against the erroneous fixation of his pay to respondent no.2, and again on 22.2.90, made a reminder/representation but till date no reply has been received by the applicant;

4.8 That under the orders of the Govt. of India, huge amount was deducted every month from the Salary of the applicant and deposited in compulsory deposit scheme.

4.9 That repayment of all C.D.S. deposit became due many years ago, but the applicant has not been repaid the amount of C.D.S. deducted from his salary, the details of which the applicant does not possess, but it must be in thousands of rupees.

Dehru

- 4.10 That all other employees have been repaid the C.D.S. deduction, but the applicant is neither being paid nor any reason is being disclosed for not paying it. It is stated that this amount on no account can be withheld by the respondent.
- 4.11 That for delayed payment the applicant is entitled to interest @ 18% p.a. till the same is actually repaid by the respondents.
- 4.12 That the applicant represented and requested for C.D.S. repayment on 6.11.89 and also got issued a notice under Section 80 of the C.P.C. dated 22.11.89, but so far neither the amount has been paid nor any reply has been received from the respondents for non payment of C.D.S. amount.
- 4.13 That the applicant is entitled to receive the total C.D.S. deducted along with interest @ 18% p.a. from the due date to the date of actual payment.
- 4.14 That the applicant have not been paid his full salary for the month of Sept. & Oct. 1989, without intimation of any reason therefor.
- 4.15 That the applicant claimed the payment of his full salary dues vide representation dated 19.10.89 and 26.10.89 but in vain and no reply

P. Schur

has so far been received from the respondents in this regard.

4.16 That the applicant is entitled to his full salary for the months of Sept. & Oct. 1989 and for wrongful withholding the same, he is also entitled to interest thereon @ 18% p.a., till the same is paid by the respondents. .

4.17 That on 30.8.89, the applicant was served with an order by the respondent no. 4 without any cause or reason to get medically examined by C.M.O., Lucknow, and the order further stipulated that the applicant will not be allowed to join duty unless fitness certificate is obtained, and from 31.8.89 to 24.10.89 the applicant was not allowed to perform his duties illegally; though the applicant repeatedly visited the office and requested for the same.

4.18 That against the said order dated 30.8.89, the applicant sought interview with the respondent no.3, with a superiord officer, but it was not arranged/allowed. Thereupon the applicant directly submitted a similiar application to the respondent no.3, but to no avail;

4.19 That however, on 24.10.89, theapplicant was served with an order to join duty without any fitness certificate, considering the invalidity

P. Selvaraj

and illegality of the earlier order dated 30.8.89 and so the applicant joined duty on 25.10.89.

- 4.20 That respondents no. 3 & 4 have suo-moto without any application being made by the applicant have passed order granting earned leave to the applicant for the period 31.8.89 to 7.9.89 and from 11.9.89 to 23.10.89, for which period the applicant was illegally prevented from performing his duties. It is stated that this period can't not be treated as on earned leave suo-moto by the respondents to cover their own wrong and malafide action.
- 4.21 That earned leave is encashable and by this device the applicant can not be put to financial loss of thousands of rupees for no fault of his. The applicant is entitled for the reckoning of the said period either on duty or by grant of Special leave and it can not be debited to his leave account.
- 4,22 That strangely the applicant has not been served with any order intimating him that the said period has been debited to his leave account suo-moto.
- 4.23 That the applicant has to perform field and extensive touring duties, for which the applicant is entitled under the rules and order applicable
- P. Selvaraj*

either to a Govt. vehicle or conveyance allowance in lieu thereof.

4.24 That the applicant represented for the above but his genuine request was not allowed. The applicant on 8.11.89 and 9.11.89 made representations to this effect, but the applicant has not been granted either of the request.

4.25 That the applicant besides his representations has served on the respondents a notice under Section 80 of the C.P.C. through his Counsel, but the same also remained unreplied till date.

4.26 That on 18.12.89, the applicant while coming for duty met with an accident and was advised by Doctor 6 days rest. The applicant submitted an application on 18.12.89 for Special disability leave for Six days as permissible under the rules i.e. from 18 to 23, December, 1989.

4.27 That on 24.12.89, the applicant joined his duty alongwith Medical Certificate as required, but the applicant was wrongly not granted the leave requested and was treated absent and his pay for the said 6 days was deducted and not paid, against which the applicant represented.

4.28 That the applicant was also not paid salary for

1 15th, 20th, 22nd, & 30th Jan, 1990, i.e. for four days, treating the applicant as absent from duty, though the applicant performed his duty on these dates and also signed the attendance register on all these dates. Thus the non-payment of Salary for these four days is erroneous.

4.29 That in this way the applicant was treated as absent wrongly for 10 days, and he was not paid the Salary which was arbitrarily withheld. Thus, the applicant is also entitled to the aforesaid ten days Salary from the opposite parties, which has not been paid inspite of representations by the applicant.

5. Grounds for relief with legal provisions:

5.1 Because the fixation of the applicant basic pay at 1470/- p.m. as on 1.2.88 is erroneously and is contravention of F.R. 22 in the facts of the case.

5.2 Because applicants pay being drawn before reversion transfer is to be protected and can not be reduced to his disadvantage.

5.3 Because applicant is entitled to salary on basic pay as 1560/- p.m. as on 1.2.88, and all consequential benefits arising therefrom.

Y. Sehraw

- 5.4 Because withholdment and non-payment of C.D.S. deductions is illegal since it became over due many years ago, and because it has been paid to all other employees.
- 5.5 Because respondents are liable to pay interest for wrongfully withholding the C.D.S. amount.
- 5.6 Because the full salary for the months of Sept. and Oct, 89 has illegally being not paid and the applicant is entitled to it with interest.
- 5.7 Because in the facts of the case the period from 31.8.89 to 07.09.89 and from 11.09.89 to 23.10.89 is to be treated either as on duty, or by granting Special Leave, and it cannot be treated as on earned leave by the respondents suo-moto without any application from the applicant.
- 5.8 Because earned leave is encashable and applicant will be put to huge financial loss wrongfully.
- 5.9 Because the applicant is a field/touring duty official and so under the rules he is entitled to either a Govt. vehicle or conveyance allowance in lieu thereof.
- 5.10 Because non-payment of Salary for the period 18.12.89 to 23.12.89, and for 15, 20, 22 and 30 Jan. 90, is illegal as applicant was entitled

to Special disability leave and was not absent in January '90 as alleged.

6. Details of remedies exhausted:

- 6.1 Representation dated 4.12.89 and 22.2.89 was preferred against the order dated 16.7.89, fixing the basic pay as 1470/-. The said representation remain unreplyed.
- 6.4 Representation dated 6.11.89 was preferred for payment of C.D.S. but even then no reply has been received till date.
- 6.3 Representations dated 19.10.89 and 26.10.89 were made for payment of full salary for two months, but to no avail and no reply has been made.
- 6.4 Representation dated 07.11.89 was made for request to not debit the quantum of leave granted at the descretion of the OC SHO/SEMO vide their letter dated 27.10.89.
- 6.5 A notice under Section 80 of the C.P.C. was served on the respondents through the Counsel, in which all the claims were made but so far no reply has been received even to the said notice of the Counsel.
- 6.6 Representations made on 5.2.90.

P. S. Kumar

7. Matters not previously filed or pending with any other Court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before is not pending any court of law, or any other authority or any other bench of the Tribunal.

8. Reliefs sought:

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

8.1 That this Hon'ble Tribunal may be pleased to direct the respondents to fix the applicant basic pay at Rs. 1560/- per month as on 1.2.88; and be allowed all the consequential benefits arising therefrom, and be paid all the arrears accruing on this account.

8.2 That this Hon'ble Tribunal may be pleased to direct the opposite parties to pay to the applicant, the total amount of C.D.S. deducted from the applicant's salary alongwith interest @ 18% p.a. from due date to the date of actual payment;

8.3 That this Hon'ble Tribunal may be pleased to direct the respondents to pay to the applicant his full salary for the months of Sept. & Oct, 1989, alongwith interest @ 18% p.a. upto the

[Signature]

date of the actual payment.

- 8.4 That this Hon'ble Tribunal may be pleased to direct the respondents to treat the period from 31.8.89 to 07.09.89 and from 11.09.89 to 23.10.89 of the applicant either on duty or on Special Leave as this period is not debitable to the earned leave account of the applicant;
- 8.5 That this Hon'ble Tribunal may be pleased to direct the respondents to either pay the admissible conveyance allowance to the applicant or to provide the applicant with a Govt. vehicle as permissible under the rules.
- 8.6 That this Hon'ble Tribunal may be pleased to direct the payment of salary for the period 18.12.89 to 23.12.89 and for 15, 20, 22, and 30 January, 1990.
9. Interim Order, if prayed for:
- The applicant at this stage does not pray for any interim order.
10. In the event of application being sent by Registered post:
- The application is being delivered by hand.
11. Particulars of Bank Draft/Postal Order filed in

A-24

-14-

respect of the application Fee:

I.P.O. No. *DD 824999* Dated: *20.08.90*

For Rs. 50/- only., issued by *Post Office Sahi
Ganj, Lucknow.*

12. List of enclosures:

1. Impugned Order dated *16th July 1989* (Annexure-1)
2. Impugned Order dated *6th Nov. 1989* (Annexure-8)
3. Impugned order dated *27th Oct. 1989* (Annexure-2)

Verification.

I, Y.S. Meshram, son of Sri Shalikram, aged about 37 years, working as Health Inspector in the office of Station Health Organisation, Lucknow Cantt, resident of 476/47, Purani Bans Mandi, Sitapur Road, Lucknow-2, do hereby verify that the contents of paras 1,4, and 6 to 12 are true to my knowledge and paras 2,3, and 5 believed to be true on legal advise, and that I have not suppressed any material facts.

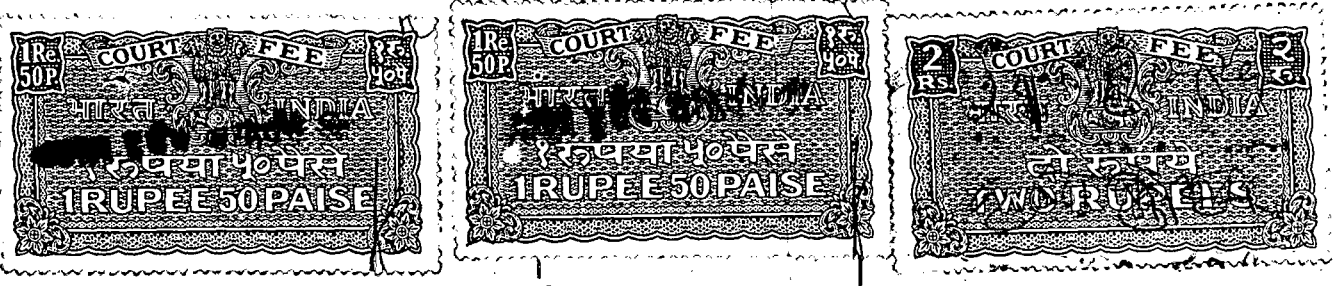
Dated August *20th*, 1990.

Place:- Lucknow.

P. Meshram
Signature of the Applicant.

ब अदालत श्रीमान्
[वादी] अपीलान्त
प्रतिवादी [रेषाडेन्ट]

Central Admini'strative महोदय
Tribunal, Additional Bench, Lucknow
वकालतनामा



Y. S. Mehra वादी (अपीलान्त)

Union of India & Co बनाम प्रतिवादी (रेखाडेन्ट)

नं० मुकद्दमा सन् पेशी की ता० १२ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री वेद प्रकाश एडवोकेट
३६, ख्यालीगंज, लखनऊ
एवम् कृष्ण मोहन एडवोकेट

नाम अदास्त
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 जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जेम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर [Signature]

साक्षी (गवाह) साक्षी (गवाह)

दिनांक २० महीना सन् १२७० ई०

स्वीकृत [Signature] 20/8/90

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Compilation II.

Y.S. Meshram

... Applicant.

Versus.

Union of India & others

... Opp. Parties.

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Lucknow Dated

Aug. _____, 1990.

Signature of the Applicant.

In the Central Administrative Tribunal
Additional Bench, Lucknow.

O.A. No. _____ of 1990.

Y.S. Meshram

Versus.

...Applicant.

Union of India & others

...Opp. Parties.

