

## FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, .....BENCH

B. D. K. Sangh <sup>OA/TA/RA/CP/MA/PT</sup> <sup>281</sup> of 20-9-90  
Applicant(S)Versus  
C. Es. S. L. Patel Respondent(S)

## INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1 -	Anaidx	A - 2
2 -	order shut	A - 3
3 -	Judgment off. 01-10-92	A - 4
4 -	OA	A - 20
5 -	Power	A - 1
6 -	Annexure C of	A - 31

Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

B. C. Widug out  
11-6-12

## ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOWINDEX SHEET

Cause Title C.A. 281 of 1990

Bhartya - Dik Karmichari

Name of the parties Singh Khan &amp; Ors.

Applicant.

VERSUS

Union of India (S/1/communication) Respondents

Part A.B.C.

Sl No.

Description of documents.

Page.

1. Order sheet & Judgment  
2. Petition (Annexure & validation)  
3. Counter  
4. Petitioner - B Copy

A-1 A-13

A-14 to A-43

A-44 to A-57

A-58 to A-67

1. Petition and Annexure  
2. Counter  
3. Petitioner

B-68 to B-755

B-755 to B-102

B-103 to 120

1. Notes 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.

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	yes
2. a) Is the application in the prescribed form ?	yes
b) Is the application in paper book form ?	yes
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?	yes
c) Has sufficient cause 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
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

A/2

Particulars to be ExaminedEndorsement 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 ?
- b) Defective ?
- c) Wanting in Annexures
- Nos.        pages Nos.        ?
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

*Shd*  
28/8

①

A3

378-90  
Hon Mr. D.K. Purohit, I.A.  
Hon Mr. K. Chatterjee, A.M.

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

Heard.

Admit

Issue notice to the respondent  
to file counter within 8 weeks,  
objection 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 matter on  
28.9.90

AB

DR

JK  
T.M.

Notices  
served  
date  
9-9-90

OR

Notices were issued  
on 7.9.90.

Neither reply nor  
any unsworn resp.  
Coor has been return  
back.

S.P.O

26/15

(3)

07.28/90

(AS)

22/11/90

Hon. Mr. Justice K. Rath, V.C.  
Hon. Mr. M. M. Singh, A.M.

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~~ <sup>omnibus</sup> 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 unexpired orders contained in Annexures A.1 to A.12. Copy of the orders may be given to the learned Counsel for the applicant within twenty-four hours.

H M L

A.M.

R

V.C.

Notice issued

29.11.90

Notices were issued on 29.11.90

Neither reply nor any unexecuted resp. ever have been return back

dated with ~~to~~ <sup>by</sup> application for endorsement

of delay or delay of Dr. D. Chander S. C. O. 196

13/12/90

Hon. Mr. Justice K. Rath, V.C.

Hon. Mr. K. Chandra, A.M.

Delay in filing counter affidavit is condoned and the counts be taken on record. The applicant may file a reply 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 completing the record.

H.

A.M.

V.C.

O.A 281/96.C

۸۱۷

3.91 No 8. They Daff to 4.4.91  
91

CH & RS have been  
exchanged  
S.F.H  
3/4

4.4.91 - case not reached till  
in alignment to 24.4.91  
for heart

24. 4.91 -

1  
poc

Hon. Mr. D. K. Agarwal. JM.  
Hon. Mr. K. obayeg. AM

On the request of counsel  
for the both parties case is  
adjourned to 9-8-91. for  
hearing.

*S.M.*

Lee  
J M.

9.8.91 - No setting soln to 24.10.91

— CA/RA have been  
extended.

On the foregoing of Counsel for the  
both parties care may be directed  
on 10.1.92 for hearing.

( S. M. Prasad )

Member Test

Mr. K. K. Mehta  
(Kausal Karmakar)  
Vice Chairman

10-192

No 51149 adf 2/18-3-82

(7) A/3  
CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH : LUCKNOW

ORDER SHEET NO. \_\_\_\_\_

O.A.F.A. No. 281/90/0

OFFICE REPORT / DATE / ORDER

MANISH/-

(A10)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A. NO. 281/1990

Bhartiya Dak Karmchari 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 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 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

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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

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

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-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.

