

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT of 20...
B. D. K. Sangh Khori Applicant(S)

..... Versus Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1-	Anandx	A-2
2-	order shut	A-3
3-	Judgment of 01-10-92	A-4
4-	OIA	A-20
5-	Power	A-1
6-	Annex to COT	A-31

Certified that the file is complete in all respects.

.....
Signature of S.O.

.....
Signature of Deal. Hand

B. C. Widing out
14-6-12

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title C.A. 281 of 1990

Bhartiya Duk Karmchari
Singh Khori & Ors.

Applicant.

Name of the parties

Versus

Union of India (M/communication) Respondents.

Part A.B.C.

Sl No.

Description of documents.

Page.

1. Index sheet & Judgment A
2. Petition (Annexure & Vakalatnama)
3. Counter B Copy
4. Reminder —

A-1 A-13

A-14 to A-43

A-44 to A-57

A-58 to A-67

1. For
2. Petition and Annexures
3. Counter
4. Reminders

B-68 to B-105

B-105 to B-120

B-120 to B-120

Sifted and misc papers

C-121 to C-182

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 281 of 1989/90 (L)

APPLICANT(S) Bhartiya Dak Karmachari Sangh

RESPONDENT(S) U.O.I.

Particulars to be examined

Endorsement as to result of examination

- | | | |
|-----|---|-----|
| 1. | Is the appeal competent ? | yes |
| 2. | a) Is the application in the prescribed form ? | yes |
| | b) Is the application in paper book form ? | |
| | c) Have six complete sets of the application been filed ? | yes |
| 3. | a) Is the appeal in time ? | yes |
| | b) If not, by how many days it is beyond time? | |
| | c) Has sufficient case for not making the application in time, been filed? | yes |
| 4. | Has the document of authorisation/ Vakalatnama been filed ? | yes |
| 5. | Is the application accompanied by B.D./Postal Order for Rs.50/- | yes |
| 6. | Has the certified copy/copies of the order(s) against which the application is made been filed? | yes |
| 7. | a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | yes |
| | b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | yes |
| | c) Are the documents referred to in (a) above neatly typed in double space ? | yes |
| 8. | Has the index of documents been filed and paging done properly ? | yes |
| 9. | Have the chronological details of representation made and the outcome of such representation been indicated in the application? | yes |
| 10. | Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? | No |

Particulars to be Examined

Endorsement as to result of examination

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

yes

yes

N.A.

yes

yes

yes

yes

yes

yes

yes

yes
38/8

dinesh/

378-90

Hon M. D. P. J. J. J. J. J.
Hon M. D. P. J. J. J. J. J.

①

CA 281/90

①

M.P. 524/90 is allowed in as
much as applicants are allowed
to join together.

Heard.

Admit

Issue notice to the respondents
to file counter within 8 weeks,
rejoinder may be filed within
2 weeks thereafter. List before
D.P. on 29.10.90 for
completion of pleadings.

As regards interim matter,
issue notice to the respondents
as to why the prayer for
interim relief is not
granted. Put up for orders
on interim matters on
28.3.90

AD

AD

AD
J.M.

OR

Notice
served
on
7-9-90

Notices were issued
on 7.9.90.

Neither reply nor
any answer repd.
Case has been reluc-
tantly

S.F.O

26/5

(3)

OA. 281/90

AS

22/11/90

Hon. Mr. Justice K. Math, re.
Hon. Mr. M. M. Singh, Am.

M.P. No. 625/90

Heard the learned counsel for the applicant. The question whether or not any reasonable opportunity is to be given to the members of the Unions 142 will depend upon the nature of the grievance of the individual members. It is not possible to entertain this ~~omnibus~~ type of relief which is sought to be incorporated by this amendment. The application is rejected.

M.P. No. 619/90

Issue notice to respondents to show cause and list for orders on 12/12/90. till then no recovery shall be made from the salaries of the concerned staff members in compliance of the impugned orders contained in Annexures A.1 to A.12. Copy of the orders may be given to the learned Counsel for the applicant within twentyfour hours.

H M L
Am.

VC

Received copy of
order dated 29/11/90
by applicants
M. D. Singh
29/11/90

13/12/90

Hon. Mr. Justice K. Math, re.
Hon. Mr. K. Chatterjee, Am.

Delay in filing Court's affidavit is condoned and the court be taken on record. The applicant may file a rejoinder within two weeks and the case may be listed before DR (T) on 24/1/91 for fixing a date for final hearing if possible after completion of the record.

Am

VC

Notice issued
29-11-90

OR

Notices were issued on 29.11.90

Neither reply nor any unsigned reply have been returned back.

Copied with application for condonation of delay on behalf of Dr. D. Chandra S. Rao 19/12/90

O.A 28/1/90.6

(5)

(AP)

3.91

No sitting adj to 4.4.91
J.

CA & RA have been
exchanged
S.F.H
L
3/4

4.4.91 -


case not reached case
is adjourned to 24.4.91
for hearing

Q
POC

24.4.91 -

Hon. Mr. D. K. Agrawal J.M.
Hon. Mr. K. Chatterjee AM

On the request of counsel
for the both parties case is
adjourned to 9.8.91. for
hearing.


AM.


J.M.

9.8.91 -

No sitting adj to 24.10.91

Q

OR


CA/RA have been
exchanged.

S.F.H

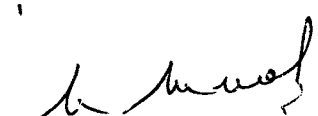
L
22/4

24.10.91 -

On the request of counsel for the
both parties case may be listed
on 10.1.92 for hearing.


(S.H. Prasad)

Member Judge


(Kausal Kumar)
vice chairman

10.1.92

No sitting adj to 18.3.92
J.

7

A/S

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH : LUCKNOW
.....

ORDER SHEET NO. _____

O.A./T.A. No. 281/90 (1)

OFFICE REPORT	DATE	ORDER
---------------	------	-------

MANISH/-

110

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

O.A. No. 281/1990

Bhartiya Dak Karmchhari Sangh Kheri
and others

Applicants.

versus

Union of India & others

Respondents.

Shri M. Dubey Counsel for Applicants.
Shri D. Chandra Counsel for Respondents.

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

Two Unions of the employees alongwith 12 employees working in the Postal department (Class III and IV) have filed this application praying that the order dated 24.7.90 by which the period between 30.3.90 to 3.4.90 has been treated to be dies-non, be quashed.

2. Facts, as it appears^{are} that one Shri S.N. Singh Yadav was working as Sub Postmaster Maigalganj, became a victim of Dacoity in the night of 24.3.90/25.3.90 and was murdered by the dacoits. It appears^{As} that no action was taken by the police, on the F.I.R. filed with them, so the matter which created a sensation and agitation amongst the employees and a grave apprehension in their mind that their life and property were not safe and they could be done away with any time. Accordingly, applicants No. 1 and 2 served notice

in

-2-

on the post Master General, Bareilly making a demand for the arrest of the murderers of Shri S.N. Singh Yadav, for ensurance of safety of postal employees and arrangement for armed chowkidar. When no action, was taken, yet another notice was served on 28.3.90 with copies to various authorities. The respondent No. 2 apprised that the demands could not be met and the entire staff went on strike and accordingly they proceeded on strike, which strike has been treated as illegal and the period of strike has been treated as dies-non, which adversely affects the applicants. The order has been passed as per Fundamental Rule -17 and F.R. 17(1).

3. On behalf of the applicants it was contended that the notice itself was required and in this connection my attention has been drawn to Annexure R-1 of the rejoinder-affidavit filed in reply to the counter-affidavit. From the facts it is clear that so far as performance of duty is concerned, the applicants did not perform any duty from 30.3.90 to 3.4.90. The strike was called off or not but the work was not done and that is why the period was treated as dies-non. The performance of duty in government service is not dependant on the murder or calling off duty. It is not necessary to go on strike more so, when the strike was allegedly at the behest of the Union and that too for such a purpose. The learned counsel for the applicant contended that as the recovery was made subsequently, recovery could not have been made without notice. The order of recovery was passed as the payment of salary was made by mistake

✓

A/12

-3-

can always be rectified and was so rectified. Merely because such a plea has been taken in Rejoinder-affidavit notice of same need not be taken up even then the same is being considered. Though the case has been filed by the two unions, neither name nor period of employees whose cases were similar to that of applicant treated as dies non and as such the contention in this behalf that discrimination has been done cannot be accepted. It may be pointed out that no specific plea in this behalf has been taken, but arguments were advanced.

4. The respondents have pointed out that only three demands were made and the matter was discussed with the Superintendent of Police and the District Magistrate and the Union leaders were requested not to proceed on strike and their demands will be considered. An appeal was also issued on 29.3.90 and another on 30.3.90 indicating that the strike notice was illegal and the Union should not proceed on strike and even then they proceeded on strike and due to absence without prior permission, Notice was issued under rule 62 of P & T Manual Vol. III, against which the applicants did not make any representation and have directly approached the Tribunal.

5. As the strike has already been declared illegal, thereafter the applicants proceeded on strike and that is why the action taken by the respondents is not illegal. Notice having already been given to the applicants the contention that no notice was issued, is devoid of merit. There is no merit in the

113

-4-

application, and it is dismissed. However, it is being made clear that it will be open for the applicants to approach the department for reconsideration and grant any relief. No order as to costs.

Vesnu Singh

Vice Chairman.

Shakeel/

Lucknow Dated 1.10.92

I. THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

Deputy Registrar(J)

D.A. NO. 281 of 1990 (2,

28/8

Bhartiya Dak Karmchhari Sangh Kheri & others ... Applicants

Versus

Union of India & others

... Respondents

INDEXS.No. Documents relied upon Page no.COMPILATION NO. 1

1. Application	1 to 9
2. Annexure A-1 : True copy of order dated 24.7.90	10
3. Annexure A-2 : ...do...	11
4. Annexure A-3 : ...do...	12
5. Annexure A-4 : ...do...	13
6. Annexure A-5 : ...do...	14
7. Annexure A-6 : ...do...	15
8. Annexure A-7 : ...do...	16
9. Annexure A-8 : ...do...	17
10. Annexure A-9 : ...do...	18
11. Annexure A-10 : ...do...	19
12. Annexure A-11 : ...do...	20
13. Annexure A-12 : ...do...	21
14. Vakalatnama	
15. Postal order for Rs. 50.00	

COMPILATION NO. 2

16. Annexure A-13 : True copy of notice dated 26.3.90	22 & 23
17. Annexure A-14 : ...do... 28.3.90	24 & 25
18. Annexure A-15 : Extract from order dated 25.1.83 in WP No. 3728 of 1982 of High Court Lucknow	26 & 27

LUCKNOW

M. Dutta
Counsel for applicants

Date : 28.8.90

for use in office

1. Date of filing :

2. Registration No. :

Signature
for RegistrarFiled today
28/8

(1) (116)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

D.A. No. of 1990

1. Bhartiya Dak Karmachari Sangh Kheri, through its Secretary Shri Ahmad Husain.
2. National Union Kheri through its Secretary Shri M.L.Gautam.
3. S.N.Srivastava aged 57.1/2 years, s/o Late Shri Nanak Saran Srivastava, SPM Mahevaganj, Distt. Kheri.
4. Ganga Prasad aged 34 years, s/o Shri Raghubir Accountant, Kheri H.O. now IPDs under training.
5. Vikram Verma aged 31 years, s/o Kunwar P.A. Kheri.
6. Maiku Lal aged about 54 years, s/o Shri Roopan Lal P.A. Kheri H.O.
7. J.P.Verma aged 40 years, s/o Shri Sant Lal, Accountant D.O. Kheri, now Head Office, Kheri.
8. Ramesh Chandra Srivastava, aged 30 years, s/o Shri Ram Chandra Srivastava, P.A. Kheri H.O.
9. Atma Ram aged 36 years s/o Shri Rameshwar Prasad, P.A. Kheri H.O.
10. Sita Ram aged 46 years, s/o Shri Saktoo, SPM Sankata Devi, Kheri.
11. Ahmad Husain aged 46 years, s/o Shri Manna SPM Nai Basti, Kheri.
12. S.S.Misra, Sub Postmaster, Lakhimpur Kheri.
13. Gargi Nandan Verma, P.A. Import Kheri.
14. Ram Dular, Postal Assistant, Mahewaganj, Kheri.