Annexure No. A-1

DAILY ORDER PART II : CIVILIANS NON GAZETTED OFFICERS

UNIT	: SHO	Location	: Lucknow
DO Pt II Srl No	: 9/89	Dated	: 16 Jul 89
Last DO Pt II Srl No	: 10/89	Dated	: 06 Jun 89

PART - I - NON INDUSTRIAL

PAY AND ALLOWANCES

Annual Service Increment

The undermentioned are gtd annual service increment as per details given against each :-

Sl No	Name and Desg	Date of increment	Rate of increment	Basic pay raised
1.	Shri RN Viswakarma Messenger	01.7.89	Rs. 12/-	Rs. 846/-
2.	Raju Ram Bharose Chow	30.6.89	Rs. 14/-	Rs. 884/-

Fixation of Basic Pay

2. Shri Y S Mesh Ram
Health Insp

- Basic pay fixed in the post of Health Inspector to Rs. 1470/- as on 01.2.1988 with next date of increment on 01.6.88 in the scale of pay Rs. 1200-30-1560-EB-40-2040.

Authority:- CDA Cent Comd, Lucknow letter No PT/3088/Army (L) dated 29.6.89

3. Shri Y S Mesh Ram,
Health Insp

- Gtd annual service increment as under :-

Date of increment	Rate	BP raised
01.6.88	30/-	Rs. 1500/-
01.6.89	30/-	Rs. 1530/-

**LEAVE GRANT OF
Earned Leave**

4. Shri S P Sharma, UDC

- Gtd 7 days E/L wef 09.6.89 to 15.6.89.

..... 2/-

PART II : INDUSTRIAL

PAY AND ALLOWANCES:

Annual Service Increment

6. Sri Bachchu Lal, Mazdoor - Gtd annual service increment wef 01 Jul 89 @ Rs. 14/- p.a. Basic pay raised to Rs. 912/- p.m.

LEAVE GRANT OF

Full pay leave

The undermentioned employees are granted full pay as per details given against each :-

Srl No	Name and desig	From	To	Total days
7.	Shri B R Satyam, Mate	12.6.89	13.6.89	2
		15.6.89	-	1
		22.6.	23.6.89	2
8.	Shri Shankar Lal, Maz	15.6.89	-	1
9.	" Chhedi Lal, mazdoor	12.6.89	-	1
		15.6.89	16.6.89	2
10.	" Khaliq, mazdoor	14.6.89	17.6.89	4 (4)
11.	" Shiv Prasad, Mazdoor	07.6.89	-	1
		14.6.89	-	1
12.	" Bachchu Lal, mazdoor	19.6.89	20.6.89	2
13.	" Pachu, mazdoor	22.6.89	23.6.89	2
14.	" Mohan Lal, mazdoor	14.6.89	-	1
15.	Sat Heshav Devi, mazdoor	04.6.89	-	1
16.	Shri Rajendra Kumar, Maz	10.6.89	-	1
17.		12.6.89	13.6.89	2

SICK LEAVE

17. Shri Shankar Lal, mazdoor - Gtd 3 days S/L wef 20.6.89 to 22.6.89.

Commuted Leave

18. Shri Hari Chaud, mazdoor - Gtd 10 days half pay leave on medical grounds converted into 20 days commuted leave.

EXTRA ORDINARY LEAVE

The u/m are gtd EOL as per details given each :-

Srl No	Name and desig	From	To	Total days
19.	Shri S K Nigam, maz	01.3.89	-	1
		09.4.89	28.4.89	20
20.	Shri Suresh, mazdoor	05.6.89	-	1

[Handwritten signatures and initials]

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S.Meshram

... ..Applicant.

Versus.

Union of India & others

... ..Opp.Parties.

ANNEXURE NO. A-2

CONFIDENTIAL

Office of the S E M O
C/O Base Hospital
Lucknow-2.

125/22/Disc/SHO

27 Oct 89.

Shri Y S Meshram, Health Insp
Station Health Organisation
Lucknow.

DISCIPLINE.

1. Reference to SHO Lucknow letter no. 125/22/Disc/
SHO dated 28 Aug 89, your personal interview with the
undersigned on 25 Oct 89.

2. As per your verbal statement to me on 25 Oct
89 and the facts brought out by your officer commanding
and the staff of SHO (L) Lucknow you have been found
guilty of gross misconduct and of disobeying of lawful
orders.

R.C.
[Signature]

[Signature]

3. I take a very serious view of your conduct which is unbecoming of a Govt servant, serving in a supervisory capacity. I caution you to desist from such behaviour in future.

4. A lenient view is being taken of your absence without authorised leave from 31 Aug 89 to 23 Oct 89. This absence is being regularised as under:-

(a) From 31 Aug to 07 Sept 89 (8 days) - grant of 8 day earned leave.

(b) From 11 Sept to 23 Oct 89 (43 days) - grant of 43 days Earned Leave.

Sd/-
(C L Pande)
Brig
SEMO

Copy to:
SHO (L), Lucknow

DDMS HQ UP Area (Med) - with reference to their letter Bareilly.

No. 29/975/1/M-3(B), dt. 29 Sep 89.

CONFIDENTIAL.

True Copy

[Handwritten signatures and initials are present at the bottom left of the page.]

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. NO. _____ of 1990.

Y.S. Meshram

... .. Applicant.

Versus.

Union of India & others

... .. Opp. Parties.

ANNEXURE NO: A-3

786 MS/29

Y.S. MESHARAM
H/Insp.

OC

09 NOV 89

SHO, LKO

CONVEYANCE ALLOWANCE.

Resp. Sir,

1. Ref your remarks endorsed on my application
786/HS/28 dt 08 Nov 89, and your letter No. 100/2/SH)
dated 08 Nov 89, I beg to submit as under:

1. Cycle is meant for messenger/runners & other
Class IV employees and not for carrying out such duties
of my status.

3. As such, please provide me Govt. motor cycle
alongwith DVr or any four wheeled vehicle.

4. In case none of the above is available for me,
I may please be granted conveyance allow.

Thanking you,

Yours faithfully
Sd/-
(MESHARAM)

True Copy

*Not accepted
Info Indul accordingly*

*Sd. H. Col.
OC SHO.*

*T.C
[Signature]
[Signature]*

An The Court of Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S.Meshram Applicant.

Versus.

Union of India & others Opp.Parties.

ANNEXURE NO: A-4

TELEPHONE: 3019234
35908/DOMS-3(B)

08 Jan 88

Headquarters
Central Command (Med)
LUCKNOW.

REVERSION TO LOW GRADE POST SHRI YS MESHAM
HEALTH SUPDT OF SHO FAIZABAD.

1. Reference your letter No. 334602/1/M-3(B) dated
30 Dec 87.

2. Shri YS Meshram, Health Supdt. of SHO Faizabad
is permitted reversion to the post of Health Inspector
on his own request and he is posted to SHO Lucknow as a
Health Inspector on the following conditions:

- (i) He will not be re-considered for promotion
to the post of Health Supdt. untill ht
submits in writing his unconditional
willingness to be considered for promotion.

T.C
Adv

Shri

-2-

- (ii) He will have no claim for notional seniority in the grade of Health Supdt. if he promoted at any future date.
- (iii) Being subject to All India Services Liability, he can be posted out from the present unit to any station at any time in the present grade, if so, required for administrative reasons.
3. He will not be eligible for any TA/DA for the journey.
4. Please instruct the unit concerned to relieve the individual by 30 Jan 88 and direct him to report to the new unit under intimation to this HQ.
5. The vacancy of Health Supdt. in SHO Faizabad will be filled up by this HQ in due course.

Sd/-

(Surjwet Singh)

Colonel

Dir MS (TEC)

For Dir Gen of Medical
Services (Army)

Copy to:

HQ, U.P. Area, Bareilly

OsC

Station Health Organisation, Faizabad

" " " , Lucknow.

True Copy

In the Central Administrative Tribunal
Additional Bench, Lucknow.

O.A. No. _____ of 1990.

Y.S. Meshram

...Applicant.

Versus.

Union of India & others

...Opp. Parties.

Annexure No. A-5

PAY FIXATION PROFORMA
(on reversion to lower post)

Personal No. NYA Designation : Health Insp. Name - YS Meshram

1. Date of reversion from Health Supdt to Health Inspector - 01 Feb, 1988
2. Date of assumption of duty as Health Inspector - 01 Feb, 1988
3. Existing pay as Health Supdt and date of assumption of duty of Health Insp. - Rs. 1560/-
01 Feb, 1988 *Rs. 1560/- as Health Inspector on 1-2-88*
4. Scale of pay- Health Supdt - 1400-40-1800-EB-50-2300
5. Scale of pay - Health Insp - 1200-30-1560-EB-40-2040
6. Initial pay to be fixed at the date of assumption of duty as Health Inspector. - Rs. 1560/- on 01 Feb 88
Rs. 1560/- wef 1/2/88
7. Pay in the higher post i.e. Health Supdt on 31 Jan 1988. - Rs. 1560/-
8. Pay after notional increment on 01 Sep 88. - Rs. 1600/- (Not yet gtd)
9. Pay in the reverted post on 01.9.1988 - 1600/- - de-
10. Will draw a pay of Rs. 1560/- p.m. from 01 Feb 1988 and Rs. 1600/- p.m. wef 01 Sep 88 on grant of annual increment.

Authority :- Army HQ letter No 33903/DC MS-3(B) dated 03 Jan 88 incorporated as an authority in HQ Central Command letter No 334601/1/M-3(B) dated 16 Jan 88 and SHO Faizabad letter No 330/42/12/88 dated 30 Jan 88

Station Health Organisation
Lucknow

23 Dec 88

(Mandeep Singh)
Major
Officer Commanding

REMARKS OF AUDIT AUTHORITY

Pay : Rs. 1560/- 1-2-88

on 1/2/88

11/2/88

In the Central Administrative Tribunal,
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S. Meshram Applicant.

Versus.

Union of India & othersOpp.Parties.

ANNEXURE NO: A-6

786/HS/37

Y S MESHRAM

DGMS

H/Insp.

AG's Br

SHO, LKO-2.

ARMY HQS

NEW DELHI-II

(through proper channel)

FIXATION OF PAY.

Respected Sir,

With due respect, I submit the following for
your kind consideration and favourable action:

- a) that on 31 Jan 88, I was serving with SHO,
Faizabad as Health Supdt at basic pay of Rs..1560/- in the
scale of 1400-40-1600-50-2300.
- b) that on 01 Feb 88, I joined at SHO, Lucknow,
as Health Inspector. This posting was effect to a lower
scale of pay of Rs. 1200-30-1560-EB-40-2040, at my own
request (AHQ Letter No. 35908/DGMS-3(B) dt 08 Jan 88
refers).

c) that on 07 Mai 89, my basic pay was fixed at Rs. 1470/- instead of Rs. 1560/- by CDA (CC) LKO, in the revised scale of Rs. 1200-30-1560-EB-40-2040.

2. As per rules my pay at Rs. 1470/- has not been fixed correctly. In fact, I am entitled to draw my last pay of Rs. 1560/- w.e.f. 01 Feb 88. The view that I have expressed above is supported under the provisions F.R. 22 (a) (iii), which is reproduced as under:

(i) F.R. 22(a)(iii)- Transfer to a lower scale at own request.

" When a Govt. Servant is appointed on his own request to a new post and the maximum pay in the time scale of the new post is less than the substantive pay in respect of his old post, he will draw that maximum as initial pay.

(Pg. 225, Swamy's Pay rules made easy-edition 1985).

Note: If the appointment was not at his request, he would have drawn Rs. 560/- plus personal pay of Rs. 20 under F.R. 22(a) (ii)...

A transfer at the intermediate stage of the scale will, however, be governed by clause (ii) whether it is at request or otherwise.

(Page 226, para 2 Note below illustration 20- Swamy's Pay rules made easy edition 1985)

(ii) F.R.22(a)(ii)- Illustration 17, on page 224 at Swamy's Pay rules made easy edition 1985, is also reproduced for clarification:-

" A Govt. Servant drawing a substantive pay of Rs. 1100/- in the scale of Rs. 700-40-1100-50/2-1950 with effect from 1.9.1983 is

is appointed substantively to a post carrying a pay scale of Rs. 900-50-1200 with effect from 1.10.83. His initial pay in the new post will be fixed at Rs. 1100/- and he shall be eligible for his next increment to Rs. 1150 on 1.10.1984. Since this date is earlier than the date on which he would have drawn an increment in the old post."

3. However, CDA (CC) LKO, was reluctant to accede to my aforesaid legitimate request. In this regard a copy of the reply of CDA (CC) LKO, bearing No. of is enclosed.

4. In view of the foregoing circumstances, you are requested to please use your good offices to impress upon the CDA (CC) LKO to fix my pay correctly at Rs. 1560/- in the scale of Rs. 1200-30-1560-EB-40-2040.

Thanking you,

Yours faithfully

Sd/-

(Y.S. MESHRAM)

DT 04 Dec 89.

True Copy

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S. Meshram

...Applicant.

Versus.

Union of India & others

...Opp. Parties.

ANNEXURE NO. A-7

786/HS/
DGMS
AHQ
Delhi.