*Umesh Singh*

Vice Chairman.

Shakeel/  
Lucknow Dated 1.10.92

I. THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH  
LUCKNOW

Deputy Registrar(J)

O.A. NO. 281 of 1990 (L)

2818

Bhartiya Dak Karmchari Sangh, Kheri &amp; others ... Applicants

Versus

Union of India &amp; others

... Respondents

INDEX

<u>S.No.</u>	<u>Documents relied upon</u>	<u>Page no.</u>
--------------	------------------------------	-----------------

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. Duleep  
Counsel for applicants

Date : 28.8.90

for use in office

1. Date of filing :
2. Registration No. :

Signature  
for Registrar

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 R.L.Gautam.
3. S.N.Srivastava aged 57.1/2 years, s/o Late Shri Nanak Saran Srivastava, SPM Mahewaganj, Distt. Kheri.
4. Ganga Prasad aged 34 years, s/o Shri Raghbir Accountant, Kheri H.O. now IPOs 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.T. 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. Gangi 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.

*Amrit Singh* The application is directed against the arbitrary

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

- |       |                                |            |
|-------|--------------------------------|------------|
| i)    | 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.N.Verma dated 24.7.90      | " XI       |
| xii)  | B/Ram Dular 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

*Shahid Khan* governed by the Industrial Dispute Act 1947. The applicants Union 1 & 2 are registered Unions under the Trade

AM 18

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.

*Almaid Hussain* d) That the respondent no. 2 little realising

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 (1) concerned dacoits and murderers be arrested at once (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

*Shivaji Hulam*

by the respondent no. 2, a sense of frustration, horror and fear crept in the minds of the employees who thought ~~rather~~ ~~prefer~~ 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

Ahmed Husain

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 non 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. 3720 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 extra 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 pre-judiceness, 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

Ahmed Hussain

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 canons 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

Abdul Hussain

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 : 62 467803

b) Name of the issuing Post Office with date      Lucknow G.P.O.  
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

Ahmed Helam

- ### 1. Secretary BBKS Ahmad Husain

2. Secretary W L Gautam  
NU A. Gautam

- 9 -

3. B.N. Srivastava  
 4. Ganga Prasad  
 5. Vikram Verma  
 6. Maiku Lal  
 7. J.P. Verma  
 8. Ramesh Chandra 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 Verma  
 14. Ram Dular Ram Dular
- LUCKNOW

Dated : 26.8.90

M. Dutta - 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 Ramesh Chandra 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 Verma  
 14. Ram Dular Ram Dular
1. Ahmad Husain  
 2. M.L. Gautam  
 3. B.N. Srivastava B.N. Srivastava  
 4. Ganga Prasad Ganga Prasad  
 5. Vikram Verma Vikram Verma  
 6. Maiku Lal Maiku Lal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
 O.A. NO. OF 1990  
 Shartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
 Versus  
 Union of India & others ... ... ... Respondents.  
ANNEXURE NO. 'A'

1. Name of the Post: Postmaster, Kheri Date: 24.7.90  
 2. Name of the Agent: S.P.M. Mahavagany  
 Shri B.N. Srivastava ... ... ... remained absent  
 from duty without prior permission from 30.3.90  
 ... 3.4.90

It is, therefore, ordered that the period of  
 absence from duty of Sri B.N. Srivastava  
 w.e.f. 30.3.90 to 3.4.90 is treated as non  
 period of service.

Supdt. of Postoffices,  
 Kheri P.M. P.O. 250571.

Copy to:-  
 1. Sri B.N. Srivastava SPM Mahavagany  
 2. Postmaster Kheri for taking necessary action as per  
 proviso to F.R. 17(1).  
 3. A.O.C & spouse.

Ahmed Musain

J.M. Verdict  
 True copy  
 M. Dukher  
 D.D.V.