..... Applicants

Versus

1. Union of India, through the Secretary to the Ministry of Communications, Department of Posts, New Delhi.
2. Postmaster General, Bareilly.
3. Superintendent of Post Offices, Kheri Division, Kheri.
4. Postmaster Head Post Office, Kheri.

..... Opp. parties

1. Details of application :

Particulars of orders against which the application is made.

The application is directed against the arbitrary

Ahmad Husain

and illegal orders of dies non and recovery passed by the Supdt. of Post Offices, Kheri as detailed below.

i) B/B.N.Srivastava dated 24.7.90	Annexure I
ii) B/Ganga Prasad dated 24.7.90	" II
iii) B/Vikram Verma dated 24.7.90	" III
iv) B/Maiku Lal dated 24.7.90	" IV
v) B/J.P.Verma dated 24.7.90	" V
vi) B/Ramesh Chandra dated 24.7.90	" VI
vii) B/Atma Ram dated 24.7.90	" VII
viii) B/Sita Ram dated 24.7.90	" VIII
ix) B/Ahmad Husain dated 24.7.90	" IX
x) B/S.S.Misra dated 24.7.90	" X
xi) B/G.W.Verma dated 24.7.90	" XI
xii) B/Ram Dula-r dated 24.7.90	" XII

2. Jurisdiction of the Tribunal

The applicants declare that the subject matter of the orders against which they want redressal is within the jurisdiction of this Tribunal.

3. Limitation :

The applicants further declare that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the case

a) That this application is intended to seek remedy against the orders passed by SPOs Kheri in a stereotyped manner treating the period from 30.3.90 to 3.4.90 as dies non and enforcing recovery for the amount already paid. True copies of these orders are annexures A-1 to A-12.

b) That the applicants nos. 1 to 2 are registered and recognised Trade Unions of Class III and other employees of Postal Department of Union of India respondent no. 1 working under the Ministry of Communication, Department of Posts. The employees of respondent no. 1 working in the Postal Division, Kheri including Class III, employees, Postmen, Class IV employees, and class IV employees are also governed by the Industrial Dispute Act 1947. The applicants Union 1 & 2 are registered Unions under the Trade

Ahmad Husain

Union Act of 1926 and are also recognised by the respondents. In all official functions and meetings of the applicants Union no. 1 & 2, all members who participate such functions and meetings are granted leave officially besides other privileges. The applicants Unions nos. 1 and 2 are body corporate having perpetual succession and a common seal empower among other things to sue and to be sued. The main function of the Unions is to protect and safeguard the interest of their members and to look after their welfare and to establish a harmonious relation between the employees and the employers. The applicants nos. 3 to 14 besides others are the members of the Unions..

c) That one of the members of the Union, applicant no. 1 Shri S.N.Singh Yadav while working as Sub Postmaster Maigalganj, became a victim of Dacoity in the night of 24.3.90/25.3.90 and while protecting the loot of Government cash, he was murdered. The police did not take appropriate action on the F.I.R. filed with them and in complicity with the departmental officers, they tried to hush up the matter which created a sensation and agitation amongst the employees and a grave apprehension in their mind that their life and property were not safe and they could be done away with any time, and the department shall be a silent spectator. The applicants nos. 1 and 2 besides others, therefore, served a notice dated 26.3.90 on the respondent no. 2, demanding that :

- i) The murderers of Shri S.N.Singh Yadav SPM Maigalganj, Kheri be got arrested immediately.
- ii) The safety of Postal employees be ensured.
- iii) Arrangement for armed Chowkidar and police be made day and night at all Post Offices.

A true copy of the demand notice dated 26.3.90 served jointly by the applicants nos. 1 & 2 besides others on the respondent no. 2 is Annexure A-13.

d) That the respondent no. 2 little realising

Ahmad Hussain

the gravity of the situation, did not respond to the said demand notice and the sense of insecurity, apprehension and injury was growing amongst the members of the applicants Unions. The applicants Unions, therefore, served another demand notice dated 28.3.90 on the respondent no. 2, endorsing it copies to various other authorities including Chief Postmaster General, U.P., Lucknow, Postmaster General, Bareilly and the Minister for Communication, Government of India, New Delhi. It was demanded in this notice that (i) concerned dacoits and murderers be arrested atonce (2) The Station Officer of P.S.Maigalganj be suspended (3) The matter be got investigated impartially by C.B.I. and the authorities showing apathy in the matter be punished (4) All the Post Offices of the District be provided with armed guards (5) The security of all employees of the District be ensured and (6) closed iron cabins be made at the cash counter in all the Post Offices for the purposes of security.

The respondent no. 2 was specifically told that if the demand made by the Unions/applicants no. 1 and 2 and others were not fulfilled by 29.3.90 the entire staff of District Kheri would go on indefinite strike w.e.f. 30.3.90 morning 6.30 a.m., and the entire responsibility for all the consequences would be on the District Administration. The respondent no. 2 did neither take any action nor did he respond to the said notice served on him by the Unions. A true copy of this notice is Annexure A-14.

e) That neither the respondent no. 2 nor any other authority took any action to ease the situation of unrest, apprehension and fear to life and property caused by the sudden killing of Shri S.N.Singh Yadav by the dacoits and looting of the Government Cash by them. The applicants and other employees, therefore, needed adequate protection, security and safety for their lives and property to work efficiently in a carefree manner, but as nothing was done

Shri S.N. Singh Yadav

by the respondent no. 2, a sense of frustration, horror and fear crept in the minds of the employees who thought ~~rather~~ to be on leave than to perform their duty in a upset state which would be fraught with serious consequences. As a result of a number of officials of Head Post Office Kheri, and some of the Town and Sub Offices, proceeding on leave resulted that no transaction could be done with such of the Sub Offices who entirely depended for receipt and despatch of mails on their parent and account offices. The result was that the work got paralysed due to apathy and inaction on the part of respondents nos. 2, 3 and 4.

f) That the respondents nos, 2, 3 and 4 in order to hide their own failings, have started victimisation prejudicially and arbitrarily without giving any notice and opportunity of hearing against natural justice. So far they have victimised the applicants nos. 3 to 14 by treating the period of their absence from duty from 30.3.90 to 3.4.90 as dies non for all purposes and also by recovery from their pay of the amounts paid as wages for the period from 30.3.90 to 3.4.90 by impugned orders as Annexures A-1 to A-12.

g) That the alleged absence from duty from 30.3.90 to 3.4.90 was never declared as illegal by the respondents. The respondents have no right to cut the wages and treat the period in question as dies non in an arbitrary, biased and prejudicial manner. The effect of the term 'dies non' has also not been disclosed, detailed or defined in the impugned orders. No punitive action can be taken against the applicants without a show cause notice and hearing, which has been denied to the applicants in the instant case.

h) That the penalties prescribed in CCS(CCA) Rules 1965 do not include the penalty of 'dies non' in service and wage cut and in view of this matter, the applicants

Alimad Husan

A/21

- 6 -

have been penalised in an arbitrary manner not provided by law and the action of the respondents is perverse, malicious and illegal. The respondents are under a legal obligation not to take any penal action against the employees without issuing a show cause notice and affording reasonable opportunity of hearing.

i) That it appears that the action regarding treating the period as dies not and recovery of wages has been prompted by the respondents under FR-17 and proviso to FR 17(1). But the stand taken by the respondents is wrong and illegal and no penalty can be imposed without show cause notice and affording opportunity of hearing. In a similar case Writ Petition no. 3728 of 1982 Chandra Bhan Tripathi Versus Union of India and others decided on 25.1.83 by the Lucknow Bench of Allahabad High Court, it was held that the employee is to be told or informed of the consequences and action can be taken after affording reasonable opportunity of hearing. An extract of relevant paras 5, 6 and 7 from the said order dated 25.1.83 is annexed as Annexure no. A-15.

j) That the penalty ordered to be imposed by the respondents is not one of the specified penalties under the Rules and as such the applicants have no right to appeal. They have no other remedy except to file this application before this Tribunal. The illegal action has been taken on a mass basis with arbitrariness, partiality and prejudiceness, it would therefore, be expedient to file a joint application for convenience and in the interest of justice and accordingly this joint application is being filed for the redressal of grievance, before this Hon'ble Tribunal.

5. Grounds for relief with legal provisions :

- a) Because the dies non and wage cut is not a prescribed penalty under the Rules.
- b) Because the employees of the respondents are

Ahmad Husam

civil servants and are entitled to the protection of Article 311(2) of Constitution of India.

c) Because the action for dies non and wage cut has been taken without issuing any show cause notice and affording opportunity of hearing.

d) Because the respondents are under a legal obligation not to take any action against their employees without issuing a show cause notice and giving reasonable opportunity of hearing.

e) Because the respondents have failed to discharge their lawful duty before penalising the applicants by their orders of dies non and wage cut, without any authority of law.

f) Because the respondents failed in their duty and ignored to take action when notices were served by the applicants no. 1 and 2.

g) Because the respondents have violated the provisions of Article 311(2) of the Constitution.

h) Because the rules of natural justice have been violated and action has been taken against all the cannons of justice, equity and fair play.

i) Because the action taken by the respondents is unjust, perverse, arbitrary, unwarranted, biased, prejudicial and illegal.

6. Details of the remedies exhausted

No departmental remedy lie in the matter as the dies non and wage cut are not the prescribed and recognised penalties as contained in Rules and as such no appeal can be made.

7. Matter not previously filed or pending with any other Court

The applicants further declare that they had no previously filed any application, writ petition or suit regarding the matter in respect of which this application

Muhammad Husam

has been made, before any court or any other authority or any other Bench of the Tribunal, nor any such application writ petition or suit is pending before any of them.

8. Reliefs sought

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

- i) That the impugned orders dated 24.7.90, (Annexures A-1 to A-12) be declared as unjust, unwarranted, irregular and illegal and accordingly be quashed.
- ii) That the cost of the case be allowed in favour of the applicants.
- iii) That any other order deemed just and proper in the circumstances of the case be passed in favour of the applicants.

9. Interim order prayed for :

It is most respectfully prayed that during the pendency of the case, the impugned orders (Annexure A-1 to A-12) be stayed and an ad-interim order to the same effect be passed immediately and the respondents be directed not to penalise any member of applicants Unions no. 1 & 2.