(Through Proper Channel)

FIXATION OF PAY ON REVERSION

1. Most humbly a reference is invited to my application No. 786/HS/ dated 04 Dec 89 (Copy of application with CDA letter is enclosed for ready ref).
2. The relief prayed in my application ibid is still at pay Recovery raised up by incorrect fixation of pay has already been executed by my office despite pending finalisation of the case at your end. This has caused me in great financial hardship.
3. It is therefore prayed to your honour that my grievances may please be redressed at the earlier and relieve me from financial hardships.

Thanking you,

Yours faithfully

DT 22 Feb 90.

Sd/-

(Y.S. MEAHRAM)
H/ INSPECTOR.
SHO, LUCKNOW.

True Copy

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A.No. _____ of 1990.

Y.S.Meshram

...Applicant.

Versus.

Union of India & others

...Opp.Parties.

ANNEXURE NO. A-8

786/HS/23

Y.S. MESHRAM

OC

H/ Insp.

SHO, LKO.

06 Nov 89.

PAYMENT OF CDS OLD & NEW

Resp. Sir,

With due regards, I submit that I was serving
with this SHO during 1978 to 1982. A ledger on a/c of
recoveries made through the pay bills towards CDS,
was maintained in this SHO.

2. Govt has ordered for the payment of CDS old
& new to the subscribers. As such, I request that I may
please be paid the outstanding amount of CDS, at the earliest.

Thanking you,

Yours faithfully

Sd/-

(MESHRAM)

True Copy

[Handwritten signature]

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S.Meshram

... Applicant.

Versus.

Union of India & others

... Opp.Parties.

Annexure No. A- 9

786/HS/19

OC

SHO LKO.

Y S MESHARAM

C/O MOHD YOUSUF

462/158 RANI GANJ

HUSSAINABAD, LKO-3

19 OCT 89.

DISCIPLINE.

1. Ref your letter No. 125/22/Disc/SHO dt 16 Sep 89.
2. I requested you to be heard me in person i.e. to arrange oral Enquiry in connection with your memorandum No. 125/22/Disc/SHO dt 28 Aug 89, which has not been arranged so far.
3. I requested you to arrange interview of SEMO LKO, in connection with your letter No. 125/22/Disc/SHO dt 30 Aug 89 and I reported to you twice for the purpose, but you have always avoided the same keeping me at pay for hours and eventually told to come next day without any appointment of interview.

T C
Adh

4. You have always insisted me in your letter for getting myself medically examined and to get myself declared as medically fit by CMI LKO, then only, I will be taken on duty, whereas I never reported you to be sick/applied for leave on medical ground earlier. I had already been medically examined at the time of recruitment and appointment as well, and necessary medical fitness certificate was produced on the requirement of my appointing authority. However, I am still ready to get myself medically examined by my Auth Med Attd at CGHS dispensary, if there is such requirement from my appointing auth, now.

5. I, request your goodself that I may kindly be informed the orders of my appointing auth for getting myself medically examined new by the CMI LKO and to get me declared as medically fit, else, I would not be allowed to join my duties.

6. This is 50th day passing since I am not being allowed to join my duties on the ground that I shd be medically examined by CMI LKO, and my salary for Sept 89 has been denied to be paid to me. This has caused to the financial harassment to me and my family. As such, I hope you will kindly reply me without further delay.

Thanking you,

Yours faithfully

Sd/-

(MESHAM)

- Copy to
1. ADMS HQ
UP Area
 2. DDMS HQ.
 3. DGMS
AHQ Delhi-for information & necessary action.

True Copy

-31-

In the Central Administrative Tribunal
Additional Bench, Lucknow.

...

O.A. No. _____ of 1990..

Y.S. Meshram

... Applicant.

Versus.

Union of India & others

.... Opp. Parties.

ANNEXURE NO. A-10

786/HS/20

OC

SHO, LKO

Y.S. MESHARAM

H/INSP

SHO, LKO

26 Oct 89.

DISCIPLINE.

Resp Sir,

1. Ref your letter No. 125/22 Disc/SHO dates 24 Oct 89.

2. I am failed to make out any sense from the para 2 of your letter ibid. It is therefore requested that the same may please be recasted and elaborated. Succeeding paras will be replied thereafter.

3. Untill I am found to be guilty in absenting myself from duty w.e.f. 31 Aug 89 to 24 Oct 89, withholding of my salary for the Sept 89 & Oct 89, is not lawful. As such I request your goodself, to release my salary for the above period at the earliest, to relieve my family

File

B.C.
B.P.
B.P.

from financial hardship. In case I am found to be guilty in enquiry or so, this amount can be recovered from my future salaries or GP Fund Account. Non payment of salaries to me indicates that you, yourself, have made out me as guilty.

4. If the above request is not agreed to, I further request your kindness, to grant me a temp. advance of Rs. 6000/- from my FP Fund Account, so as to enable me to resort to the legal recourses in Court of law against your high-handedness.

5. An early payment is anticipated.

Thanking you,

Yours faithfully

Sd/-

(MESHARAM)

Copy to:

HQs UP Area

Bareilly- for info..

True Copy

[Handwritten signature]
[Handwritten signature]

[Handwritten signature]

In the Central Administrative Tribunal
Additional Bench, Lucknow.

....

O.A. No. _____ of 1990.

Y.S. Meshram

... Applicant.

Versus.

Union of India & others

.... Opp. Parties.

ANNEXURE NO. A- II

Nil Tele: 2359

Station Health Organisations Lucknow

125/22/Dis/SHO

30 Aug 89.

Shri Y S Meshram,
Health Inspector
SHO (L) Lucknow.

DISCIPLINE.

1. On 30 Aug 89 at 0930 h you were asked to report to OC for taking orders alongwith Health Assistant HAV/HA Shri Kant Misra and Health Inspector Dharambir.
2. You have refused to comply with the orders and stated that you are not in a fit state of mind to do the same.
3. In view of above you are advised to report to Chief Medical Officer, Lucknow for medical examination.
4. You will be taken on duty only after producing a certificate of Medical Fitness from the CMO.

Copy to
C M O
Lucknow

Sd/-
(Mandeep Singh)
Lt Col
Officer Commanding

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S. Meshram

.. Applicant.

Versus.

Union of India & others

.. Opp. Parties.

ANNEXURE NO A-12

786/HS/16

OC

SHO, LKO

YS MESHARAM

H/INSP, SHO LKO

04 Sep 89.

DISCIPLINE.

Resp Sir,

1. Ref your letter No. 125/22/Disc/SHO dt 28 Aug 89, & even No. dt 30 Aug 89.

2. In the pretext of your letter ibid, I want to narrate the whole episode to the SEMO LKO. As such a Interview may please be arranged with SEMO LKO.

Thanking you,

Yours faithfully

(MESHARAM)

Copy to:

SEMO

S/O BH LKO- for advance info.

True Copy

[Handwritten signature]

-35-

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S. Meshram

... Applicant.

Versus.

The Union of India & others

... Opp. Parties.

Annexure No. A-13

Mil Tele: 2359

REGISTERED POST/AD
Station Health Organisation
Lucknow.

125/22 Disc/SHO

24 Oct 89.

Y S Meshram, Health Inspector
C/O Mohd Yousuf
462/158, Ram Ganj,
Hussainabad, Lucknow-3.

DISCIPLINE.

1. Reference to your letter No. 786/HS/19 dated
19 Oct 89.

2. You have repeatedly been advised vide this
unit letter No. 125/22/Disc/SHO dated 06 Sep 89, even Nos
dated 16 Sept 89, 19 Sep 89 and 06 Oct 89 to report
immediately to this unit for interview of the SEMO and
initiation of the oral enquiry.

3. On 08 Sep 89 when you reported to the unit for
interview of SEMO, the same could not be arranged as the
D G MS (Army) was inspecting the local medical units

including SEMO's unit. On the following day also the SEMO was unavailable as his unit was observing Adm Day. However, you were personally instructed by the undersigned on 09 Sep 89 in front of the Health Supdt and UDC to join normal duties and go for the SEMO's interview on the following working day.

4. You not only arrogantly refused to join duties in front of the office and unit staff but did not turn up for SEMO's interview.

5. Again on 03 Oct 89 you reported to this unit at 1000 h for interview of SEMO. You were asked to wait in your room as SEMO had gone to the railway station for farewell of Chief of Staff, Central Command.

6. The interview was arranged for 1230 h on same date but you had already left the office without intimation to the Health Supdt, undersigned or any office staff of this unit.

7. On 30 Aug 89 you refused to obey the orders of OC unit when called to his office for directions in presence of the Health Assistant HAV S K Misra and Health Insp Dharam Bir, on the plea that you were not in a mental condition to do so. The OC personally went to call you in presence of all office staff and you not only refused to obey the orders regarding coming to the office along with the other health staff to take verbal orders but arrogantly refused to show the basic service courtesy of standing up when addressed by your OC.

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8. In view of the above there was no alternative with the undersigned but to refer you for necessary medical treatment as you had refused to perform your duties saying you were not in a fit mental condition to do so.

9. As the CGHS Dispensary does not have the requisite Specialist facilities you were ferred to the CMO for management. At that time you never once mentioned that you are well and able to perform your duties or that you would like to go to the local CGMS dispensary instead of the CMO for treatment.

10. Despite this the undersigned had overlooked your arrogance and personally advised you to join duties on 09 Sep 89 when you came to the office. The offer was spurved by you in presence of the office staff.

11. Your salary for Sep 89 can only be paid to you once you join duties and your period of absence is regularised.

12. You are once again advised to join duties immediately. The SEMO's interview and oral enquiry can only be initiated once your report to this unit. Regarding your medical, in case you are still incapable of performing your duties on medical grounds, necessary medical board will be arranged by the unit on your reporting.

Sd/-
(Mandeep Singh)
Lt Col
Officer Commanding.

Copy to:
Head Quarters
Uttar Pradesh Area (Med)
Bareilly.

SEMO
C/O Base Hospital
Lucknow-2-

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S.Meshram

... Applicant.

Versus.

Union of India & others

.... Opp.Parties.

ANNEXURE NO A- 14

786 HS/29

Y. S. MESHRAM

OC
SHO.

H/Insp.

08 Nov 89.

Resp Sir,

With regards, I submit the following for your
sympathetic consideration.

2. That nature of my duty is such where extensive
touring as regd in the Cantt area. As such it is requeste-
-d that I may please be, provided a suitable Govt.
conveyance or paid conveyance allowance.

Thanking you,

3. Your reply to this is highly solicited.

Yours faithfully

Sd/-

1. He can be issued a (MESHARAM)
Cycle & asked to learn how
to use the M. Cycle and get a
licence.

2. UDe.- Pu rules regarding issue of conveyance allow
Sd/-

(Mandeep Singh)

True Copy



In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A.No. _____ of 1990.

Y.S. Meshram

.. Applicant.

Versus.

Union of India & others

... Opp.Parties.

ANNEXURE NO. A-15

786/HS/25

Y.S. MESHARAM

OC

H/ Insp.

SHO, LKO.

07 Nov 89.

Resp. Sir,

1. Ref your DO Pt II No. 12/89 dated 28 Oct 89.
2. It has been published in above order that I have been granted 51 days Earned Leave w.e.f. 31 Aug 89 to 07 Sep 89 and 11 Sep 89 to 23 Oct 89, without my applying for leave.
3. As such, I request that the above amount of leave please not be debited from my leave account.

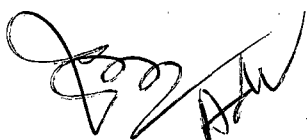
Tha king you,

Yours faithfully

Sd/-

(MESHARAM)

True Copy



16

— 40 —

In the Central Administrative Tribunal
Additional Bench, Lucknow.

....

O.A.No. _____ of 1990.

Y.S.Meshram

...Applicant.

Versus.

Union of India & others

...Opp.Parties.

Annexure No.A- 16

OC
SHO LKO

Y.S.Meshram
H/Insp.
SHO, LKO
18 Dec 89.

Resp. Sir,

With due regards, I submit that I stated from my home today on 18 Dec 89 at 0600 hrs for the office in connection with your office order dated Nil and on the way I met with an accident wherein I sustained some injuries and could not come to office.

It is requested that I may kindly be granted Special disability leave for 6 days at this stage.

In case of any disability developed in consequence of above, the bill for compensation thereof will be floated subsequently.

Thanking you,

Yours faithfully

Sd/-
(MESHAM)

True Copy

[Handwritten signature]

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A.No. _____ of 1990.

Y.S.Meshram

... Applicant.

Versus.

Union of India & others

... Opp.Parties.

ANNEXURE NO A-17

Mil Tele: 2359

125/22/Disc/PC/SHO

Shri Y S Meshram
Health Insp
SHO Lucknow.