(A21)  
11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
O.A. NO. OF 1990  
Bhartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
versus  
Union of India & others ... ... ... ... Respondents.  
ANNEXURE NO. 'A' 2

OPENED ON THE 27<sup>th</sup> DAY OF MARCH, 1990, AT KHERI, U.P. KHERI-262701.

Memo No. B/Ganga Rd. Dated at Kheri the, 26.7.90

Shri. Ganga Prasad Aectt. Kheri, U.P. Remained absent  
from duty without prior permission from 30.3.90 to 3.4.90

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

Sh  
Supdt. of Postoffices,  
Kheri, U.P. Kheri-262701.

- Co py to:
1. Sri Ganga Prasad Aectt. Kheri, U.P.
  2. Postmaster Kheri for taking necessary action as per  
proviso to F.R. 17(1).
  - 3-4) O/C & spare.

Abdul Huzam

Abdul Huzam  
True copy  
M. Dabir  
10-11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
O.A. NO. OF 1990  
Shartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
versus  
Union of India & others ... ... ... ... Respondents.  
ANNEXURE NO. 'A' 3

ANNEXURE NO. 'A'-3

B/1 Vikram Verma, found at Khan the, 24.7.90  
\* \* \* \* \*  
Vikram Verma P/A Khan 90  
Shri..... remained absent  
from duty without prior permission from 30.3.90  
3.4.90  
This is the sum and substance of the information contained in the document.

It is, therefore, ordered that the period of  
absence from duty of Smt. **Vikram Verma**  
w.e.f. 30.3.90 to 3.4.90 is treated as a non  
regular leave.

Supdt. of Postoffices,  
Kheri Pn. Kheri-252701.

Copy to : Vikram Verma P/A Khan Ho  
1. Sri

2. Postmaster Khari for taking necessary action as per  
prerice to F.K. 17(1).

3-4) O/C & spare.

Almond Thins 100g

Merle  
the only  
M. Dukens  
P.M.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
 O.A. NO. OF 1990  
 Bhartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
 Versus  
 Union of India & others ... ... ... ... Respondents.  
ANNEXURE NO. A-4

Postmaster Kheri for taking necessary action as per proviso to F.R. 17(1).  
 Date 21/3/90 Maikul Lal..... Dated at Kheri the, 24.7.90

Sri Maikul 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 absence from duty of Sri Maikul Lal P/A Kheri Ho from 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 Maikul Lal P/A Kheri Ho

2. Postmaster Kheri for taking necessary action as per proviso to F.R. 17(1).

3-4) O/C & spans.

Ahmad Hussain

Referred  
 True copy  
 M. Duleep  
 Adv

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
O.A. NO. OF 1990  
Bhartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
versus  
Union of India & others ... ... ... Respondents.  
ANNEXURE NO. 'A' 5

Map No. B/1 J. P. Verma, United at Kheri the, 24.7.90  
\*\*\*\*  
Shri J. P. Verma Asst. D. O. Kheri remained absent  
from duty without prior permission from 30.3.90 to  
3.6.90

It is, therefore, ordered that the period of  
absent absence from duty of Sri J. P. Verma  
w.e.f. 30.3.90 to 3.6.90 is treated as dies non  
for all purposes.

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

Copy to:-  
1. Sri J. P. Verma Asst. D. O. Kheri  
2. Postmaster Kheri for taking necessary action as per  
proviso to P.k. 17(1).  
3-4) O/C & spm.

Interested  
True copy  
M. Duleep  
VSN

Ahmed Musam

15

A30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
O.A. NO. OF 1990  
Shartiya Dak Marmchari Sangh, Kheri & Others . . . . . Applicants  
versus  
Union of India & others . . . . . Respondents.  
ANNEXURE NO. 'A' 6

RECEIVED  
POST OFFICE, KHERI-24790  
By Ramendra Chandra Srivastava PIA Kheri HC  
on behalf of Ramendra Chandra Srivastava PIA Kheri HC  
from Post Office on 30.3.90  
about 10.00 am on the 24.7.90  
It is, therefore, decided that the period of  
non-attendance of Ramendra Chandra Srivastava  
from 20.3.90 to 30.3.90 is treated as leave non  
cumulative.