10. The application shall be presented personally through the applicants' Counsel Shri M. Dubey.

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

- a) No. of the postal order : 02 467803
- b) Name of the issuing Post Office with date : *Mehar GPO 27.8.90*
- c) Name of the Post Office where payable : ... Allahabad G.P.O.

12. List of enclosures :

Annexures A-1 to A-14 as detailed in the Index.

Applicants

- Ahmad Husain*
1. Secretary BBKS Ahmad Husain
- M. R. Gautam*
2. Secretary NU M. R. Gautam

- 9 -

3. ~~B.N.~~ *B.N. Srivastava*
Ganga Prasad
 4. Ganga Prasad
Vikram Verma
 5. Vikram Verma
Maikoo Lal
 6. Maiku Lal
J.P. Verma
 7. J.P. Verma
R. Srivastava
 8. Ramesh Chandra Srivastava
Atma Ram
 9. Atma Ram
Sita Ram
 10. Sita Ram
Ahmad Husain
 11. Ahmad Husain
S.S. Misra
 12. S.S. Misra
Gargi Nandan Verma
 13. Gargi Nandan Verma
Ram Dular
 14. Ram Dular

LUCKNOW

Dated : 26.8.90

M. Duley Adv.

VERIFICATION

We, the abovenamed applicants do hereby verify that the contents of paras 1 to 4, 6 and 10 to 12 are true to our knowledge and paras 5, 8 and 9 are believed to be true on legal advice and that we have not suppressed any material fact.

Signature of applicants

7. J.P. Verma *J.P. Verma*
 8. Ramesh Chandra Srivastava *R. Srivastava*
 9. Atma Ram *Atma Ram*
 10. Sita Ram *Sita Ram*
 11. Ahmad Husain *Ahmad Husain*
 12. S.S. Misra *S.S. Misra*
 13. Gargi Nandan Verma *Gargi Nandan Verma*
 14. Ram Dular *Ram Dular*
1. Ahmad Husain *Ahmad Husain*
 2. M.L. Gautam *M.L. Gautam*
 3. ~~B.N.~~ *B.N. Srivastava*
 4. Ganga Prasad *Ganga Prasad*
 5. Vikram Verma *Vikram Verma*
 6. Maiku Lal *Maikoo Lal*

LUCKNOW

10

(10) A/25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
O.A. NO. OF 1990
Shartiya Dak Marmchari Sangh, Kheri & Others ... Applicants
V e r s u s
Union of India & others ... Respondents.
A N N E X U R E NO. 'A' - 1

Memorandum No. B.N. Srivastava ... Dated at Kheri the, 24.7.90

Shri B.N. Srivastava S.M. Mahavagany ... remained absent
from duty without prior permission from 30.3.90 to
...3.4.90

It is, therefore, ordered that the period of
absent absence from duty of Smt. B.N. Srivastava
w.e.f. 30.3.90 to 3.4.90 is true and non
for all purposes.

Supdt. of Postoffices,
Kheri Dn. Kheri-260001.

Copy to:-

1. Smt. B.N. Srivastava S.M. Mahavagany
2. Postmaster Kheri for taking necessary action as per
proviso to F.R. 47(1).
3. A) O/C & spare.

Ahmed Musain

Attested
True copy
M. Dubey
Rd

11

(11) (A/26)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
O.A. NO. OF 1990
Bhartiya Dak Marmchari Sangh, Kheri & Others ... Applicants
V e r s u s
Union of India & others ... Respondents.
A N N E X U R E NO. 'A' - 2

OFFICE OF THE SUPERINTENDENT OF POSTOFFICES, KHERI, DN. KHERI-262701
Memo No. B/Gango Prad. Dated at Kheri the, 24.7.90

Shri. Gango Prasad Achh. Kheri No remained absent
from duty without prior permission from 30.3.90 to 3.4.90

It is, therefore, ordered that the period of
absent absence from duty of Shri. Gango Prasad
w.e.f. 30.3.90 to 3.4.90 is treated as dies non
for all purposes.

Supdt. of Postoffices,
Kheri, DN. Kheri-262701.

Copy to:-

1. Shri. Gango Prasad Achh. Kheri No
2. Postmaster Kheri for taking necessary action as per
proviso to F.R. 17(1).
- 3-4) O/C & spare.

Ahmad Hussain

M. D. Khan
True copy
M. D. Khan
10/11

(12) A127

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
O.A. NO. OF 1990
Bhartiya Dak Marmchari Sangh, Kheri & Others Applicants
V e r s u s
Union of India & others Respondents.
A N N E X U R E NO. 'A' 3

... ..
... ..
B/Vikram Verma at Kheri the, 24.7.90

Shri Vikram Verma P/A Kheri HO
from duty without prior permission from 30.3.90 to
3.4.90

It is, therefore, ordered that the period of
absent absence from duty of Shri Vikram Verma
w.o.P. 30.3.90 to 3.4.90 is treated as non
for all purposes.

Supdt. of Postoffices,
Kheri In. Kheri-250701.

Copy to:-

1. Shri Vikram Verma P/A Kheri HO
2. Postmaster Kheri for taking necessary action as per
proviso to P.R. 17(1).
- 3-4) O/C & spare.

Ahmad Husain

Attended
true copy
M. Duker
Babu

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
 O.A. NO. OF 1990
 Bhartiya Dak Marmchari Sangh, Kheri & Others ... Applicants
 V e r s u s
 Union of India & others ... Respondents.
ANNEXURE NO. 'A' 4

STATE OF UTTAR PRADESH
 DISTRICT OF KHERI, DISTRICT OFFICE, KHERI, DISTRICT-262701.
 Memo No. B/Maiku Lal Dated at Kheri the, 24.7.90

 Shri. Maiku Lal P/A Kheri Ho remained absent
 from duty without prior permission from 30.3.90 to
3-4-90

It is, therefore, ordered that the period of
 absent absence from duty of Shri Maiku Lal
 u.e.f. 30.3.90 to 3-4-90 is treated as dies non
 for all purposes.

Sh
 Supdt. of Postoffices,
 Kheri Dist. Kheri-262701.

Copy to:-

1. Shri Maiku Lal P/A Kheri Ho
2. Postmaster Kheri for taking necessary action as per
 proviso to F.R. 17(1).
- 3-4) O/C & spare.

Ahmad Husain

*Noted
 True copy
 M. Dubey
 Adv*

14

(14) (12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
 O.A. NO. OF 1990
 Bhartiya Dak Marmchari Sangh, Kheri & Others ... Applicants
 V e r s u s
 Union of India & others ... Respondents.
A N N E X U R E NO. 'A' - 5

Case No. Bt J.P. Verma ... Dated at Kheri the, 24.7.90

 Shri J.P. Verma A.c.Off. D.O. Kheri remained absent
 from duty without prior permission from 30.3.90 to
3.4.90

It is, therefore, ordered that the period of
 absent absence from duty of Shri J.P. Verma
 w.e.f. 30.3.90 to 3.4.90 is treated as dies non
 for all purposes.

Sh
 Supdt. of Postoffices,
 Kheri Dn. Kheri-262701.

Copy to:-

1. Shri J.P. Verma A.c.Off. D.O. Kheri
2. Postmaster Kheri for taking necessary action as per
 proviso to P.k. 47(1).
- 3-4) O/C & spare.

Ahmad Husam

Witnessed
True g/h
M. Duhup
10.11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
O.A. NO. OF 1990
Bhartiya Dak Marmchari Sangh, Kheri & Others Applicants
V e r s u s
Union of India & others Respondents.
A N N E X U R E NO. 'A' - 6

11.11.70
B1. Ramesh Chandra on 24.7.70

Ramesh Chandra Srivastava was examined about
from duty on 30.3.70
3.4.70
Some records that the period of

It is, therefore, ordered that the period of
absentee from duty of Sm. Ram Lal Chaudhary Srinivasa
from 2-3-90 to 3-4-90 be treated as leave non
for 10 days.

Supdt. of Postoffices,
 Wash. D. C. 20541.

Co py / 19 :-

- Copy to:-
 1. Ramesh Chandra Srinivasa P/A Khew 40
 2. District Khew for taking necessary action as per
 proviso to P.A. (a).
 3. O/C & spare.

Armal Hussain

Messed
- true why
M. Duckert
Dad

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
O.A. NO. OF 1990
Bhartiya Dak Marmchari Sangh, Kheri & Others ... Applicants
V e r s u s
Union of India & others ... Respondents.
A N N E X U R E NO. 'A'

RECEIVED
POSTMASTER, KHERI, DIST. KHERI-262701
Recd. To B. Atma Ram Dated at Kheri the, 24.7.90

Shri Atma Ram P/A Kheri Ho. remained absent
from duty without prior permission from 30.3.90 to
3.4.90

It is, therefore, ordered that the period of
absent absence from duty of Shri Atma Ram
w.e.f. 30.3.90 to 3.4.90 is treated as dies non
for all purpose.

[Signature]
Supt. of Postoffices,
Kheri Dist. Kheri-262701.

Copy to:-

1. Shri Atma Ram P/A Kheri Ho.
2. Postmaster Kheri for taking necessary action as per
proviso to P.R. 17(1).
- 3-4) O/C & spare.

Ahmad Husam

Attested
True & My
M. Duker
BKV

17

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW

O.A. NO. OF 1990

Shartiya Dak Marmchari Sangh, Kheri & Others Applicants

V e r s u s

Union of India & others Respondents.

A N N E X U R E NO. 'A' - 8

OFFICE OF THE SUPDT. OF POSTOFFICES, KHERI, Dist. KHERI-262701.

Mem. No. 121 / Sito Ram Dated at Kheri, the, 24.7.90

Shri Sito Ram SPM Sankto Devi Tso remained absent from duty without prior permission from 30.3.90 to 3.4.90

It is, therefore, ordered that the period of absent absence from duty of Sri Sito Ram w.e.f. 30.3.90 to 3.4.90 is treated as dies non for all purposes.

Supdt. of Postoffices,
Kheri Dist. Kheri-262701.

Copy to:-

1. Sri Sito Ram SPM Sankto Devi Tso.
2. Postmaster Kheri for taking necessary action as per proviso to F.R. 17(1).
- 3-4) O/C & spare.

Ahmad Husain

Attested
True copy
M. Dikump
WdV

18

(18)
A/33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW

O.A. NO. OF 1990

Shartiya Dak Marmchari Sangh, Kheri & Others Applicants

V e r s u s

Union of India & others Respondents.

A N N E X U R E NO. 'A' - 9

1. Sri. Ahmad Husain at Kheri, the, 24.7.90

Sri. Ahmad Husain. S.P.M. Nai Basti TSO

from duty without prior permission from 30.3.90 to 3-4-90

It is, therefore, ordered that the period of absent absence from duty of Sri. Ahmad Husain w.e.f. 30.3.90 to 3-4-90 is treated as dis non for all purposes.

Sh

Supdt. of Postoffices,
Kheri D. Kheri-262701.

Copy to:-

1. Sri. Ahmad Husain SPM Nai Basti TSO
2. Postmaster Kheri for taking necessary action as per proviso to F.A. C(1).
3. 4) C/C & spare.