Station Health Organisation
Lucknow.
24 May 90

PAYMENT OF SALARY: JAN 90

1. Reference to your application dated nil.
2. An amount of Rs. 661.00 (Rupees six hundred sixty one only) was recovered from your pay and all[✓]ces[✓] for the month of Jan 90 on account of the period treated as Absent Without Leave as mentioned below:-

(a) from 18 Dec 89 to 23 Dec 89 - 6 days

(b) 15 Jan 90, 20 Jan 90, - 4 days
22 Jan 90 and 30 Jan 90.

2. The matters has already been reported to higher authorities. Regularisation for above period of absence will be done on hearing from them and pay and allces will be paid accordingly.

Sd/-

(S K Handa)
Lt Col
Commanding Officer .

True Copy

[Handwritten signature]

In the Central Administrative Tribunal
Additional Bench, Lucknow.

.....

O.A.No. _____ of 1990.

Y.S.Meshram

...Applicant.

Versus.

Union of India & others

... Opp.Parties.

ANNEXURE NO.A-18

786/HS/45

GC
SHO, LKO

ABSENT WITHOUT LEAVE.

Sir,

1. Ref. your letter No. 124/22/Disc/SHO/PL dt.
3 Jan 90.

2. Your contention in the letter under ref is not
correct. I was very much on duty on the dates 20 Jan
& 22 Jan 90. For the period 18 Dec 89 to 23 Dec 89 &
15 Jan & 30 Jan 90 I had already my applications.

3. If still you are not satisfied, the enquiry as
per rule may please be held.

4. My Salary deducted suo moto may please be
released at the earliest.

Thanking you,

Yours faithfully

Sd/-

(MESHAM)

Dt 05 Feb 90.

True Copy

In the Central Administrative Tribunal,
Additional Bench, Lucknow.

.....

O.A. No. _____ of 1990.

Y.S.Meshram

... Applicant.

Versus.

Union of India & others

... Opp.Parties.

ANNEXURE NO: 19

REGD.A.D.

Filed Nov. 28, 1989.

To,

1. The Secretary,
Ministry of Defence, Govt. of India,
New Delhi- 110011.
2. The Senior Executive Medical Officer,
C/o Base Hospital, Lucknow Cantt.
3. The Officer Commanding,
Station Health Organisation,
Lucknow Cantt.

NOTICE UNDER SECTION
80 OF THE C.P.C.

Dear Sirs,

Under instructions from and on behalf of my
client Sri Y.S.Meshram, Health Inspector, Station
Health Organisation, Lucknow Cantt, I hereby serve you
with the following notice under Section 80 of the Code
of Civil Procedure:

1. That my client is employed as Health Inspector and present is posted and serving under noticee no. 3, and the noticee no. 2 is the Head of the Deptt.

2. That the amount of C.D.S. (Compulsory Deposit Scheme) deducted from the salary of client has not been paid back to him till date, though its repayment became due a few years ago. The repayment of C.D.S. to my client was wrongfully been withheld, inspite of repeated requests of my client. The written request was also made by my client on 6.11.89. My client has so far not received any reply to his application for payment of the same, and he has also not been intimated the reason for withholding the C.D.S. repayment to him, particularly when it has already been ~~ap~~ paid to all other employees working in this organisation some few years ago. That withholding payment of C.D.S. dues to my client is also in-violation of the Government Orders, which provided for clearance/payment of C.D.S. dues to all employees immediately. That my client is entitled to immediate payment of C.D.S. amount alongwith interest @ 12% per annum from the due date to the date of payment to him.

3. That my client has also not been paid his salary for the months of September and October, 1989, and no reasons therefor have been intimated to him. That my client submitted applications for payment of his salary due on 19.10.89 and 26.10.89, but in vain, and he has also not been favoured with any reply thereto. That my client on this account is suffering a great harddhip

File

T. C. [Signature]

being caused to him illegally and wrongfully. That my client is entitled to immediate payment of his salary for the months of September and October, 1989, along with interest @ 12% p.a. from the due dates to the date of payment to him.

4. That under the service rules my client is entitled to a Government Vehicle or conveyance allowance in lieu thereof because he has to perform field duties necessitating extensive touring in the area. That my client submitted applications on 8.11.89 and 9.11.89 but his genuine request permissible under the rules was rejected by noticee no. 3 on 9.11.89, and my client was neither provided with a Govt. vehicle nor he has been allowed conveyance allowance permissible, which is cause of great harassment to him. That my client is entitled to any may either be provided with the Govt. vehicle for performance of his duties or be granted conveyance allowance permissible for performance of official duty.

5. That on 30.8.89, my client was served with an Order by the Noticee no. 3, without any cause or reason, to get himself medically examined from C.M.O. Lucknow, and he will not be allowed to do his duty unless a fitness certificate is obtained from C.M.O., Lucknow. Thus my client was not allowed to perform his duty illegally from 31.8.89 to 24.10.89, though my client repeatedly requested and visited the office. Against the said order dated 30.8.89, my client sought an interview for personal hearing with Noticee no.2,

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a superior officer to Noticee no.3, but it was not arranged and so ultimately my client directly submitted a similiar application to Noticee no.2 for submitting his grievances in person but to no avail. However on 24.10.89 my client with an order to join the duty without fitness certificate asked vide said order dated 30.8.89, considering the invalidity and illegality of the same. My client in compliance joined his duty on 25.10.89.

That strangely the noticee nos 2 and 3 have suo moto, without any justification granted earned leave to my client from the aforesaid period from 30.8.89 to 24.10.89, for which my client never applied because he never availed the leave. That during the said period my client was not allowed to perform his duty and so it can not be treated as on leave suo moto by the authorities. That my client is entitled for the treatment of the said period as on duty and not as on earned leave.

That the earned leave is encashable if not availed and so by treating the said period as on earned leave suo moto, my client has been punished indirectly monetarily, otherwise than by due process of law and in contravention of service rules, and for no fault of his. My client is entitled for the treatment of the said period from 31.8.89 to 24.10.89 as on duty for all purposes, and that this period be not debited to his leave account.

Due

J. C.
B. B. A. W.

6. That the above facts show that my client has been harassed and victimised unfairly for no fault of his.

Cause of Action:

That the cause of action to my client arose as under:

- a) For non-payment of C.D.S., when therepayment became due and lastly on 6.11.89, when last requested; And
- b) In the end of September & October, 1989, when he was not paid his monthly salary falling due; And
- c) On 24.10.89 for treating the said period from 31.8.89 to 24.10.89, as on duty, when order passed for treating it as on earned leave; And
- d) On 8.11.89 for payment of conveyance allowances Govt. Vehicle for bonafide duties.

Reliefs Claimed:

- See*
- a) Payment of C.D.S. dues with interest; And
 - b) Payment of Salary for September & October, 1989 with interest; And
 - c) Providing Govt. Vehicle or Conveyance Allowance permissible in lieu thereof; And
- T.C. [Signature]*

- d) Treating the period from 31.8.89 to 24.10.89, as duty for all purposes.

I, hereby on behalf of my client, call upon you all to grant the reliefs claimed above to my client within the statutory period, failing which my client will have no alternative but to proceed according to law at the risk and cost of the Government.

Yours faithfully

(VEDPRRAKASH)
ADVOCATE.

De

FFC

Adv

A60

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALIYAHABAD,

CIRCUIT BENCH, LUCKNOW.

MISC. APPLICATION NO. 420 OF 1991. (2, 4)

On behalf Respondents.

In

Case No. O.A.No.259 of 1990 (L)

Y.S.MeshramApplicant.

Versus

Union of India & Others Respondents.

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

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

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

Lucknow.

(Dr. Dinesh Chandra)
(Dr.Dinesh Chandra)

Dated; 14-7-91

Counsel for the Respondents.

Filed today
25/7/91

A-61

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH LUCKNOW

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS

In

O.A. NO 259 of 1990 (L)

Y.S. Meshram.....Applicant

Versus

Union of India & Others.....Respondents

I, AC Cpl SK Handa.....aged about 42 yrs

Son of Late Sh. G.D Handa, Station Health
Organisation, Cantt. Lucknow.

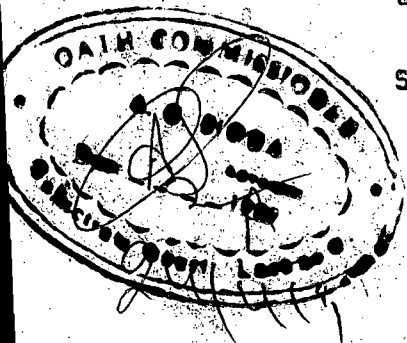
do hereby solemnly affirm and state as under:-

1. That the deponent has read the application filed by Shri Y.S. Meshram and has understood the contents thereof. He is well conversant with the facts of the case deposed hereinafter and is filing this Counter-affidavit on behalf of all the Respondents.
2. That it will be worth while to give a brief history of the case as under :-

BRIEF HISTORY OF THE CASE

(i) Shri Y S Meshram reported to the unit on permanent duty as Health Inspector on 01 Feb 1988. The applicant was posted on compassionate ground on reversion from the post of Health Superintendent from the Station Health Organisation.

Contd.....2



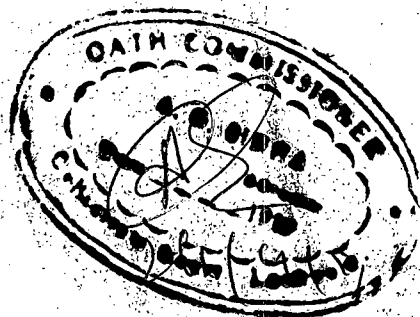
Organisation (SHO), Faizabad, on his own request vide

Army HQ letter No 35908/DGMS-3 (R) dated 08 Jan 1988.

(ii) Accordingly necessary documents were forwarded to CDA (Central Command) Lucknow for pay fixation vide this SHQ letter No 100/2/SHO dated 23 Dec 88. His pay was fixed at Rs 1470/- per month wef 01 Feb 1988 with due date of next increment on 01 Jun 1988. As this decision was not accepted by the applicant, the Controller of Defence Accounts was approached once again to review the case vide SHQ letter No 100/2/SHO dt 16 May 89. The CDA ruled out any change in their earlier decision vide their letter No PT/3088/Army (L) dated 29 Jun 89 (Annexure R I) and this fact was communicated to the applicant.

(iii) As can be ascertained from the adverse remarks endorsed in ACR for the year 1989, the applicant started showing ~~xxx~~ lack of devotion to work, office punctuality, and behaved ~~xxx~~ in an indiscipline manner from July 1989. He even disobeyed lawful order of Officer Commanding (O.C.) Lt Col Mandeep Singh on 28 Aug 89 and for this he was issued a show cause notice on the same day for misconduct under Rule 16 of CCS (CC&A) Rules, 1965.

(iv) On 30 Aug 88 Shri Y S Meshram refused to take orders from Officer Commanding alongwith other supervisory staff on the pretext that he was mentally not fit. He was advised to report to Chief Medical Officer, Lucknow for necessary



medical examination. He was also informed that he would be taken on duty on production of Medical Fitness Certificate from the Chief Medical Officer, Lucknow as the CGHS dispensary does not have the requisite Specialist facilities. Sh YS Meshram absented himself from 31 Aug 89 to 23 Oct 89 despite repeated personal advice of Officer Commanding to join duty.

(v) Shri YS Meshram requested vide his letter No 786/HS/16 dated 03 Sep 89 and even number dated 04 Sep 89 that he wanted to be 'Heard in person' and also sought interview with SEMO, Base Hospital, Lucknow. The applicant was finally interviewed by SEMO on 28 Oct 89 and his period of absence from 31 Aug 89 to 07 Sep 89 and from 11 Sep to 23 Oct 89 was regularised by grant of Earned Leave.

(vi) His salary for the month of Sep and Oct was paid on 27 Dec 89 after adjusting recoveries on account of refixation of pay.

(vii) A petition was filed by the applicant dated 26 Nov 1989. An inquiry was already in progress under orders of SEMO to look into his redressal and complaints made by his wife. Detailed report of the inquiry was forwarded to HQ UP Area (Med) vide Base Hospital letter No BCF/YSM/SHO/89. The court of inquiry and SEMO opined that the allegations made by Shri YS Meshram were false and baseless and

the applicant had tried to take the authorities for a-ride.

(viii) Shri YS Meshram sought interview with ADMS HQ UP Area and he was informed that the interview was likely to be held in 2/3rd week of Feb 90 during his visit to this Station.

(ix) The applicant again absented himself from 18 Dec 89 to 23 Dec 89 and applied for special Disability Leave on account of injuries sustained by him in a scooter accident on 18 Dec 89 while coming to office. He was advised to produce medical certificate in this regard but the applicant did not comply with the instructions. He also remained absent on 15, 20, 22 and 30 Jan 90 without prior intimation. HQ UP Area (Med) was apprised of this misconduct and requested to initiate disciplinary action against the individual vide SHO letter No 125/22/DISC/PC/SHO dated 07 Feb '90.