Ahmad Husain

Attested
True copy
M. Dulair
12/7

A/34/19

15

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
O.A. NO. OF 1990
Bhartiya Dak Marmchari Sangh, Kheri & Others ... Applicants
V e r s u s
Union of India & others ... Respondents.
A N N E X U R E NO. 'A' 10

~~IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW~~
~~O.A. NO. OF 1990~~
~~Bhartiya Dak Marmchari Sangh, Kheri & Others ... Applicants~~
~~V e r s u s~~
~~Union of India & others ... Respondents.~~
~~A N N E X U R E NO. 'A' 10~~

12/SS.Misra.....dated at Kheri the, 24.7.90

Sri SS.Misra. S.P.M. Lakhimpur - Kheri
from duty without prior permission from 30.3.90 to
3.4.90

It is, therefore, ordered that the period of
absent absence from duty of Smt. SS Misra
from 30.3.90 to 3.4.90 is treated as dies non

Supdt. of Postoffices,
Kheri M. Kheri-262701.

Copy to:-

1. Smt. SS Misra, S.P.M. Lakhimpur - Kheri
2. Postmaster Kheri for taking necessary action as per
proviso to F.R. 17(1).
- 3-4) O/C & spare.

Ahmed Husani

Attested
True copy
M. Dahiya
18/7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
O.A. NO. OF 1990
Shartiya Dak Marmchari Sangh, Kheri & Others ... Applicants
V e r s u s
Union of India & others ... Respondents.
ANNEXURE NO. 'A' - 11

Recd on 26/7/90 Kheri RL 2516
25/7/90

OFFICE OF THE Supt. of Postoffices, KHERI D. KHERI-262701

Mem No. B/G.N. Verma ... Dated at Kheri the, 24.7.90

Shri Gargi Nandan Verma P/A Lmp. Kheri remained absent
from duty without prior permission from 30-3-90 to 3-4-90

It is, therefore, ordered that the period of
absent absence from duty of Sri Gargi Nandan Verma
w.e.f. 30-3-90 to 3-4-90 is treated as dies non
for all purposes.

bb
Supt. of Postoffices,
Kheri D. Kheri-262701.

- Copy to:
1. Sri Gargi Nandan Verma P/A Lmp. Kheri
 2. Postmaster Kheri for taking necessary action as per
proviso to F.R. (11).
 3. 4) O/C & spare.

Ahmad Husain

Altered
True *my*
M. Dubey
WV

2/

(A/36) (21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW
 O.A. NO. OF 1990
 Bhartiya Dak Marmchari Sangh, Kheri & Others ... Applicants
 V e r s u s
 Union of India & others ... Respondents.
A N N E X U R E NO. 'A' 12

1. Mr. B. Ram Dular, P/O, Kheri Dist. Kheri-262701, ...
 ... dated at Kheri the, 24.7.90

2. Mr. B. Ram Dular, P/O, Kheri Dist. Kheri-262701, ...
 ... remained absent
 from duty ... 30.3.90 to 3.4.90
 at Kheri Hq.

It is, therefore, ordered that the period of
 absent absence from duty of Mr. B. Ram Dular
 from 30.3.90 to 3.4.90 is treated as dies non
 for all purposes.

Sd/-
 Supt. of Postoffices,
 Kheri Dist. Kheri-262701.

- Copy to:-
1. Mr. B. Ram Dular, P/O, Kheri Dist. Kheri-262701.
 2. Postmaster Kheri for taking necessary action as per
 proviso to P.R. 17(1).
 - 3-4) O/C & spare.

Attested
 true copy
 M. Duleep
 WdW

11/37

ब अदालत श्रीमान

CAT Circuit Bench, Mchhuw

महोदय

[वादी] अपीलान्त

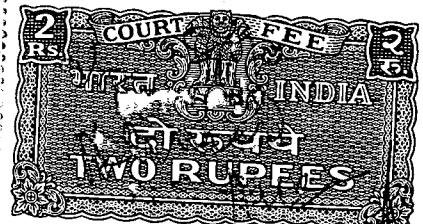
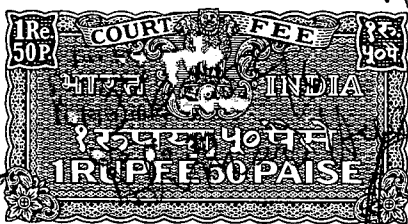
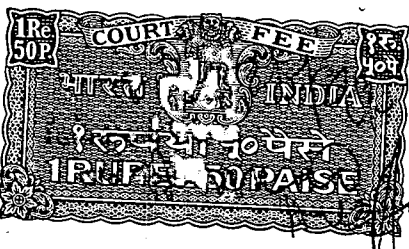
Bharliya Dak Karmchari Sangh

प्रतिवादी [रेस्पान्डेन्ट]

श्री

Kheri & others

का वकालतनामा



Bharliya

Dak Karmchari Sangh Kheri & others

बनाम

Kheri & others

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

पेशी की ता०

१६

ई०

उपर लिखे मुकदमा में अपनी ओर से श्री

B. Solomon Adv High Court

Mchhuw + M. Duley, Adv, 4th lane,

Nanday

Ganeshgaur, Mchhuw

महोदय एडवोकेट

नाम अदालत	मुकदमा नं० नाम	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 अपबे 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 रहूँगा छपर 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 जाम आबे।

(12) SS Mishra CP J. Verma (1) Ahmad Hasan Seelji
 (13) G. Verma (2) N. Srinivasan m. L. Gauran Seelji
 (14) Ram Duley (3) Atina Rao (4) B. V. Srinivasan
 हस्ताक्षर
 (15) Sita Ram (16) Ganga Prasad
 (17) Ahmad (18) S. Srinivasan Verma
 साक्षी (गवाह) (19) Marikoo Lue साक्षी (गवाह)

दिनांक 26 महीना 8 सन् १९९६ ई०
 1. B. Solomon Adv
 2. M. Duley Adv

1. मिला उपरोक्त शीर्ष

2. उपडाकपाल मैगलगंज डकैती में हत्या

महोदय,

श्री एस. एन. सिंह यादव मैगलगंज उपडाकघर में उपडाकपाल केपद पर कार्यरत थे और डाकघर के ही निवास में अकेले रहते थे। दिनांक 24.3.90 से 25.3.90 के मध्य जबकि वे अपने निवास में थे और डाक घर बंद था तभी डाकघर लूटने के उद्देश्य से उनकी हत्या कर दी गयी जिसकी विधिवत रिपोर्ट वहाँ के स्टाफ द्वारा दि० 25.3.90 को स्थानीय पुलिस थाने में की जा चुकी है तथा उक्त श्री यादव के मृत शरीर को पोस्टमार्टम के बाद सीतापुर में हमारे स्टाफ द्वारा अंतिम संस्कार कर दिया गया है। पुलिस द्वारा किसी भी डकैत या हत्यारे को अब तक पकड़ा नहीं गया है तथा स्थानीय पुलिस डाक प्रशासन से मिलकर डकैती के स्पष्ट मामले को भिन्न रूप देकर दबाने का प्रयत्न कर रही है जो हम संघों के लिये चिंता का विषय है। घटना के हालात स्पष्ट रूप से इंगित करते हैं कि उस दिन डाकघर में जमा भारी रकम को ही लूटने के उद्देश्य से डकैत जीर्ण जीर्ण आवसस में पीछे से न जाकर सामने से डाकघर में कुंडी आदि तोड़ कर घुसे थे और तोड़ फोड़ सुनकर जब उपडाकपाल श्री यादव ने हस्तक्षेप किया तो पहचान लिये जाने के डर से उनकी निर्मम हत्या कर दी गयी। यदि डाकघर में चौकीदार होता तो संभवतः घटना टल जाती। अतः पुलिस एवं डाक विभाग की महान उदासीनता ही डकैती एवं हत्या का मात्र कारण है। उक्त डकैती एवं निर्मम हत्या से मण्डल के समस्त डाक कर्मचारियों में भय व्याप्त है और वे अपनी असुरक्षा के प्रति घोर चिंतित एवं भयभीत हैं। अतः हम संयुक्त संघों की मांग है कि :-

1. हत्यारों को तुरंत पकड़ा जाये।
2. हम डाक कर्मचारियों की सुरक्षा सुनिश्चित की जाये।
3. मण्डल के समस्त डाकघरों में रात दिन सशस्त्र चौकीदार एवं पुलिस की व्यवस्था की जाये।

यदि हमारी उपरोक्त तीनों मांगों को एक सप्ताह के अंदर अर्थात् 2.4.90 तक पूरा न किया गया तो हम दिनांक 3.4.90 से "काम रोक" हड़ताल पर चले जायेंगे तथा इसके पूर्व प्रतिदिन धरना एवं प्रदर्शन द्वारा अपनी मांगों को पूरा कराने का प्रयत्न करते रहेंगे।

Shamshul Husein

1. डाक अधीक्षक खीरी

2. थाना अध्यक्ष थानासैगलाल खीरी

3. जिलाधिकारी खीरी

4. चीफ पोस्ट मास्टर जनरल 3090 लखनऊ

5. निदेशक डाक सेवार्थें बरेली

6. पी. एम. जी. बरेली

7. जनरल सेक्रेटरी नई दिल्ली

8. सर्किल सेक्रेटरी 3090 लखनऊ

9. समस्त उपडाकपाल खीरी मण्डल

10. अन्य

एम. एल. मोतम

नेशनल यूनियन खीरी

भारतीय डाक कर्मचारी संघ खीरी

छन्नु लाल धरिया

राजेश कुमार

भारतीय ई. डी. यूनियन खीरी

भारतीय डाक कर्मचारी संघ वर्ग - 4
खीरी

दिनांक : 26.3.90

Shamshur Rahman

Shamshur Rahman

Shamshur Rahman

सेवा में,

अधीक्षक डाकघर,

छीरी मण्डल, छीरी-262701

विषय:- मेगलगंज उप डाकघर में डैक्ती एवं उप डाकपाल श्री एस0एस0एसिंह यादव की अपराधियों द्वारा निर्भय हत्या।

महोदय,

कृपया उपरि विषयान्वित मामले में हमारे सभी संघों द्वारा दिए गए पूर्व ज्ञापनों का संदर्भ लेने का कष्ट करें। ज्ञातव्य है कि दिनांक 24 व 25 मार्च की रात्रि में कुछ अज्ञात अपराधियों द्वारा हमारे एक बहुत ही सरलचित्त साथी श्री एस0एस0एसिंह यादव की मेगलगंज डाकघर भवन में नृशंस हत्या कर दी गयी है। श्री एस0एस0एसिंह यादव मेगलगंज उप डाकघर में उप डाकपाल के पद पर कार्यरत थे और डाकघर में ही स्थित उप डाकपाल निवास में अकेले रहते थे। दिनांक 21 से 24 मार्च 1990 के मध्य मेगलगंज उप डाकघर में अल्पवयस योजना के अन्तर्गत लगभग एक लाख रुपये जमा हुए। इसकी अनेक अपराधियों को लग गयी और उसी धन की लूट के उद्देश्य से अज्ञात डैक्ती दिनांक 24 व 25 मार्च 1990 की रात्रि में योजनाबद्ध तरीके से उप डाकघर भवन में सामने से मुख्य द्वार को तोड़कर घुसे और डाकघर में लूटपाट करने लगे। छटपट व शोर शराबा सुनकर जब उप डाकपाल श्री यादव ने उनके कार्य में हस्तक्षेप किया तो अपना रास्ता साफ करने के लिए उन दुर्दान्त डैक्ती ने उनकी निर्भय हत्या कर दी। इस सम्पूर्ण घटनाक्रम में विशेष ध्यान देने योग्य बात यह है कि मेगलगंज उप डाकघर के समीप ही स्थानीय पुलिस की एक बैरियर चौकी स्थित है परन्तु इतनी बड़ी घटना की भी चौकी पर कार्यरत पुलिस वालों ने नजर अन्दाज किया और मूकदर्शक बने रहे। सन्दर्भित डैक्ती एवं हत्या के बाद उप डाकघर का मेन गेट रविवार 26.3.90 को सायंकाल 3 बजे तक उसी प्रकार खुला पड़ा रहा लेकिन पुलिस ने कोई कार्यवाही नहीं की। वरन् इसके विपरीत पुलिस को जब इस घटना की सूचना हमारे एक डाककर्मी 1 जो किसी कार्यवशा डाकघर उस दिन पहुंच गया था 2 द्वारा दी गई तो पुलिस ने अपेक्षित कार्यवाही न करके आनन-फानन में मामले को रफा दफा कर दिया। यह बात ही अपने में इस तथ्य का स्पष्ट प्रमाण है कि स्थानीय पुलिस को उक्त डैक्ती के बारे में पूर्ण जानकारी थी और उसने हत्यारों को अपने किया क्लापों द्वारा पूरा संरक्षण प्रदान दिया। इस तथ्य का एक प्रमाण यह भी है कि हत्यारों को मेगलगंज पुलिस ने अब तक गिरफ्तार नहीं किया है तथा डाक प्रशासन से मिलीभगत करके उक्त मामले को भिन्न रूप देकर दबाने का निरन्तर प्रयत्न कर रही है। जो कि समस्त संघों के लिए एक चिन्ता का विषय है क्योंकि जनपद के समस्त डाकघरों के कर्मचारियों में असुरक्षा के प्रति असन्तोष एवं भय व्याप्त है। अतः समस्त डाकसंघ इस मामले में सीधी कार्यवाही करने हेतु बाध्य हैं।

अतः हम अपने इस परिपत्र के माध्यम से आपको यह सूचित करते हैं कि यदि हमारी निम्नांकित मांगों को दिनांक 29.3.90 तक न पूरा किया गया तो हम छीरी जनपद के समस्त डाक कर्मचारी दिनांक 30 मार्च 1990 प्रातः 6.30 से अनिश्चित कालीन हड़ताल पर चले जायेंगे जिसके दुष्परिणामों का पूर्ण उत्तरदायित्व डाक प्रशासन एवं जिला प्रशासन का होगा :-

क्रमशः पेज 2.....पर

Ahmed Hussain

हमारे...

- ११॥ मामले से सम्बन्धित डकैतों एवं हत्यारों को तुरन्त गिरफ्तार किया जाय,
- १२॥ भैरलगंज पुलिस थाने के प्रभारी अधिकारी को अविलम्ब निरीक्षण किया जाय;
- १३॥ उक्त मामले की केन्द्रीय जांच ब्यूरो द्वारा तुरन्त निष्पक्ष जांच करायी जाय और मामले में उदासीनता बरतने हेतु दोषी पाये गये अधिकारियों के विरुद्ध कठोर कार्यवाही की जाय ।
- १४॥ जनपद के समस्त डाकघरों में सशस्त्र सुरक्षा कर्मियों की तुरन्त नियुक्ति की जाय ,
- १५॥ जनपद के समस्त डाक कर्मचारियों की सुरक्षा सुनिश्चित की जाय
- १६॥ सभी डाकघरों में देश काउन्टर पर सुरक्षा की दृष्टि से क्लोज्ड आयरन कीबन्स का निर्माण कराया जाय ।

भवदीय,

मंत्रीगण, समस्त डाकतंत्र, खीरी मण्डल

प्रतीतिपः - निम्नांकित को सूचनार्थ एवं अविलम्ब आवश्यक कार्यवाही हेतु प्रेषितः -

१. जिला अधिकारी, खीरी
२. पुलिस अधीक्षक खीरी
३. प्रभारी अधिकारी थाना भैरलगंज, खीरी
४. चीफ पोस्टमास्टर जनरल उ०प्र०लखनऊ
५. पोस्टमास्टर जनरल बरेली प्रक्षेत्र, बरेली
६. सभी प्रान्तीय मंत्री डाकतंत्र उ०प्र०पौरमण्डल
७. सभी जनरल सेक्रेटरी डाकतंत्र केन्द्रीय मुख्यालय नईदिल्ली
८. संचार मंत्री भारत सरकार, नईदिल्ली
९. मुख्य मंत्री उत्तर प्रदेश शासन लखनऊ
१०. सभी स्थानीय संवाददाता प्रान्तीय समाचार पत्रों के
११. सभी उप डाकघर, खीरी मण्डल को इस आशय से प्रेषित कि यदि दिनांक २९.३.९० सायंकाल तक उन्हें मुख्यालय से प्रस्तावित हड़ताल वापसी से संबंधित कोई सूचना प्राप्त न हो तो वे दृमया निरधारित तिथि ३०.३.९० से अपने पूरे स्टाफ सहित अनिवार्यतः कालीन हड़ताल पर चले जाय और मुख्यालय से बराबर सम्पर्क बनाये रहें ।

अहमद हुसैन २९/३

रमेश गोतम २९/३

आर० एल० मिश्र २९/३

छन्नुलाल धीरया २९/३

राजेश कुमार २९/३

(रुच. रन. शुनल)

Ahmad Husain

M. J. D. 29/3

26

(26) 1/42

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

O.A. No. of 1990

Bhartiya Dak Karmachari Sangh, Kheri & others ... Applicants

Versus

Union of India & others

... Respondents

ANNEXURE - 15

Extract from judgement in Writ Petition 3728 of
1982 decided on 25.1.1983. (Chandra Bhan Tripathi Versus
Union of India & others).

- - - - -

Para 5 : Now what is the significance of the words

"shall be deemed" and "unless decided by a competent authority". According to the learned counsel for the Union of India, in view of these words, it is open to the employee to represent against the action taken through Annexure no. 8. We are unable to accept the submission. The argument puts the cart before the horse. What the learned counsel is suggesting is first punish and then hear. This, in our opinion is not the principle of natural justice. Principles of natural justice contemplate hearing before punishment. In our opinion the words relied upon by the learned counsel only prescribe a rule of onus. In view of the words hereinbefore mentioned the onus is on the employee to place before the competent authority relevant facts on the basis of which he claims that the period of alleged absence may not be treated as interruption or break in service. But this he is required to do only when opportunity of hearing is provided to him by issuing him show cause notice and not by way of representation against the punishment which has already been imposed.

Para 6 : Our attention was drawn to Government of India's instructions in regard to action for unauthorised absence from duty. The instructions collected in Swamy's compilation of C.C.S. and C.C.A. Rules at page 30 are quoted below :

"If a Government Servant absents himself abruptly or applies for leave which is refused in the exigencies of service and still he happens to absent himself from duty, he should be told of the consequences, viz. that the entire period of absence would be treated as unauthorised entailing loss of pay for the period in question under proviso to Fundamental Rule 17, thereby resulting in break in service. If however, he reports for duty before or after initiation of disciplinary proceeding, he may be taken back for duty

Almas Husam

27 (2) A/43

because he has not been placed under suspension. The disciplinary action may be concluded and the period of absence treated as unauthorised resulting in loss in pay and allowances for the period of absence under proviso to F.R.17(1) and thus a break in service. The question whether the break should be condoned or not and treated as dies non should be considered only after conclusion of the disciplinary proceedings and that too after the Government servant represents in this regard."

Para 7 : The above instructions also contemplate the consequence prescribed under Rule 17-A to be applied only after the employee had opportunity of hearing. This is apparent from these observations in the instructions. he should be told of the consequences viz., that the period of absence would be treated as unauthorised... 'and'... The disciplinary action may be concluded and the period of absence treated as unauthorised.... According to these instructions the employee is to be told or informed of the consequences. The instructions are in regard to disciplinary proceedings arising from unauthorised absence. In the disciplinary proceedings itself the employee will get opportunity to place his case. The view taken by us is, therefore, in accordance with the instructions issued by the Central Government. We are, accordingly, of the view that annexure 8 is liable to be quashed as being in violation of principles of natural justice and is thus without jurisdiction. I would however, be open to the opposite parties to take appropriate action against the petitioner in respect of the alleged stoppage of work on July, 14, 1982 after affording him reasonable opportunity of hear.

Muhammad Hussain

Attested
True copy
M. Duleer
B&W

144

28

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

Misc. Application No. M.P.No. 689 of 1990 (L)
on behalf Respondents.

In

Case No. 281 of 1990

Bhadr Singh Kanungo Versus.

.... Applicant.

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

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

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

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

Lucknow :

Dated : 22-11-90

(Signature)

(Dr. Dinesh Chandra)
Counsel for the Respondents.

F.T.P. 22/11/90

(ALAS)

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

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO.3.

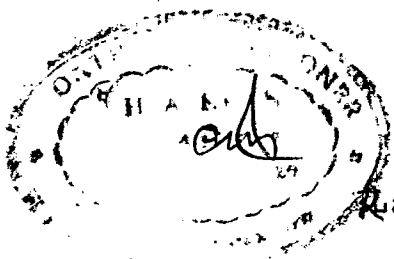
In

O.A.No. 281 of 1990.

Bhartiya Dak Kamchari Sangh, Kheri.....Applicants.
and Others.

Versus

Union of India and others.....Respondents.

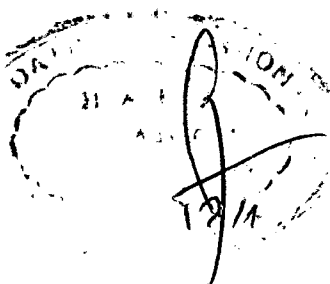


I Daya Ram aged about 53 years, son of late Shri Bachchi Ram, Superintendent of Post Offices, Kheri Division, Lakhimpur

Kheri, do hereby solemnly affirm and state as under :-

1. That the deponent has read the application filed by Bhartiya Dak Kamchari Sangh, Kheri and others and has understood the contents thereof. He is well conversant with the facts of the case deposed hereinafter.
2. That it will be worthwhile to give brief history of the case as under;-

-: BRIEF HISTORY OF THE CASE :-



Shri S.N.Singh Yadav, Sub Post Master (S.P.M.), Maigal Ganj Sub Post Office, district Kheri was murdered by some unknown persons in the night of 24/25 March 1990 after entering his residence through the main gate of the Sub Post Office by breaking open and cutting the latch. Information about the murder was communicated to the deponent at 7.20 p.m. on the same day i.e. on 25-3-90. The deponent immediately rushed to

Contd..2/-

Maigalganj alongwith the Sub-divisional Inspector(P) and Asstt. Superintendent. By then, the dead body, duly sealed was about to be sent to Sitapur^{for} postmortum. On 26-3-90 the body of the deceased was cremated.