(x) ADMS UP Area visited this unit on 16 Feb 90 and information regarding his interview at 1130 hrs on the same day was sent to his residence through Office Personnel early in the morning. However, individual did not bother to report at the appointed time. However, Shri YS Meshram was granted Extra Ordinary Leave (EOL) for the above said period of absence vide HQ UP Area, Bareilly letter No 291975/1/M-3/PC/YSM dated 04 Aug 90.

PRELIMINARY OBJECTIONS

According to Rule 10 of the Central Administrative (Procedure) Rules 1987, an application shall be based upon a single cause of action and many seek one or more reliefs provided that they are consequential

to one another. In the present application in para 8.1, the applicant has prayed for a direction regarding fixation of his basic salary at Rs 1560/- per month & consequential benefits arising therefrom; in para 8.2 for a direction for payment of outstanding CDS amount alongwith interest @ 18%; in para 8.4 for a direction to treat the period from 31.08-89 to 7-9-89 and from 11-9-89 to 23-10-89 either on duty or on Special Leave and in para 8.5 for payment of conveyance allowance or to provide the applicant with a Govt vehicle. Thus multiple reliefs have been sought for which are not based upon a single cause of action. The present application is, therefore, liable to be dismissed in view of the provisions of Rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987.

8.

PARAWISE COMMENTS

3. That the contents of para 1 need no comments here as the same are adequately dealtwith in subsequent paragraphs.

4. That the contents of paras 2 and 3 need no comments.

5. That the contents of paras ~~2~~ 4.1 to 4.4 are admitted.

That in reply to paras 4.5 and 4.6 it is stated that the pay of the applicant was fixed by the Controller of Defence Accounts

(CDA) Lucknow (Annexure A 5) in accordance with the provisions

contained in clause (a) (iii) of F.R.22 (i) which interalia states

that when a government servant is appointed to a lower post at his

own request under R.R. 15(a) and if the maximum pay in the time scale

of the new post is lower than the pay drawn by the government servant

in the old post held by him on regular basis, his initial pay in the

new post will be fixed at the maximum of the pay scale of that post. In the present case, the maximum pay in the time scale of the new post of Health Inspector which the applicant agreed to accept works out to be Rs 1470/- which is, not doubt, lower than the pay of Rs 1560/- drawn by him as a Health Superintendent. But according to above provisions of the F.R, the applicants pay was fixed in the pay scale of Health Inspector (Rs 1200-EB-1560-EB-40-2040).

7. That the contents of para 4.7 are admitted.

8. That the contents of para 4.8 need no comments.

9. That in reply to para 4.9 it is stated that 5th instalment of CDS(Old) was paid to the applicant in June 1980 which his name is not found entered in the ledger of CDS (new) deductions.

10. That in reply to paras 4.10 & 4.11 it is stated that all the CDS deductions have been re-paid to the applicant in time and nothing is pending in this regard. The question of payment of interest does not arise. (Annexure R-10)

11. That in reply to para 4.12, submissions made in paras 9 and 10 above are reiterated.

12. That in reply to para 4.13 it is stated that the entire amount of CDS deductions have been paid to the applicant and nothing is pending in this regard (Annexure R-10).

13. That in reply to paras 4.14 to 4.16 it is stated that the applicant absented himself from duty from 30th August 1989 to 23rd Oct 1989.

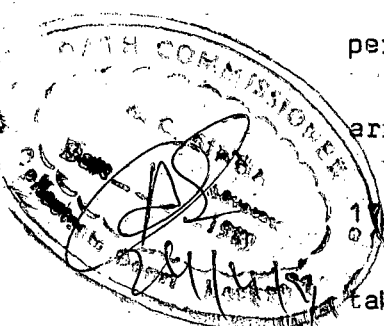
The above period of absence was subsequently regularised by grant of Earned Leave. His salary for the month of September 1989 was drawn but

14. That in reply to para 4.17 it is stated that the applicant had refused to take orders from the Officer Commanding (OC) Lt Col Mandeep Singh on the plea that he (the applicant) was not mentally fit to do so. Consequently the applicant was directed by the Officer Commanding Lt Col Mandeep Singh to report to Chief Medical Officer Lucknow for medical examination and report back on duty with fitness certificate.

The applicant came to office in the first week of September 89 for seeking interview with SEMO, Base Hospital. He was advised vide letter dt 6th September 89 to report to office for "hearing in person" and interview with SEMO (Annexure R-2). The interview could not be arranged due to the prior commitments of the SEMO. He was, however, advised to join duty vide letter dt 16.9.89 (Annexure R-3) in the first week of September 89. His interview, later on, was arranged for 3rd Oct 89 at 1230 hrs but the applicant did not report to SEMO at the appointed time. But the applicant was advised personally and through letters by the Officer Commanding on several occasions to join duty but all this went unheeded.

15. That in reply to para 4.18 it is stated that the applicant was advised to report to the office for hearing in person and interview with ~~SEM~~ SEMO vide letter dt 6th September 89 (Annexure R-2) in response to his written requests of 3rd and 4th September 89. On 8 September 89 and then on 9th Sept 89, the applicant came to Station Health Organisation (SHO) to see SEMO but SEMO could not give appointment due to his engagement with prior commitments. However, he was advised to join duty but the applicant arrogantly refused in front of the Health Superintendent. He was told to come on 11th September 89 to see the SEMO but he did not report to office despite letters dt 16th and 19th September 89. Later on his interview with SEMO was fixed at 1230 hrs on 3rd Oct 89. The applicant reported to office at 1800 hrs on 3rd Oct 89, met the personal assistant to SEMO and left the office without reporting to SEMO at the appointed time.

Sananda Krol
16. That in reply to para 4.19 it is stated that the applicant was once-again advised to report for duty vide letter dated 24.10.89 (Annexure R-4). He was also informed that in case he was still not capable of performing duty on medical grounds, necessary medical Board will be arranged by the unit. The applicant, however, joined duty on 25.10.89.


17. That in reply to para 4.20 it is stated that a lenient view was taken for his unauthorised absence from duty from 31st to 7th September 89 and from 11th September to 23rd Oct 89 and the said period of absence was regularised by granting him earned leave (Annexure R-5).

18. That in reply to para 4.21 it is stated that there is no provisions of granting special leave in such cases. Special disability leave is, no doubt, admissible to a government servant who is disabled

: 4 :

by injury accidentally incurred in, or in consequence of, the due performance of his official duties or in consequence of his official position, or by illness incurred in the performance of any particular duty, which has the effect of increasing his habits to illness or injury beyond the ordinary risk attaching to the civil post which he holds. (Annexure R-6).

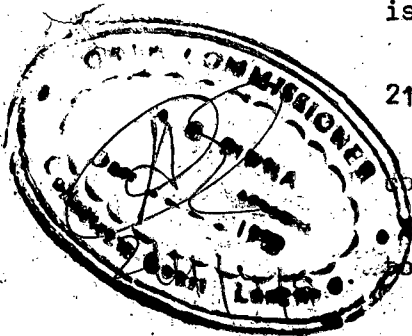
19. That the contents of para 4.22 are denied. The unauthorised absence of the applicant was regularised by granting him Earned Leave for the period of absence vide order dt 27 Oct 89. The said order was received by him on 30.10.89 (Annexure R-5).

20. That in reply to para 4.23 it is stated that the applicant's area of so-called touring falls within a radius of three kilometers for which no conveyance allowance is admissible. No conveyance allowance is admissible to Health ~~Supervisory~~ Supervisory staff including the Health Inspector. Official Motor Cycle or vehicle is made available depending on its availability.

21. That in reply to para 4.24 it is stated that the applicant could use the official Motor Cycle which could be made available to him for undertaking necessary touring.

22. That the contents of para 4.25 need no comments.

23. That in reply to para 4.26 it is stated that the applicant is not entitled to Special Disability Leave under the circumstances the injury is reported to have been sustained by him.



24. That the contents of para 4.27 are admitted. In this connection it is submitted that he was served with a notice dated 31.1.90 (Annexure R-7) in which he was asked to explain as to why the disciplinary action should not be taken against him for his unauthorised absence without leave on a number days pointed out in the notice. On receipt of his reply it was decided to grant him for extra ordinary leave without pay ~~for~~ the said period. In the answering paragraph the applicant has stated that he was not granted leave for six days as requested while the attendance register shows that he tampered with it (Annexure R-8).

25. That in reply to para 4.28 it is stated that the applicant was absent on 15th, 20th, 22nd and 30th Jan 1990 but later on tampered the entries. Photo-stat copy of Attendance Register for the month of January 1990 is being filed as Annexure R-9.

26. That in reply to para 4.29 it is stated that the period of unauthorised absence for a total period of ten days was regularised by granting him Extra Ordinary Leave ~~without~~ without pay for the said period. Thus the applicant was not entitled to any salary for the said period of unauthorised absence.

27. That the comments on grounds & relief spelled out in various sub-paragraphs of para 5 are furnished below in serialism:-

5.1 That basic pay of the applicant was correctly fixed in terms of clause (a) (iii) of F.R. 22(i).

5.2 The contents are misconceived and hence denied.

Submissions made in para 6 above are reiterated.

: 10 :

5.3 Applicant is entitled to basic salary of Rs 1470/-

only in terms of clause (a) (iii) of F R 22 (i).

5.4 C D S deductions have been paid to the applicant and

nothing is due to him in this regard (Annexure R-10).

5.5 Needs no comments in view of submissions made against

5.4 above.

5.6 Salary for the months of September and October 89 was paid

to the applicant in December 1989.

5.7 Contents misconceived. The applicant was not entitled to

Special Leave.

5.8 Needs no comments.

5.9 No conveyance allowance is admissible in the applicant's

case as the area of his operation is confined to a radius of

not more than three kilometres.

5.10 The applicant was not entitled to Special Disability

Leave as explained in para 18 above.

28. That the contents of para 6 and 7 need no comments.

29. That in view of the submissions made in the above paragraphs, the reliefs sought for in para 8 of the application are not admissible. The application lacks merit and is liable to be dismissed with costs.

30. That the contents of para 9 to 12 need no comments.

Lucknow

Dated : 26/4/89



(Deponent)

A-7

VERIFICATION

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

Signed and verified this the.....^{APR} 24th day of 1991 within the court compound at Lucknow.

Lucknow

Dated: 24/4/91

x *Susanda*
(Deponent) *Scal*

I identify the deponent who signed before me.

Lucknow

Dated: 24/4/91

J. Shank
(Advocate)

CM
Det. Col. S. K. Hoda
D. P. Ch

AS
24/4/91
Mulla...

259 of 1980

Y.S. Meshram vs. G.O. 100/2/58

Annex. R-I
410 G
28-2-1981
A.T. 2.11.1981

13-

MEMORANDUM

A-73

The CDA

The offg. O.C.
S.H.O. Lucknow

IT/3088/Army(V)

Lucknow

29-6-83

Subj: Fixation of pay on reversion as Health Inspector in Y.S. Meshram.

159

Ref: your no. 100/2/58 dt. 16-5-83.

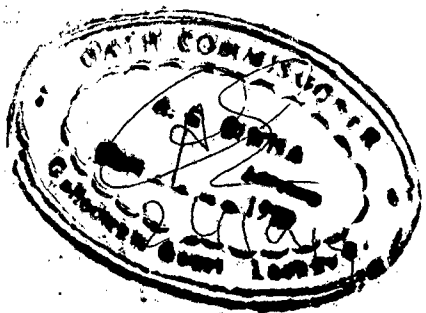
Service book along with approved pay fixation proforma received vide your memo cited above in by the above individual is returned herewith with the remarks that his pay fixed at Rs. 1470/- p.m. on reversion is quite correct. FR-22(a)(iii) is applicable to the cases of transfer by Govt. except on a/c of inefficiency or mis-behaviour or on his written request. In view of above your pay has correctly been fixed.

Encl: as above.

A.O.
2
26

X
Sundanda
Lcol

X
Sundanda
Lcol



o.d. 259 of 177-

Y.S. Meshram v/s. V.O. 18 dms

File Annexure-2

Mil Tels : 2359

Station Health Organisation
Lucknow

125/22/Di no/SHO

06 Sep 89

Smt Y S Meshram,
Health Inspector
Near Iram Model School
Near Sakina Mahal, Hussainabad
Lucknow

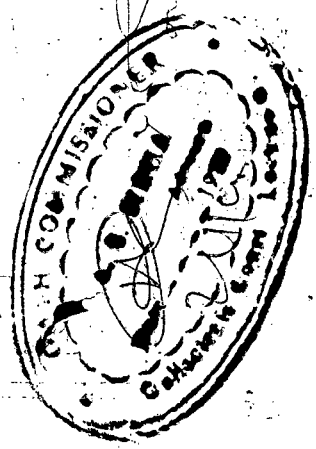
9.5

DISCIPLINE

1. Reference your letters No mil dated 03 Sep 88 and 04 Sep 89.
2. You are advised to report ^{to} this office for 'hearing in person' and interview of SEMO.

[Signature]

(Mandeep Singh)
Lt Col
Officer Commanding



[Handwritten signature]

Y.S. Meshram vs B.O.I. & Co.

Mil Tele : 2359

Station Health Organisation
Lucknow-2

125/22/Disc/SHO

16 Sep 89

Shri Y S Meshram,
Health Inspector
Near Shish Mahal
Rasainabad, LucknowDISCIPLINE

1. Reference your letters No mil dated 04 Sep 89 and 05 Sep 89 and this office letters of even number dated 28 Aug 89, 30 Aug 89 and 06 Sep 89.

2. You reported to this office on 08 Sep 89 for interview of SEMO and to be 'Heard in Person'. As SEMO was not available that day due to visit of DG MS (Army) you were advised to come on the subsequent day as you refused to present your case to the Undermentioned. As the SEMO was not available on 09 Sep 89 also due to unforeseen circumstances, your interview could not be arranged and you were further advised to come on the next working day. Moreover, you were advised by CO personally to join your duty on that day to avoid any financial loss and to work under supervision/guidance of Health Supdt Mr. N B Mirza which you declined.

3. Till date you have neither reported to this office or to the office of the SEMO for his interview.

4. In view of above you are advised to immediately report to this office for interview of the SEMO or join duties after getting yourself examined and declared medically fit by the CMO Lucknow.

5. If no reply is received by 25 Sep 89 or you fail to report to this office action will be taken against you ex-parte.

(Mandeep Singh)
Lt Col
Officer Commanding

NOT ON ORIGINAL

Copy to :-

S E M O

C/O BH Lucknow

HQ UP Area (Med)
Bareilly

Alongwith a statement of case and copies of this unit letters under reference.

Susanda
Lt Col

C.A. 259/90
Y.S. Meshram
CONFIDENTIAL

Amr R-5

Office of the S & M O
C/O Base Hospital
Lucknow-2

17

125/22/STDisc/SHO

27 Oct 89

Mr Y S Meshram, Health Insp
Station Health Organisation
Lucknow

DISCIPLINARY

1. Reference to SHO Lucknow letter No 125/2./Disc/SHO dated 28 Aug 89, your personal interview with the undersigned on 25 Oct 89.
2. As per your verbal statement to me on 25 Oct 89 and the facts brought out by your officer Commanding and the staff of SHO (L) Lucknow you have been found guilty of gross misconduct and of disobeying of lawful orders.
3. I take a very serious view of your conduct which is unbecoming of a Govt Servant, serving in a supervisory capacity. I caution you to desist from such behaviour in future.
4. A lenient view is being taken of your absence without authorised leave from 31 Aug 89 to 23 Oct 89. This absence is being regularised as under :-

- (a) From 31 Aug to 07 Sep 89 (8 days) - grant of 8 days Earned Leave
- (b) From 11 Sep to 23 Oct 89 (43 days) - grant of 43 ds. Earned Leave.

(C L Fenne)
Brig
SHMO

Copy to :-

SHO (L), Lucknow

DEHS HQ UP Area (Med)
Bareilly

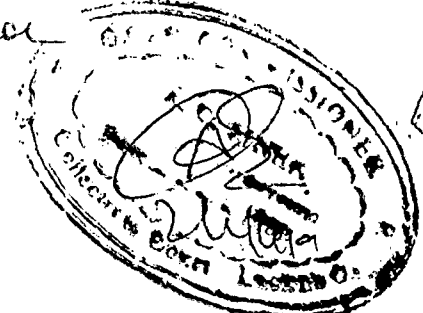
- with reference to their letter
No 291975/1/H-3(B) dt 24 Sep 89.

CONFIDENTIAL

Received

Y.S. Meshram
28/10
H/Insp

S. S. S. S. S.



Y. S. Meshram vs. V. S. Dhs.

Mil Tele : 2359

Station Health Organisation
Lucknow

12b/2c/Di No/SHO/PO

31 Jan 90

Shri Y S Meshram, Health Insp
SHO (L) LucknowABSENT WITHOUT LEAVE

1. It is observed that you have been absent from duty on the following dates without prior permission/leave :-

- | | |
|---------------------------------|----------|
| (a) From 18 Dec 89 to 23 Dec 89 | - 6 days |
| (b) 15 Jan 90 | - 1 day |
| (c) 20 Jan 90 | - 1 day |
| (d) 22 Jan 90 | - 1 day |
| (e) 30 Jan 90 | - 1 day |

Total - 10 days

2. Till date you have neither submitted any application for grant of leave nor submitted medical certificate for regularisation of period of absence in spite of verbal reminder.

3. Moreover, you have been detailed for mosquito catoning on Mondays and Tuesdays but you have been absenting yourself without prior permission/intimation.

4. This conduct of yours is unbecoming of a Govt Servant.

5. Explain why disciplinary action should not be taken against you for these lapses.

6. Your reply should reach this office within Seven days from the date of receipt this letter.

(Mandeep Singh)
Lt Col
Commanding Officer

N O O

Copy to :-

S E M O
C/O Base Hospital
Lucknow

A D M S
HQ UP Area
Bareilly



o.A. 259 of 1950
 Y.S. Meshram vs U.O. 1204m
 June 66
 (17A) [RULE 45]

GOVERNMENT OF INDIA'S DECISION

(1) Disability during training/service in the Territorial Army.—The Ministry of Home Affairs have had under consideration the question of training/service in the Territorial Army. It has been decided in consultation with the Ministry of Finance that for the period of hospitalisation resulting from sickness or injury during training/service in the Territorial Army, a Civil Government servant should be granted full pay and allowances for six months beyond the duration or embodiment which will be debitable to the Defence Services Estimates. If the civil pay is more than the military pay, the difference would be debitable to the Civil Estimates. For the period of hospitalisation in excess of six months, the balance period should be regularised as special disability leave under F.R. 83 (i.e., on half-average pay).

[G.I., M.H.A. Memo. No. 32/4/65-Est. (B), dated the 14th July, 1965.]

45. Special disability leave for accidental injury

(1) The provisions of Rule 44 shall apply also to a Government servant whether permanent or temporary, who is disabled by injury accidentally incurred in, or in consequence of, the due performance of his official duties or in consequence of his official position, or by illness incurred in the performance of any particular duty, which has the effect of increasing his liability to illness or injury beyond the ordinary risk attaching to the civil post which he holds.

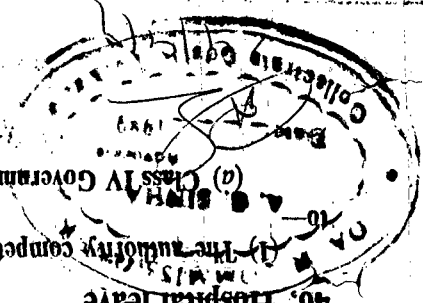
(2) The grant of special disability leave in such case shall be subject to the further conditions—

- (i) that the disability, if due to disease, must be certified by an Authorised Medical Attendant to be directly due to the performance of the particular duty;
- (ii) that, if the Government servant has contracted such disability during service otherwise than with a military force, it must be, in the opinion of the authority competent to sanction leave, exceptional in character; and

(iii) that the period of absence recommended by an Authorised Medical Attendant may be covered in part, by leave under this rule and in part by any other kind of leave, and that the amount of special disability leave granted on leave salary equal to that admissible on earned leave shall not exceed 120 days.

46. Hospital leave

(1) The authority competent to grant leave may grant hospital leave to—
 (a) Class IV Government servants, and



X
 S. S. Sarda
 1965

51

Nov 85

Y.S. Neth. Jan 15.0.1500m Nov 85

Annexure R-8

0.14.259 of 1985

NAME		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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2	Mr. S. B. M. Naga																															
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31	Mr. S. B. M. Naga																															

Handwritten signature/initials



21

Y.S. Krishnam 1/3 11.1.1990

JAN

1990

Present

Present

Arumugam R.9

S.No	Designation	Name	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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FEB

1990

Arumugam R.9



LEDGER ACCOUNT IN RESPECT OF ADDITIONAL (21) DEARNESS ALLOWANCE DEPOSIT ACCOUNT (OLD)

A-8

Name of the employee : Shri Y.S. Meshram
Health Inspector

Ledger Folio No - ADA (DA) No 5.

Month	Deposit made during month	Progressive Total Deposit	Interest	Remarks	Initials
July 77	323.00	323.00	NIL	transferred in vide CDA sc letter No P/674/4665/SHO/46 dt 6/79	4
July 77 to Feb 78	323 x 8	= 2584.00	26.92	@ Rs 12 1/2 %	4
Mar 78 to Jun 78	323 x 4	= 1292.00	12.34	@ Rs 11 1/2 %	1
July 78 to Sep 79	323 x 15	= 4845.00	46.43	@ Rs 11 1/2 %	4

3rd Instalment Rs 107.00 + Int 38.26

4th Instalment Rs 107.00 + Int 46.43

214.00 + 85.69

claimed vide 100/10/SHO. Total 299.70

dt 19 Dec 79.

paid Rs. 253/-

and Rs. 43.00

AAO LKO

vide Port/Vm/8001/A

deposited in GPF being the interest for Period ending Aug 79.

Balance after 4th instalment

Rs 109/- as on Aug 79.

x S. S. Sarda

अदालत श्रीमान

[वादी अपीलान्ट]

प्रतिवादी [रेस्पाडेंट]

महोदय

श्री *Central Adm. Bldg. Trust*
का *Central Adm. Bldg. Trust*

वकालतनामा

टिकट

वादी (अपीलान्ट)

Y. S. Meshram v/s Mahanagari Palika प्रतिवादी (रेस्पाडेंट)

नं० मुकद्दमा ०८८२५९ सन् १९९० पेशी की ता०

१६ ई०

उपर लिखे मुकद्दमा में अपनी ओर से श्री *Dr. Jyoti Chandra*

व *Adv. Anand Singh*

वकील

महोदय

एडवोकेट

2/11/90

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 नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होना मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted

हस्ताक्षर...

S. K. HANNA

साक्षी (गवाह)...

साक्षी (गवाह)...

K. C. VERMA

दिनांक...

महीना

सन् १६ ई०

स्वीकृत

A-84

Before The Central Administrative Tribunal
Circuit Bench, Lucknow.

.....

O.A. No. 259 of 1990 (L)

Y.S. MESHRAM

.. APPLICANT.

VERSUS.

UNION OF INDIAN AND OTHERS

.. OPP. PARTIES.

REJOINDER AFFIDAVIT ON BEHALF OF THE
PETITIONER.

..

I, Y. S. Meshram, aged about 38 years, son of
Sri Shalikram, Health Inspector, Station Health
Organisation (Army), Lucknow Cantt, Lucknow, do hereby
solemnly affirm and state as under:

1. That the deponent is applicant in the above
noted case and is well versed with the facts deposed
hereinafter. The deponent has read the counter
affidavit, filed on behalf of the respondents and replies
thereto, as under:
2. That para 1 of the counter affidavit needs no
comments.
3. That para 2 of the Counter Affidavit is denied

Filed today
11/10/91

12

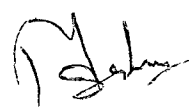
as bried history has wrongly and incorrectly been given by the respondents.

4. That para 2(i) and 2(ii) of the counter affidavit, as stated, are not admitted. It is however, not denied that the ~~compassionate ground on reversion~~ ~~as stated~~ The applicant was posted in Lucknow on his own request, on compassionate ground on reversion as stated. The petitioner was drawing a Basic pay of Rs. 1560/- at the time he was posted at and transferred to Lucknow as Health Inspector in the higher scale of Health Superintendent, which was Rs. 1400-2300. The scale of the post of Health Inspector is Rs. 1200-2040, which is lower than that of Health Superintendent. It is further stated that the pay fixation of the petitioner at Rs. 1470/- was against the relevant rules, since the pay of the applicant could not be reduced and the applicant was entitled for his pay fixation at Rs. 1560/-. The Controller of Defence Accounts has wrongly fixed applicant's pay at Rs. 1470/- , on his posting at Lucknow. It is not according to R.R. 22(1)(a)(ii), which is applicable in the facts of the case. It is further submitted that F.R. 22(1)(a)(iii) is not applicable under which the applicant's pay has been fixed. This rule is applicable in cases where the employee concerned is drawing in higher scale a Basic Pay which is more than the maximum of the lower scale. It is further stated the applicant at the relevant time was drawing a pay of Rs. 1560/- in the higher scale which pay was at intermediate level (less than the maximum) of the scale in lower post i.e., his pay drawn was less

Feb

than the maximum of the lower scale in which he was posted at Lucknow. So his pay is to be protected on transfer at Lucknow, and this fixation is governed by F.R. 22(1)(2)(a)(ii). Thus fixation of applicant's pay at Rs. 1470/- is incorrect and is causing recurring financial loss to the applicant of huge amount w.e.f. 1.2.88. The applicants pay merits fixation at Rs.1560/- as on 1.2.88, and he is entitled to consequential benefits arising therefrom. The aforesaid both the rules are quoted in Annexure RA-1 attached hereto.