The deonant contacted the District Magistrate and the Superintendent of Police, Kheri on 26-3-90 for ordering immediate enquiry into the matter.

When the deonant returned from tour on 28-3-90 at 14.00 hrs. ~~Kheri~~, Shri A.K. Dikshist, Assistant Superintendent of Post Offices, Kheri gave him a copy of the notice dt. 26-3-90 received by him at 13 hrs on 28-3-90. This notice was from the Postal Union and was signed by some of the applicants also. The notice was addressed to the Superintendent of Police, Kheri and contained 3 demands which were required to be fulfilled within a week i.e. by 2-4-90 failing which the Union threatened to proceed on strike from 3-4-90.

In the meantime another notice dt. 28-3-90 from the Union addressed to the deonant was received at 6.30 p.m. on 28-3-90. This notice contained six demands while the earlier notice contained only three demands and all these six demands were required to be fulfilled by 29-3-90 failing which the entire staff of the division would go on indefinite strike from 6.30 a.m. of 30-3-90. On receipt of the above notice the deonant discussed the matter with the District Magistrate and Superintendent of Police, Kheri and also with the union leaders and persuaded the union leaders not to proceed on

Contd...3/-

// 4 //

5. That in reply to paras 4(c) to 4(e) it is vehemently denied that the police tried to hush up the matter in complicity with the departmental officers. In this connection it is submitted that the deponant met the District Magistrate and the Superintendent of Police, Kheri immediately after the incident and requested them for taking immediate action into the matter. A copy of the notice dt.26-3-90 issued by the Unions and addressed to the Supdt. of Police, Kheri was handed over to Shri A.K.Diskshit, Assistant Superintendent of Post Office(HQ), Kheri on 28-3-90 at 13 hrs. who gave it to the deponant at 14.30 hrs. the same day on his return from tour. The said notice contained the following demands:-

1. Murderers be arrested immediately.
2. Safety of Postal employees be ensured.
3. Armed Chaukidars or Police guards be provided at all the Post Offices for day and night.

It was also indicated in the said notice that if the above demands were not fulfilled upto 2-4-90, the postal staff would go on indefinite strike on 3-4-90. On the same day i.e. 28-3-90 another notice dt.28-3-90 was handed over to the deponant at 18.30 hrs. which contained 6 demands as under:-

1. Murderers/dacoits connected with the case be arrested at once.
2. Station Officer of Maigalganj Police Station be placed under suspension.

Contd...5/-



// 5 //

3. Matter be got investigated through C.B.I..
4. All the Post Offices of the division be provided with Armed guards.
5. Security of all the Postal employees of the division be ensured.
6. Closed iron cabins be provided for the cash counters

The said notice was addressed to the deponant wherein it was indicated that if the six demands were not fulfilled by 29-3-90, the entire postal staff would go on indefinite strike from 6.30 hrs on 30-3-90.

It is pertinent to submit that most of the demands were not within the competence of the Respondents and nothing tangible could have been done within a day as the deponant had already been pursuing the matter with the District and departmental administration.

6. The deponant, however, issued an appeal on 29-3-90 (Annexure R-1) and another on 30-3-90 (Annexure R-2) to all the members of the postal department and their Union. The District Magistrate, Kheri also assured the staff that the Police was on the job and the culprits will be arrested as early as possible. The Chief Post Master General, U.P. Lucknow had also deputed two officers from Lucknow to diffuse the ~~cases~~ ^{crises} but the Union leaders and the applicants remained on strike from 30-3-90 to 3-4-90 causing hardship to the public. In their notice dt. 28-3-90 the Union had given only 36 hrs. for redressed of their ~~grievances~~ ^{grievances} and fulfilment of their demands.

[Signature]

17/4

// 3 //

strike as their demands will be considered by the department in right earnest. The matter was brought to the notice of the higher authorities also on phone. An appeal was also issued on 29-3-90 and another on 30-3-90 (Annexure R-1 and R-2) in which it was indicated that the strike notice was illegal and the union should not proceed on strike. The District Magistrate, Kheri also assured the union that the matter will be investigated by the C.I.D. as demanded by them. The matter has since been handed over to the C.I.D. for investigation.

In spite of all the assurance given by the District administration and the appeal by the deponent, the Postal staff of Kheri Division went on strike from 30-3-90 to 3-4-90.

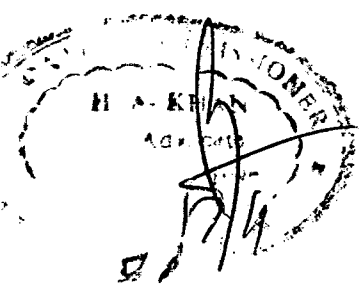
The period of strike was, therefore, treated as absence from duty without prior permission as per rule 62 of P&T Manual Vol.III. The petitioners did not represent against the order of "Dies Non" to higher authorities and thus did not avail of the departmental remedies before seeking relief from this Hon'ble Tribunal.

-: PARA-WISE COMMENTS :-

3. That the contents of paras 1 to 3 of the petition need no comments.

4. That the contents of paras 4(a) and 4(b) need no comments. It is, however, submitted that Shri S.S.Misra, applicant at Serial No.12 is not a member of the union, of the applicants No.1 & 2.

Contd...4/-



A/50

34

// 6 //

This was in violation of Sec.22 of the Industrial Dispute Act, 1947.

7. That in reply to para 4(f) submissions made in para 6 above are re-iterated. It is further submitted that participation in a strike is violative of Rule 7(ii) of the C.C.S. (Conduct) Rules, 1964. "Strike" has been defined as refusal to work or stoppage or slowing down of work and includes mass abstention ~~of~~ from work without permission (which is wrongly described as "mass casual leave"), "go-slow," "sitdown", "pen down", "stayin", "token", "sympathetic" or any other similar strike, as also absence from work for participation in a Bandh or any similar movements. Thus for the period of their absence without permission from 30-3-90 to 3-4-90, the deponent who is the leave sanctioning authority of the applicants issued orders dt.24-7-90 (Annexure No.A of the application) for treating the day from 30-3-90 to 3-4-90 on which the applicants did not perform their duties as "dies-non" i.e. this period of absence from duty will neither count as service nor be construed as break in service. The above order was issued in pursuance of Rule 62 of Post & Telegraphs Manual Vol.III which is reproduced below for ready reference:

" Absence without permission.

62. Absence of officials from duty without proper permission or when on duty in office, they have left the office without proper permission, or while in office, they refused to perform the duties assigned to ~~them~~ ^{them} is subversive of discipline. In

Contd..7/-

17/1

// 7 //

cases of such absence from work, the leave sanctioning authority may order that the days on which work is not performed be treated as "dies-non", i.e. they will neither count as service nor be construed as break in service. This will be without prejudice to any other action that the competent authorities might take against the persons resorting to such practices.

8. That in reply to para 4(g) it is stated that the notice of strike dt.28-3-90 was not in accordance with Sec.22 of the Industrial Dispute Act,1947. The applicants remained absent from duty without prior permission from 30-3-90 to 3-4-90 and the leave sanctioning authority was competent to order that the days on which work was not performed by them be treated as 'dies-non' as per provisions of Rule 62 of P&T Manual Vol.III. As per proviso of F.R. 17(i) also an official who is absent from duty without any authority shall not be entitled to any pay and allowances during the period of such absence. In such cases no show cause notice is required to be issued.

17/4

9. That the averments made in para 4(h) are misconceived. It is submitted that in Rule 62 of P&T Manual Vol.III it has been clearly laid down that in cases of absence of official from duty without permission, the leave sanctioning authority may order that the days on which work is not performed be treated as "Dies-Non" and that the said order does not restrain the competent authorities to take any other action

file

// 8 //

which they might propose to take against such persons. In that eventuality the procedure laid down in the C.C.S.(CCA) Rule 1965 was to be followed and for that matter leave sanctioning authority may and may not be the competent authority. In the present case no further action is proposed to be taken for the present and the leave sanctioning authority has ordered that the days on which the applicants did not work be treated as "Dies Non". As such no show cause notice was required to be issued.

10. That in reply to para 4(i) it is stated that "Dies Non" is not a statutory penalty. In terms of Rule 62 of the P&T Manual Vol.III, the period of absence from duty without proper permission is regularised by the leave sanctioning authority by ordering that the period of such absence be treated as "Dies Non" i.e. ~~they~~^{it} will neither count as service nor be construed as break in service. Thus the order of "Dies Non" did not impose any disability on the applicants and hence no show cause notice was issued before passing the order of "Dies Non". F.R.17(i) also provides that an officer who is absent from duty without any authority shall not be entitled to any pay and allowances during the period of such absence.

11. That in reply to para 4(j), submissions made in paras 9 and 10 above are re-iterated.

12. That comments on the various sub paras of para 5 of the application are furnished below:-

86.

Contd...9/-

17/52

5(a):- Dies Non is not a statutory penalty as explained at length in para 10 above. It is well settled service rule that there has to be no pay for no work.

5(b):- Contents admitted but the applicants did not work as per provisions of Sec.22 of Industrial Dispute Act, 1947.

5(c):- Contents denied- Submissions made in paras 9 and 10 above are re-iterated.

5(d) & 5(e):- Contents denied. The deponent is competent to sanction leave to the applicants and has acted in accordance with the provisions of Rule 62 of the P&T Manual Vol.III.

5(f):- Contents denied. On receipt of the notices, the deponent met the District Magistrate and the Superintendent of Police, Kheri on the very dates of receipt of the notices. Higher officers of the department were also contacted as a result of which the Chief Post Master General, U.P., Lucknow deputed two responsible officers of the department for the purpose and the case has been transferred to the C.I.D. for investigation.

5(g):- Contents denied. There has been no violation of Article 311(2) of the constitution.

5(h) & 5(i):- Contents denied. Submissions made in para 9 above are re-iterated.

Contd..10/-

[Signature]

[Handwritten signature and date 12/11]

13. That the contents of para 6 are denied. The applicants have not made any representation against the impugned order to their higher authorities and have thus not availed of the departmental remedy available under Rules 115 and 116 of the P&T Manual Vol.II.

14. That the contents of para 7 are not in the knowledge of the deponent, hence no comments are offered.

15. That in view of the submissions made in the above paragraphs, the relief sought for in para 8 and Interim Relief prayed for in para 9 are not admissible. The application is not maintainable and is liable to be dismissed with costs.

16. That the contents of paras 10 to 12 need no comments.

[Signature]
(DEPONENT)

:- VERIFICATION :-

I, the above named deponent do hereby verify that the contents of paras 1 & 6 of this affidavit are true to my personal knowledge and those of paras 2 & 15 are believed by me to be true based on records and as per legal advise of my counsel. That nothing material ~~facts~~ has been concealed and no part of it is false, so help me God.

[Signature]
Signed and verified this the 17th day of Nov. 1990 within the court compound at Lucknow.

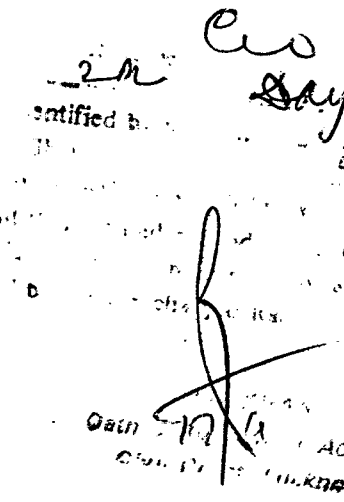
Lucknow.

Dated: 17-11-90

[Signature]
(DEPONENT)

I identify the deponent who signed before me.

[Signature]
(ADVOCATE) 17/11



Bharatpur Lok Karmchari Sangh v/s Union of India & others

34

भारतीय डाक विभागअपील

मैं समस्त डाक कर्मचारियों एवं संघों के पदाधिकारियों से यह अपील करता हूँ कि जो आप लोगों ने 30-3-90 से स्व० सु० सु० सिंह यादव उप डाकपाल भैरलगंज, खीरी की अपराधियों द्वारा निर्मम हत्या के सम्बन्ध में अनिश्चित कालीन हड़ताल में जाने के लिए जो ज्ञापन दिया है, इस सम्बन्ध में मैं पुलिस अधीक्षक, खीरी, जिलाधिकारी खीरी तथा थाना इन्चार्ज भैरलगंज से व्यक्तिगत सम्पर्क किया और उन्होंने आश्वासन दिया है कि हत्यारों को शीघ्र पकड़ लिया जावेगा और मामले का पर्दाफाश हो जायेगा इस सम्बन्ध में आप सब लोगों से सहयोग देने का उन्होंने अनुरोध किया है और हत्या के मामले की जांच छूट गति से हो रही है। इसलिए आप लोग अपनी प्रस्तावित अनिश्चित कालीन हड़ताल कुछ समय के लिए स्थगित कर दें जिससे प्रशासन को मामले की जांच में व्यवधान उत्पन्न न हो।

मैं आप सब लोगों से पुनः अपील करता हूँ कि आप लोग शांत मन से इस सम्बन्ध में विचार कर अपना सहयोग प्रशासन व डाक विभाग को दें।

दिनांक: 29-03-1990.

१ दया राम १
अधीक्षक डाकघर,
खीरी मण्डल,
खीरी-262 701.

सेवा में,

समस्त संघों के पदाधिकारी एवं डाकपाल/उप डाकपाल/अति० व०-
उप डाकपाल खीरी मण्डल, खीरी।

17/1

C.A. 281/99

Bhaskar Kanchan Singh & Co. v. Union of India & An.
भारतीय डाक विभाग

Annexure R.2

MSB

अपील-11

11

मेरी पूर्व अपील दिनांक 29-3-90 के क्रम में आप समस्त डाक कर्मचारियों व संघों के पदाधिकारियों से पुनः अपील करता हूँ कि मेरे पोरमण्डलीय कार्यालय के वॉरन्ट अधिकारी से दूरभाष में वार्ता की है। आप सभी कर्मचारियों एवं संघों के पदाधिकारियों को अवगत करा देना चाहता हूँ कि भारत सरकार को हड़ताल का नोटिस देने का अधिकार संघ के केन्द्रीय मुख्यालय द्वारा ही दिया जा सकता है। आपका मण्डल द्वारा दिया गया नोटिस कानूनन जायज नहीं है। इस तरह हड़ताल करना हम सब के लिए गैरकानूनी है। हत्या के जांच के मामलों में अधिक समय लगना स्वाभाविक है और आप सब की भागीदारी में उच्चाधिकारियों तक पहुंचा रहा हूँ और वॉरन्ट अधिकारियों से वार्ता भी कर चुका हूँ और पोस्टमास्टर जनरल, बरेली से भी वार्ता करने का प्रयत्न कर रहा हूँ। आप सब से मेरी पुनः सन्म अपील है कि आप लोग अपने-अपने कार्य में वापस आएं तथा सरकार के कार्य में व्यवधान उत्पन्न न करें।

मैं आशा ही नहीं अपितु पूर्ण विश्वास करता हूँ कि आप सब लोग मेरी इस अपील पर ध्यान देकर अपना-अपना कार्य शुरू कर देंगे।

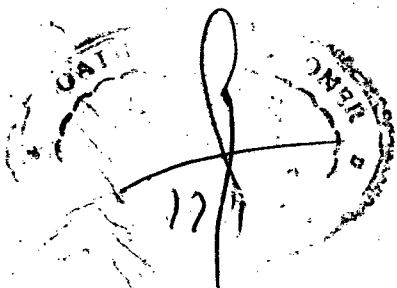
दिनांक-30-03-90

समय-8-00 प्रातः

क्या राम
अधीक्षक डाक्टर,
खोरी मण्डल,
खोरी-262 701.

सेवा में,

समस्त संघों के पदाधिकारी एवं डाकपाल/उप डाकपाल/अतिरिक्त उप-डाकपाल/डाक सहायक/कार्यालय सहायक खोरी मण्डल, खोरी-262 701.



1157

बअदालत श्रीमान
[वादी] अपीलान्ट

Central Administration Tribunal

Civil Bench, Lucknow

महोदय

वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]

श्री

टिकट

(वादीअपीलान्ट)

Bharat Karamchari Sangh vs. Union of India (प्रतिवादी (रेस्पान्डेन्ट) बनाम)

नं० मुकदमा 281- सन् 1990 पेशी को ता० १९ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री Dr. Jyesh Chandra

Adv. Gen. Singh

Lucknow

महोदय

एडवोकेट

नाम प्रदात	मुकदमा नं० नाम	परीक्षण	पनाय
१	१	१	१
२	२	२	२
३	३	३	३
४	४	४	४
५	५	५	५
६	६	६	६
७	७	७	७
८	८	८	८
९	९	९	९
१०	१०	१०	१०

हो 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 जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिजरी जारी करावे और रुपया वसूल करे या सुलहनामा व इकबालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और ससदीक करे या मुकदमा उठावे या कोई रुपया जमा करे या हमारी या विपक्षी (फरीकासनी) को दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंचनियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वदा स्वीकार हैं और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसीलिये यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted
J. Chandra
Advocate

हस्ताक्षर

(Signature)
(DATA AND)
Respondent

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

ई०

स्वीकृत

42

(A/58)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW

OA No. 281 of 1990

Bhartiya Dak Karamchhari Sangh
Kheri and others

... Applicants

Versus

Union of India and others

... Respondents.

F.F. 24.1.91

REJOINDER AFFIDAVIT

I, Ahmad Husain, aged about 44 years son of Sri Manna working as Sub Postmaster, Nai Basti, Post Office, Kheri, Secretary of Bhartiya Dak Karmchhari Sangh, Kheri and resident of Kheri Town, Kheri, do hereby state on oath as under :-

1. That the deponent is applicant no. 1 in the above noted case and he is fully conversant with the facts of the case deposed to in this rejoinder affidavit. The deponent has read the counter affidavit submitted by respondent no. 3, understood its contents and is reply^{ing} to the same.

2. That para 1 of the counter needs no reply except that no reply has been furnished by or for and on behalf of respondents no. 1, 2 and 4.

3. That in reply to para 2 it is stated that the so called brief history of the case is not warranted under the rules for giving written statement/counter affidavit. Under Rule 12(2) of the Central Administrative Tribunal (Procedure) Rules 1987 the respondent is required specifically to admit, deny or explain the facts stated by the applicant in his application; he may also state such additional facts as may be found necessary for the just decision of the case. The narration of brief history is, therefore, irrelevant. It is however, denied that the respondent no. 3 had any discussion over the matter with the Union leaders and persuaded them not to proceed on strike on the assurance that their demands would be considered by the department in right earnest. He did not send any reply to the notices issued by the Union vide Annexure A-13 and A-14. The appeals dated 27.3.90 and 30.3.90 said to have

Filed today
R
7/1/91

Ahmad Husain

been issued by the respondent no. 3 were not even endorsed or sent to the applicants no. 1 & 2. It is also wrong to say that the District Magistrate, Kheri assured the Union that the matter would be investigated by the C.I.D. as demanded by them. There was no meeting of the applicants no. 1 & 2 with the District Magistrate, Kheri as alleged.

It is also denied that the members of the applicants' Unions 1 & 2 went on strike on 30.3.90 to 3.4.90. It may be stated that the applicant's Unions 1 & 2 on reprisal of the matter decided on 30.3.90 not to go on strike and accordingly issued and circulated an appeal dated 30.3.90 requesting and forbidding their members not to participate in any strike. In view of this fact, it is malicious and arbitrary to hold that the members of applicants Union 1 & 2 resorted to strike from 30.3.90 to 3.4.90.

The dies non and consequent recovery from pay is a penalty visiting with evil consequences and no action could/ can be taken without affording reasonable opportunity of hearing. Nobody can be penalised ex-parte without hearing him and the recovery made from the pay of the members of applicant's Unions in consequence of the dies non orders is arbitrary, illegal and against principles of natural justice. It may further be stated that 31.3.90 was a Saturday when the staff of Administrative offices are not required to attend office and perform duty and 1.4.90 was a Sunday, a closed general holiday when no work is performed in the Post Offices but the respondent no. 3 in his zeal to penalise the members of the applicants' Unions has recovered the pay for 31.3.90 to 1.4.90 which is the outcome of his prejudicial action. The rest of the contents of the brief history is denied as the applicants were never kept informed of the action taken by the respondents, as now stated.

4. That para 3 calls for no reply.

5. That in reply to the contents of para 4, it is denied that Sri S.S. Misra, applicant at serial no. 12, is not a member of the Union. He is the member of applicant Union no. 1.

Amirul Hussain

160

3.

114

6. That in reply to the contents of para 5 of the counter affidavit/written statement, it is stated that the respondent No. 3 has tried to simplify the fear, terror, apprehension, horror and sense of frustration created in the minds of the members of the applicant unions No. 1 and 2 besides others. The respondents did not take any action to create confidence amongst the workers and ensure them of their security and safety. They also showed indifference to the notices served on them by the Unions and did not give any reply to them for satisfaction to feel that their grievance ^{were} ~~was~~ being ~~were~~ looked into and adequate action would be taken by the authorities viz. the respondents. It is wrong and malicious to say that most of the demands were not within the competence of the respondents and such a reply by the respondent No. 3 is an indication that he was not ready to tackle the situation cordially and sympathetically. Rather he was out to victimise the staff and the members of Unions applicants No. 1 and 2 prejudicially and discriminately. The respondent No. 3 did not give any reply to the applicants No. 1 & 2 to show what action, if any, was being taken by him to restore confidence amongst the staff and ease their tension. The contents of para under reply, as stated, are denied and those of paras 4(c) to 4(e) are re-iterated.