5. That in reply to para 2(iii) of the counter affidavit, it is denied that the service record of the petitioner is not clean and good. It is submitted that the petitioner is in service for the last about 17 years and his service record and A.C.Rs are absolutely clean and good. The alleged entry in 1989 is not in the knowledge of the applicant, since till date the applicant has not been communicated any adverse entry for any year including the alleged one of 1989. It is specifically denied that the applicant is not punctual and regular in performance of his duty and that he ever behaved in an indisciplined manner. All the contrary allegations are totally false and are denied specifically.

 It is further specifically denied that the Order dated 28.8.89, was disobeyed. It is stated that the applicant neither disobeyed any order nor committed any misconduct. The applicant always performed his duties faithfully and diligently. It is submitted that the allegations of misconduct are totally false, which is

evident from the fact^{that} no disciplinary enquiry was ever held against the applicant.

6. That para 2(iv) of the counter affidavit is denied. It is stated that the applicant never refused to take orders from his superiors. It is pertinent to point out that the applicant was not allowed to join his duty illegally and he was wrongly directed to get himself medically checked up, just to harass the applicant and to prevent him from performances of his lawful duties. It is specifically denied that the applicant was absent from duty as alleged or otherwise. The fact is that the authorities themselves did not allow the applicant to join and perform his duties under the false allegation of mental unfitness. It is specifically denied that the applicant refused to take orders on 30.8.89, or any other date. It is submitted that on 30.8.89, no order was served except to get the applicant medically examined. It is further denied that the applicant stated that he was mentally unfit. It is a sheer concocted story to harass and trouble the applicant illegally.

It is pertinent to submit that on 30.8.89 the applicant was served^{an} order for getting himself medically examined by C.M.O., Lucknow and obtain fitness from him, and only thereafter he will be allowed to perform duty (Annexure A-11 with the application), This order was issued unjustifiably and without any basis. The applicant at that time was doing vaccination (BCG), and it is borne on record of the Vaccination Register, The question of mental unfitness does not arise.

It is further submitted that the period of absence from 31.8.89 to 23.10.89, is totally wrong as the applicant never absented from duty. The fact is that after Service of Order (Annexure-A-11) on 30.8.89 the applicant was not allowed to do duty illegally and by coercion though applicant attended the office regularly. This period is from 31.8.89 to 24.10.89, and it was only on 25.10.89, that the applicant was allowed to join duty, as per order dated 24.10.89 (Annexure A-13). It is pointed out that the applicant was fit and so he did not get himself medically examined but on 25.10.89, he was allowed to join duty without fitness. Besides no charge sheet ever framed and served nor any disciplinary proceedings initiated against the applicant. This itself proves the falsity of the allegations of mental unfitness or absence. It is wrong to say that the applicant was advised to join before 24.10.89 vide Annexure A-13.

It is pointed out that in next para 2(v), the period of absence is stated to be 31.8.89 to 7.9.89 and 11.9.89 to 23.10.89, whereas contrary thereto it has been stated above in this para the period as 31.8.89 to 23.10.89. Furthermore, even from 8.9.89 to ~~20.09.89~~ & 24.10.89, ~~he~~^{his} was not allowed to perform ~~any~~ duty, but the respondents allege that ~~he~~ was present, for the reasons best known to them. The applicant was allowed to join duty only on 25.10.89, which has been so stated in para 16 of the counter. The contradictory allegations and dates alleged prove that the same are false and concocted.

P. Dehaz

It is further submitted that on the one hand it has been alleged that the applicant was absent w.e.f. 31.8.89, and on the other hand in para 13 of the counter it has been specifically stated that salary for September, 1989, of the applicant was drawn. If the applicant was absent from 31.8.89, how his salary was drawn then. It proves that the applicant was not absent. Evidently the various contradictions prove the falseness of the allegations.

7. That in reply to para 2(v) of the counter affidavit it is stated that the authorities deliberately did not and delayed the interview of the applicant to be materialised with the S.E.M.O., which was sought by the applicant to submit the grievances against the authorities. It is further stated that the alleged absence of the applicant was forcefully created by the authorities is as much as the authorities did not allow the applicant to perform his duties, though the applicant was regularly attending the office for performing his duties. The applicant never applied for leave, neither he agreed conversion of his Earned Leave in the matter in question. Thus, the grant of earned leave suo moto for the said period is without authority of law and without a request to that effect by the applicant. It is submitted that the leave can only be granted when the employee applies for the grant of leave. In the present case the applicant never applied nor he has requested for the curtailment of his earned leave. The applicant was illegally not allowed to perform duty and for this reason suo moto earned leave has been granted without application. It is stated that interview was arranged with S.E.M.O. on

P. Selva

28.10.89, after the applicant was allowed to join on 25.10.89, This all shows the malafide and arbitrary action.

8. That in reply to para 2(vi) of the Counter Affidavit, it is stated that the recovery made from the salary of the applicant is illegal and without authority of law. The recovery made is totally unjustified. It is pertinent to point out that no details of the alleged recovery have been given even in the counter affidavit under reply. It clearly shows that the recovery is totally wrong and the same was not liable to be recovered from the salary of the applicant. It is further stated that the salary was paid in December, 1989, i.e. late by three months malafidely.

9. That para 2(viii) of the counter affidavit is denied for want of knowledge. The applicant has no knowledge of the alleged enquiry or the ~~alleged~~ report of the alleged court of enquiry. It is stated that the applicant was never informed of any enquiry being held. It is further denied that the complaints made by the applicant were false or baseless. It is stated that the petition referred to was dated 27.11.89 and not 26.11.89. It is further stated that the enquiry if held as alleged was sham, since it was one sided without informing the applicant, which renders the alleged findings void and illegal.

10. That in reply to para 2(viii) of the counter

affidavit, it is submitted that the interview with the ADMS^m was deliberately delayed by the local authorities. This interview was sought after 25.10.89, against the orders of the SEMO, regarding treating the said period as on earned leave illegally.

11. That para2(ix) of the counter affidavit is denied as stated. It is further denied that the applicant was ever absent without intimation. It is stated that as stated in para under reply the applicant met with an accident and had to remain on leave from 18.12.89 to 23.12.89, for which admittedly the applicant submitted his application for special disability leave admissible under such circumstances. The applicant got his treatment from C.G.H.S. Dispensary (A Govt. Dispensary) at Nakkhas, Lucknow, wherefrom he was issued the Medical Certificate alongwith fitness for the period 18.12.89 to 25.12.89. The said certificate was submitted in the Office, and its record still exists in the said dispensary. It is totally wrong to say that the applicant did not submit M.C. The allegation is unbelievable on the fact of it. It is further submitted that the leave for the period was not sanctioned arbitrarily and malafidely, and the pay of the applicant was deducted and financial loss caused to the applicant. The applicant represented against it on 5.2.90, but to no avail.

It is denied that the applicant was absent on 15, 20, 22, and 30th January, 1990. ~~On 15 and 20 Jan 90,~~ ¹⁵

~~By the applicant's own admission and submission~~ ¹⁵

~~known application, but it was not granted. On 22.4.90~~ *MD*
On all these dates
~~and 22.4.90~~ the applicant was present in Office and
performed his duty and signed the Attendance Register.
The applicants pay for these 4 dates was illegally
deducted treating it as without pay leave. The
applicant represented against it on 5.2.90, ^{but} in vain.
It is further submitted that on these dates applicant
was wrongly marked absent. It is worth submitting that
no disciplinary action was initiated against the
applicant in respect of the alleged absence on the
aforesaid 4 dates. It is pertinent to point out that
the non-initiation of any disciplinary action against
the applicant for his alleged absence, itself proves
that the applicant was not at fault and his pay for the
said 4 dates has wrongly been deducted and the applicant
has been punished indirectly and has ~~be~~ been made to
suffer financial loss without due process of law.

11. That in reply to para 2(x) (wrongly numbered as
2(xi), it is submitted that the applicant was on leave
on that day, and the intimation was served on him
at about 11 A.M. and so it was not possible to reach
office at 11.30 A.M., from residence, which is about
10 Kms. from office. Hence applicant could not reach
for interview. It is against submitted that deduction
of the pay of the applicant for the said period was
wrong. It is further submitted that the intimation for
the interview was deliberately delayed and not sent to
the applicant in proper time so that the interview may
not ~~materialised~~ materialised and by this means the
applicant was deprived of the chance to submit his

MD

grievances to the higher authority and to inform the higher authority about the malafide and arbitrary action of the department.

12. That para nil of the counter affidavit regarding the preliminary objection is denied. It is further denied that the application as framed is not maintainable. It is further stated that the averments made by the respondent are factually incorrect as the same appear to be based on hiper-technical assessment. The correct position of the matter is that in the present application only single cause of action is the subject matter i.e. non payment of pay and allowances. All the reliefs prayed are regarding pay and allowances. Though the reliefs so prayed for, are consequential to one another in respect of that cause of action, which can not be said to be as 'plural remedies' and is permissible under rule 10 of the Rules framed under the Central Administrative Tribunal (procedure) Rules, 1987. It is further submitted that in view of the submissions made in the application deserves to be decided on merit of the claims made therein.

Parawise :

13. That para 3 of the counter affidavit need no comments as para 1 of the application is not disputed.

M. S. S.

14. That para 4 of the counter affidavit need no comments as paras 2 and 3 of the application are not disputed.

15. That para 5 of the counter affidavit need no comments as paras 4.1 to 4.4 are admitted.

16. That para 6 of the counter affidavit as stated is denied and paras 4.5 and 4.6 of the application are reiterated. It is submitted that fixation of pay at Rs. 1470/- is wrong. It is denied that maximum of Scale of pay of Health Inspector is Rs. 1470/-. This fact is also evident from the scale mentioned in para under reply as 1200-2040. Thus maximum is Rs. 2040 and not Rs. 1470/-.

The deponent craves leave to refer to reply in para 4 above, wherein detailed reply is given on this point. The same is not repeated for brevity.

17. That para 7 of the counter affidavit need no comments as it admits para 4.7 of the application.

18. That para 8 of the counter affidavit need no comments as para 4.8 of the application is not disputed.

19. That para 9 of the counter affidavit is not disputed to the extent of payment of CDS (Old). Rest of the contents are denied and para 4.9 of the application is reiterated.

It is stated that C.D.S. (New) deductions were made w.e.f. 1976, under the provisions of the C.D.S. Act, 1976. These deductions were not Voluntary, and every employer was obliged in law to make deductions from salary of every employee. The C.D.S. (New) deductions were made from the salary of the applicant from 1976, similiarly like other employees. The amount of deductions have been refunded to all other employees in near about 1982, except to the applicant.

It is strange that the applicant's name is not found entered in the register. This is ~~xxxx~~ obviously fault of the department. In any matter the details of the deductions ca be verified and ascertained from the monthly salary bills and the applicant accordingly can be refunded the amount alongwith interest as demanded. It is pertinent to point out that the deduction of CDS (New) has not been denied, neither refund payment has been alleged. The applicant represented on 6.11.89 and 28.11.89 (Annexure A-18 & A-19) but so far no reply was given to the applicant and nowⁱⁿ the counter affidavit^{is} a novel story has been created of the applicant's name being absent from the register concerned. This story has crop up for first time in the counter affidavit, which apparently is false and baseless.

92/11

20. That para 10 of the counter affidavit is denied and paras 4.10 and 4.11 of the application are reiterated. It is submitted that Annexure R-10, is regarding C.D.S. (Old) and not regarding C.D.S. (New). The stand of the respondents is contradictory in as much as in para 9 of

counter affidavit, it has been said that the applicant's name is not in C.D.S. (New), whereas herein alleged all payments have been made. The respondents may be directed to produce record to show that C.D.S. (New) has been paid to the applicant and when.

21. That para 11 of the counter affidavit is denied , and para 4.12 of the application is reiterated, and so are reiterated submissions made in para 19 and 20 above.

22. That para 12 of the counter affidavit is denied and para 4.13 of the application is reiterated. It is again pointed out that Annexure R-10 pertains to CDS (Old), and the respondents made attempt to confuse the issue by referring to it. It is specifically denied that C.D.S. (New) has been re-paid to the applicant or any part thereof. It is wrong to say that nothing is pending. The respondents are liable to pay C.D.S.(New) to the applicant with interest, of which not a single paise has been paid to the applicant. The non-payment of C.D.S. (New) amounts is against the provisions of the C.D.S. Act also.