7. That in reply to para 6 of the counter the deponent ~~states~~ ^{states with} the appeals, issued by the respondent No. 3 on 29.3.90 and 30.3.90, annexures R-1 and R-2 respectively, were formal. However, the applicants No. 1 and 2 took a reprisal of the situation in their joint meeting dated 30.3.90 and issued appeal to the members not to participate in the proposed strike, and also demanded the Administration to end lock out and co-operate the employees to perform their duty without any hindrance. A photo copy of the appeal dated 30.3.90 issued and circulated by the applicants unions No. 1 & 2 is annexed as Annexure No. R-1 to this rejoinder. It may be

Abdullah Hussain

stated that inspite of the appeal issued by the unions the authorities locked the offices and restrained most of the employees from performing their duty in their zeal and prejudice against the unions to victimise their members arbitrarily and indiscriminately even to the extent that 31.3.90 (saturday) which was a ^{closed} ~~clear~~ holiday for Administrative offices and 1.4.90 (Sunday) a general closed holiday have also been treated as dies non. It is denied that the District Magistrate, Kheri also assured the staff that the Police was on the job and the culprits would be arrested as early as possible. The deponent and other applicants are not aware if any officers were deputed from Lucknow and they made any efforts to ease the situation created by apathy and indifference of the authorities who did ^{not} send any communication in reply to the notices issued by the applicant unions. The authorities as already stated arranged to lock the offices instead of replying to the notices and have a amicable talk with the unions for improving the situation. The applicant unions however gave a second thought to the matter and called off the threatened strike and appealed to the members not to participate in the proposed strike of 30.3.90 and also to the administration not to resort to lock out. But the administration chose to lock out the offices & ~~prevent the members of the applicant unions and also other staff~~ to keep away from duty to penalise them discriminatorily. In this connection the applicant union No. 1 wrote a letter dated 1.9.90 to the respondent No. 3, to which no reply has so far been received. A photo copy of this letter dated 1.9.90 is annexure R-2. It may be stated that the ~~gbschief~~ mongers and the assassins of late Sri S.N. Singh Yadav the then ^{Sul} ~~senior~~ Post Master Maigalganj have not yet been apprehended. The rest of the contents of para under reply is denied.

8. That the contents of para 7 of the counter are denied as stated and the contents of para 7 above are re-stated. The applicant unions had called off the strike vide their appeal

Amrind Husain

5. 116 (1/62)

dated 30.3.90 (annexure R-1) and in view of that the content hypothesis, presumption and assumption, is -ion made by the respondents on/malicious and malafide. No order could be issued in prejudice to the members of the applicants unions affecting their right and putting them to fiscal losses without giving them a reasonable opportunity of hearing. It is denied that the applicants and the members of the unions were on strike as maliciously alleged by the respondent No. 3 on assumptions and presumptions only. The respondent No. 3 has also failed to appreciate that 31st XXX March, 1990 was a Saturday and 1.4.90 a Sunday. On Saturday the employees of the Administration offices are not required to attend office and perform duty, likewise Sunday is a closed holiday for all offices and none of the staff is required to attend office on a closed holiday. The action of the respondent No. 3 in treating dies non' IN A GENERAL AND mechanical manner by stereo typed orders, is malicious, arbitrary and prejudicial. The order of dies non has resulted in recovery from pay which cannot be done without following the procedure laid down in Rule 11(iii) and 16 of the CCS (CCA) Rules 1965. The applicant No. 1 addressed letter dated 1.9.90 (R-2), as already stated, in the matter but the respondent No. 3 has not given any reply. The recovery effected from pay without any show cause and explanation is arbitrary, malafide and against all cannons of justice. The contents of para 4(f) of the application are re-asserted.

9. That the contents of para 8 are denied as stated and the contents of para 4(g) of the application and those of paras 7 & 8 above are re-iterated. It is a settled principle of jurisprudence that no one can be penalised without hearing and no loss can be inflicted without a show cause notice.

10. That the contents of para 9 of the counter are denied as stated. No authority has absolute power to take an arbitrary decision without giving an opportunity of hearing. Before passing any adverse order it has to be established that the concerned member of the union actually absented and

1.1 (N63)

he did so of his own accord and not under compelling circumstances. Each case has to be decided on its own merit and not mechanically as done by the authorities. The authorities have effected recovery on the basis of the impugned orders, which they cannot do contrary to fair play and justice. Recovery from pay on the basis of dies non is akin to imposing a fine, visiting with evil consequences without hearing which is in violation of principle of natural justice and hence irregular, illegal and null and void.

The contents of para 4(h) are re-iterated.

11. That the contents of para 10 of the counter are denied as stated. 'Dies Non' may not be a punishment under CCS(CCA) Rules 1965, but it does affect adversely and visits the employees concerned with evil consequences and for reason of that, it is necessary in the interest of natural justice that the person concerned is given an opportunity of explanation and the explanation is considered before passing any order. The passing of order without hearing the applicants is irregular, illegal and null and void. The contents of para 4(i) of the application are re-iterated.

12. That in reply to the contents of para 11, the contents of para 4(j) of the application and those of paras 10 and 11 above are reasserted.

13. That the contents of para 12 ^{and} ~~are~~ its sub-paras of the counter are denied as stated and those of paras 5 and sub paras there under are re-iterated.

14. That the contents of para 13 of the counter are denied as stated and the contents of para 6 of the application are re-asserted. Making of representation is not a constitutional remedy.

15. That the contents of para 14 of the counter are evasive and they are denied and the contents of para 7 of the application are re-stated.

16. That the contents of para 15 of the counter are denied.

In view of the facts and circumstances of the case the

prayer made in para 8 of the application is cogent and

Wahid Hussain

7.

tenable and liable to be allowed with cost. As for the interim relief, the same was allowed and the respondents were directed not to make any recovery in compliance to the impugned orders, by order dated 22.11.90. It may however be stated that the recovery has already been effected ~~xxx~~ prior to the issue of the stay order and as such the interim relief has now become infructuous. It is denied that the application is not maintainable and is liable to be dismissed with cost. On the ~~contrary~~ contrary, the application is sound, cogent and liable to be allowed with cost and also interest on the amounts illegally recovered; at the Bank's rate from the date of their recovery till the date they are refunded.

17. That para 16 of the counter needs no reply.

Lucknow, Dated:
December 30, 1990.

Ahmad Husain
Deponent.

I, the above named deponent, do hereby verify that the contents of para 1 to 12, 14, 15 and 17 are true to my knowledge and those of paras 13 and 16 are believed to be true on legal advice.

Nothing material has been concealed and no part of it is false. So help me God.

Signed and verified this 30th day of December 1990,
at Lucknow.

Lucknow, Dated:
December 30, 1990.

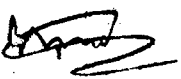
Ahmad Husain
Deponent.

I identify the deponent
who has signed before me.
M. Duley
HdV


Annexure R-1

अवधि

आज दिनांक 30-3-90 को प्रातःकाल भारतीय
यूनियन एवं नेशनल यूनियन की संयुक्त आपात बैठक में
आपसी मतभेदों के कारण लिए गए निर्णय के अनुसार उक्त
दोनों संघों के सदस्यों से अपील की जाती है कि वे 30-3-90
से प्रस्तावित हड़ताल में भाग न लें इसके साथ ही हम डाक
प्रशासन छीरी से भी अपील करते हैं कि तालाबन्दी तुरन्त
समाप्त करके इच्छक कार्मियों को ड्यूटी करने में सहयोग प्रदान
करें।


॥ मेह लाल गौतम ॥
कृते नेशनल यूनियन,
छीरी।

भवदीय,


॥ अहमद हुसैन ॥
कृते भारतीय यूनियन,
छीरी।

30-3-90

M. D. Singh

Tone copy

M. D. Singh
DCL

RATIYA POSTAL EMPLOYEES UNION

(KHERI)

No B. U-3/उपडिन/१०

50 Dated 1/5/90

सेवा में

डाक अधीक्षक,

खीरी।

विषय - हड़ताली कार्मियों को गणना एवं दण्ड में पक्षपात
महोदय,

आप का ध्यान उपोक्त विषयक मामले को आगे
फिलाने हुए कहना है कि मंगलगुरु उप डाकघर में
दिनांक 24-25/3/90 को हुई डेली एवं उप डाकघर को
हत्या को लेकर अपराधियों को पकड़वाने एवं सुरक्षा
को शान्तिपूर्ण करने हेतु खीरी डाक मण्डल के
कार्मियों द्वारा जो हड़ताल को गई थी उसमें किंग-किंग
कार्मियों ने भाग लिया था तथा कौन-कौन कार्मियों उक्त
हड़ताल से अलग रहे थे, को निर्दिष्ट गणना आज
तक नहीं की जा सकी है और न ही रीपेट एवं
अदाउट कार्मियों को गणना निर्दिष्ट हो सकी है।
दिनांक 30/3/90 से 31/4/90 तक को अवधि को हड़ताली-
अवधि मानकर मनाये दण्ड से अब तक कार्मियों को
रीपेट किया जाना जारी है। हड़ताली कार्मियों को
एक ही दिन या एक ही समय में रीपेट न करना
प्रशासनिक पक्षपात है एवं उक्त सुनिश्चित कार्रवाई
को इंगित करता है कि किंग अन्तर्गत कुछ को पकड़ना
पकड़ना और कुछ को बचाकर संरक्षण प्रदान करना है।
तमाम ऐसे लोगों को अनुचित दण्ड से रीपेट किया
गया है जिन्होंने कोचित हड़ताल में भाग नहीं लिया
था तथा तमाम ऐसे लोगों को छेड़ दिया गया है
जिन्होंने हड़ताल में सक्रिय भाग लिया था किन्तु अब
वे लोग प्रशासनिक आकाशू लेने में सकल होगा है।
गत कोचित हड़ताल के पूर्व ही दिनांक 29/3/90 को
साथ से ही प्रशासन ने तालाबन्दी को दिनांक 30/3/90
को लागू पा जाने के इच्छुक लोगों को भी अदाउत
एवं कार्य करने से रोक दिया गया था तथा उक्त कोचित-

अध्याप (हस्ताल) में डाकपाल स्वीरी, डाक निरीक्षक गण एवं डाक अधीक्षक गण आदि अनेक लोगों ने भी कोई भी न केवल लिखित हस्ताल में साक्ष्य भाग लिया था तथा लिखित हस्ताल को प्रोत्साहित करने में प्रशासन का पूर्ण सहयोग रहा था तथा 'समाज कर्मियों' को न तो कोई बल/अपील सुनी गई और न तालाबन्दी समाप्त करके काम ही करने दिया गया था। उक्त प्रमुख लोगों के हस्ताल पर सूझने को अनेकाले काल तक उनके विरुद्ध कोई कार्रवाई नहीं की गई है। इस सम्बन्ध में सर्व्व द्वारा बालूवा मईने पर भी हस्ताली एवं गैर हस्ताली लोगों को कोई लिखत न तो दी गई न प्रकाशित ही की गई है जिसके कारण अनिश्चितता बनी हुई है और प्रशासनिक नदेकान जारी है।

अतः आप से अनुरोध है कि सर्व्व को उक्त लिखत एवं बाबत सूचना प्रत्यक्ष प्रदान किया जाय ताकि कष्ट कर ताकि सर्व्व उचित एवं अनुरोध को इंगित करते हुए अपने स्तर से भी आवश्यक कार्रवाई कर सकने में सक्षम हो।

प्रतिलिपि सहाय उच्चाधिकारियों एवं प्रान्तीय एवं क्षेत्रीय सर्व्वों को सूचनाएं एवं आठ कार्य हेतु पोषित है। तथा इस सूचना के साथ कि उक्त मैगलगाज डाकपाल में पुनः दिनांक 24-25/01/90 को इलेक्ट्रो पडगई है और एक और डाकपाल मईने से बच गया।



Amir Hussain
16/9/90

(Amir Hussain)
JOINT SECRETARY
POSTS & TELEGRAPH DEPT.

M. S. Khan
True copy
M. S. Khan
Dated