23. That para 13 of the counter affidavit is denied and paras 4.14 to 4.16 of the application are reiterated. It is denied further that the applicant was not present and hence deposited back the salary of September, 1989. It is stated that it was malafidely not paid to the applicant then to harras him and trouble him.

It is again denied that applicant absented from

duty. It is stated that earned leave can not be granted suo moto because the applicant never applied for it. Since the applicant was not allowed by the authorities to perform his duty, his earned leave can not be consumed for the same, as the earned leave is encashable and it would amount to punitive financial recovery, which can not be done without due departmental enquiry. It is further submitted that replies given above in paras 6 and 7, may also be considered as part of reply to this para.

24. That para 14 of the ~~the~~ counter affidavit is denied except the facts admitted and para 4.17 of the application is reiterated.

It is again stated that the directions for Medical Check up and fitness issued on 30.8.89, were basically illegal and in pursuance the applicant was not allowed forcefully, to perform his duties from 31.8.89 to 24.10.89. The authorities, for the reasons best known to them, allowed the applicant to join duty only on 25.10.89, without any Medical Certificate of fitness as was being insisted earlier. This itself proves their malafide and arbitrary action. Earlier to not to allow the applicant to join, without medical certificate, as vide Annexure R-3. Prior to 25.10.89, applicant was not allowed to join without medical check up.

It is stated that no interview as arranged as stated in the counter affidavit. It is stated that the

interview sought was deliberately delayed and not arranged. The applicant was not given any intimation of time for interview on 3.10.89, but he was there for the purpose, and ^{he} was intimated that SEMO has gone to out and is not available. This fact of applicant's presence is admitted in para 5 of Annexure R-4, but in the counter affidavit it is stated otherwise. It is denied that the applicant was intimated time or he was asked to wait as alleged.

25. That para 15 of the counter affidavit is denied except the facts of applicants application for interview and his attendance for the purpose. Rest of the contents are denied and para 4.18 of the application is reiterated.

It is specifically denied that the applicant was advised to/^{join}or that he referred to join. Replies to it have already been given above. As per respondent's letters dated 16.9.89 and 19.9.89, were issued for the interview on 11.9.89, and so obviously how could the applicant attend on 11.9.89, which was earlier to 16 or 19 Sept. 1989. It is again denied that time of 12.30 was intimated. The applicant did attend which was been admitted.

25. That para 16 of the counter affidavit is not disputed, except the allegation of "once-again advised"- which is denied and para 5.19 of the application is reiterated. It is stated vide Annexure R-4, the applicant was allowed to join without illegally demanded medical fitness and so the applicant joined on 25.10.89.

It is pertinent to submit that no Medical Board has so far been constituted as mentioned in Annexure R-4, and this itself shows that the applicant was arbitrarily and malafidely not allowed to perform duty on false pretext just to penalise him.

It is further pointed out that the respondents are giving different dates of the alleged absence of the applicant as pointed out above, which apparently shows the falsity of their allegations.

27. That in reply to para 17 of the Counter Affidavit it is stated that by treating the said period on earned leave amounts to punishment, which can not be awarded without due departmental enquiry, which has not been done. It is denied that a lenient view has been taken. It has been done to cover the illegal and malafide action of the authorities.

X It is further submitted that Vide Annexure-4 the applicant was allowed to join without Medical fitness as stated in para 26 above, though earlier it was being done insisted, and interview was arranged only after 25.10.89. It is further stated that without application from the applicant for leave/earned leave, his earned leave can not be deducted or reduced in the manner. The applicant is entitled to full pay for the said period. The contents of para 4.20 of the application are reiterated.

28. That para 18 of the Counter Affidavit is denied and para 4.21 of the application is reiterated. It is stated that in the circumstance an employee is entitled

to special disability leave. The applicant suffered injury in the course of official duty and so is entitled to the same as provided under the rules. Reply given above in para 11 are also referred. The contents of Annexure R-6 will appear from the said Annexure itself

29. That para 19 of the counter affidavit is denied and para 4.22 of the application is reiterated. It is further denied that the applicant was absent as alleged or otherwise. The grant of earned leave was illegal as already submitted above. It is further submitted that the applicant represented against the said order as it was unjustified, but all in vain.

30. That para 20 of the counter affidavit is denied being wrong, and para 4.23 of the application is reiterated. It is absolutely wrong that the applicant's touring duties are within a radius of 3 Kms. It is submitted that the parameter of the Cantt. Area is 11 Kms., which all area is to be toured in performance of duty, and so the radius comes to 5.5. Kms. The applicant duty work involves extensive touring in the whole area for supervising field workers and work done by ^{these} industrial workers, such as killing and prevention of mosquitoes and flies, survey of Septic tanks in Cantt area, including residential premises of officers and barracks. Thus the applicant is wrongly being denied the conveyance allowance, which is admissible to him under the rules.

That the official vehicle is never available,

rater it is never given to the applicant~~ten~~ for duty, and so on this pretext the conveyance allowance admissible can not be denied to the applicant arbitrarily and unjustifiably.

31. That para 21 of the counter affidavit is denied and para 4.24 of the application is reiterated. The allegations made in para under reply have already been replied in para 20 above, and hence the same are not repeated for purposes of brevity.

32. That para 22 of the counter affidavit needs no comments as it does not dispute para 4.25 of the application, which is reiterated.

33. That para 23 of the counter affidavit is denied and para 4.26 of the application is reiterated. The applicant is entitled to special Disability Leave under the rules and under the circumstances the injury was suffered as stated hereinabove.

34. That para 24 of the counter affidavit needs no comments to the extent it admits para 4.27 of the application, which is reiterated. Rest of the contents are denied. It is stated that grant of ^{leave} without pay ~~leave~~ was wrong under the circumstances detailed hereunder and reported to office. It is vehemently denied that the applicant tempered with attendance register. The allegations are baseless and against the record. This allegations has been levelled for the first time in the counter affidavit. Had it been so why no disciplinary proceedings were initiated for the

same. The contents of Annexure R-8 will appear from the said annexure. It is stated further that on 18.12.89, the applicant met with an accident and applied for Special disability leave from 18.12.89 to 23.12.89, and so question of unauthorise absence does not arise. In Annexure R-7 it has been mentioned that no application was submitted, whereas in para 2(ix) of the counter it has been admitted that special disability leave was applied by the applicant, the two versions are contradictory. It is for arguments sake submitted that if special leave applied could not be sanctioned, then at least leave admissible may have been sanctioned instead of doing it as without pay. The contents of Annexure R-8 will appear from the said annexure itself.

35. That paras 25 and 26 of the counter affidavit are denied, and paras 4.28 and 4.29 of the application are reiterated. The allegations of tempering are vehemently denied being baseless and false. The applicant is entitled to full pay for the said period of 10 days.

It is further stated that on 15th, ~~and~~ 20th, ~~and~~ 22nd ^{23rd} and 30th ^{31st} January, 1990, the applicant was on duty and performed his duty, and signed the attendance register as usual, but later on Lt. Col. Mandeep Singh marked the applicant as absent wrongly and so tempering was done by the authority and not the applicant.

~~On 22nd and 30th January, 1990, the applicant was on duty and performed his duty and signed the attendance register as usual.~~

Therefore allegation of being absent on these dates is

apparently false. It is, moreover pointed out that on 30.1.90, the applicant has not been marked absent but still his pay has been deducted for this date also.

36. That it is pertinent to point out that admittedly C.D.S. (New), was deducted from the applicant's salary, but no enquiry has been instituted for the alleged ground that applicant's name is not in the register. The department is at fault, if it is so, and the applicant can not be denied refund on this fictitious and vague plea.

37. That it is respectfully submitted that the authorities perpetuated malafide and arbitrary and unjust action against the applicant, and unjustifiably punished him as the bore grudge against and were annoyed with the applicant for the following reasons, which are necessary in view of the allegations made in para 2(iii) of the counter:

- (a) That the applicant joined at Lucknow in February, 1988, where former Officer Commanding Lt. Col. Mandeep Singh, was unduly terrorising and harrasing the subordinate staff and the official environment was suffocating and not congenial for sincere workers. The then Officer Commanding did not at all cared for the welfare of lower categories of staff and was misusing his official powers.

- (b) That the mazdoors were being persecuted, and when the applicant came they considered the applicant a humane person to and fit to represent their cause with authorities for redressal of their grievances and to find a soothing solution thereof. They persuaded the applicant for taking their lead and forming a trade union for the redressal of their grievances and thereby to safeguard their rights and interest. So, the applicant in order to protect their interests led them towards forming a Trade Union. The mazdoors started ~~edg~~ narrating their grievances to the applicant.
- (c) That the applicant approached the then Officer Commanding, with the grievances of the mazdoors for their redressal, but this was not liked by the Officer Commanding, apprehending that because of the trade union he will not be able to act in the unjust and tyrannical manner. Thus he wanted to curb the unison activities with a strong hand by unjustified means. The applicant was warned by then Officer Commanding against such acts and ~~or~~ organising a trade union. The applicant did not deter and pursued the just causes of the mazdoors, which irritated the officer commanding further, and he dead set to some how penalise the applicant by hook and cook.
- (d) That the then Officer Commanding issued to the applicant a Show Cause Notice on baseless grounds. He did not remain satisfied with it

and on 30.8.89, he issued malafide order alleging mental unfitness of the applicant and directing the applicant to get himself medically checked up by C.M.O., Lucknow, and obtain fitness certificate from him.

(e) That s series of odd circumstances the applicant had to suffer till February, 1990, when the then Officer Commanding Mandeep Singh was transferred from Lucknow, and was succeeded by Lt.Col. S.K. Handa, the present Officer Commanding. The applicant thought that the New Officer Commanding will surely protect the rights of his subordinates and will ameliorate their lot. It was a vain hope, and he turned out to be a super imposed image of his predecessor, as he was misguided and briefed by his predecessors. His ears were poisoned and his mind was made biassed. He also warned the applicant. Thus the mazdoors and the applicant remained in the same earlier situation and condition.

(f) That the applicant was exploited by the present Officer Commanding for his personal works, and once when the applicant expressed his inability to comply and execute such work, he became furions and considered it as his insult. Then on the pretext of searching certain documents, he broke open the lock of the applicant's table drawer, and consificated the applicant's belonging including cash.

- (g) That he did not remain satisfied with that because his prejudice knew no bounds. It resulted in issuance of not less than Sixteen letters to the applicant within short span of 20 days. Thus the plight of the applicant, a subordinate is beyond description who works under such heavy loads, while working under cruel superiors. Actually the applicant has been caged in, in his own office.
- (h) That the respondent, for the reasons stated, has tried to malign and tarnish the image of the applicant by alleging misconduct and lack of devotion to duty, which allegations are totally incorrect. The following facts show that the applicant is a good worker and efficiently performed his duty with loyalty.
- (i) No adverse entry in A.C.R. in Fifteen years of service.
 - (ii) On account of good performances the deptt. assessed his efficiency and allowed the applicant to cross efficiency bar in the pay scale 330-560 at the stage of pay at Rs.380/-.
 - (iii) That just after Seven Years of Service, the applicant was promoted to the post of Health Supdt. in 1982, and thereafter confirmed on the said posts.

38. That in view of the above, the application is

liable to be allowed with cost.

Lucknow Dated
~~October~~
August 01, 1991.

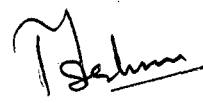
A-107

DEPONENT.

VERIFICATION.

I, Y.S. Meshram, son of Sri Shalikram, aged about 38 years, working as Health Inspector, in the Office of Station Health Organisation, Lucknow Cantt, resident of 476/47, Purani Bans Mandi, Sitapur Road, Lucknow-2, do hereby verify that the contents of paras of the affidavit are true to my knowledge, and those of paras are true on information/legal advise and believed to be true, and that I have not suppressed any material facts.

Lucknow Dated
~~October~~
August 01, 1991.


DEPONENT.

A-108

ब अदालत श्रीमान

Before The Central Administrative Tribunal
Circuit Bench Lucknow

महोदय

[वादी] अपीलान्त

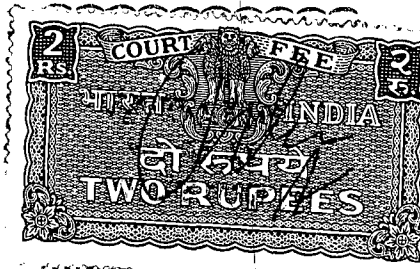
प्रतिवादी [रेस्पान्डेन्ट]

श्री

का वकालतनामा

C.A. No. 259 of 1990 (L)

X.S. MESH RAM.



U.O. 9.

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

पेशी की ता०

१६

ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

A. MANWAN.

AJEY SHANKER TEWARI

एडवोकेट
महोदय

नाम अदालत	मुकदमा नं० नाम	बनाम
.....
फरीकन

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 पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से 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 पैरोकार को भेजता रहूंगा अगर मुकदमा अदम 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।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०