J.B.  
Supdt. of Postoffices,  
Kheri P.M. P.M. P.M.

Copy to:-  
1. Ramendra Chandra Srivastava PIA Kheri HC  
2. Collector Kheri for taking necessary action as per  
order to P.M. P.M.  
3. O/C & O.P.M.

Ahmed Hussain

M. Hussain  
T.M. M. Hussain  
M. Hussain  
P.M.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
O.A. NO. OF 1990  
Shartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
versus  
Union of India & others ... ... ... ... Respondents.  
ANNEXURE NO. 'A'

ANNEXURE NO. 'A'

From To B/Atma Ram....., Dated at Khari the, 24.7.90

Shri Atma Ram P. A. Khan H.B. remained absent from duty without prior permission from - 30-3-90 to 3-4-90. It is observed that the period of

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

Supdt. of Postoffices,  
Kharu P. M. No. 262701.

~~Copy to :-~~

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

Shmael Hulman

Aftermath  
True AM  
M. Drucker  
ADM

(A72) (17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
17  
O.A. NO. OF 1990  
Shartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
Versus  
Union of India & others ... ... ... ... Respondents.  
ANNEXURE NO. 'A'-8

Mo. No. B/ Sita Ram ..... Dated at Kheri the, 24.7.90

\*\*\*\*\*  
Sita Ram SPM Sankta 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  
absence from duty of Sri Sita Ram  
w.e.f. 30.3.90 to 3.4.90 is treated as dies non  
for all purposes.

Sb  
Supdt. of Postoffices,  
Kheri Dn. Kheri-252701.

Copy to:-

1. Sri Sita Ram SPM Sankta Devi TSO.

2. Postmaster Kheri for taking necessary action as per  
proviso to F.R. 17(1).

3-4) O/C & spare.

Attested

True copy

M. Dikshu

VdW

Alam Hussain

18 (18) (A/3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
O.A. NO. OF 1990  
Shartiya Dak Marmchari Sangh, Kheri & Others . . . . . Applicants  
Versus  
Union of India & others . . . . . Respondents.  
ANNEXURE NO. 'A' 9

Note :- If. Ahmad Husain, Postmaster Kheri the, 24.7.90

\*\*\* \* \*\*\*  
Shri Ahmad Husain, SPM Nai Basti TSO  
from duty without prior permission from 30.3.90 to 3-4-90  
remained absent

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

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

Copy to :-

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

Ahmed Husain

Abesha  
True copy  
M. Darbar  
V2W

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
 O.A. NO. OF 1990  
 Bhartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
 Versus  
 Union of India & others ... ... ... ... Respondents.  
ANNEXURE NO. 'A'-10

REPRESENTATIVE OF THE UNION OF INDIA, KHERI, M.P. 262701

By S.S. Misra.....Station at Kheri the, 24.7.90  
 Sri S.S. 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 Sri S S Misra  
30.3.90 to 3.4.90 is treated as dies non

8/6

Supdt. of Postoffices,  
 Kheri Pn. P. Box. 262701.

Copy to:-

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

Mohamed Hussain

M. Hussain  
 True w/ M.  
M. Hussain  
 W/M

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

Recd on 26/7/90 Regd No. 2576  
 257/90

REMARKS OF THE SECRETARY TO THE TRIBUNAL, KHERI ON KHERI 257/90

Name No. B.I.G.N. Verma, ... stated at Kheri the,

\* \* \* \* \*  
 Shri ..... Gargi Nandan Verma P/A Lmp. Kheri 26.7.90  
 remained absent from duty without prior permission from 30.3.90 to 3-4-90

It is, therefore, ordered that the period of 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.

Supdt. of Postoffices,  
 Kheri P.M. Kheri-252301.

Copy to:

1. Sri Gargi Nandan Verma P/A Lmp. Kheri
2. Postmaster Kheri for taking necessary action as per proviso to F.R. 17(1).
3. 41 O/C & spare.

M. Verma

True copy  
 M. Dubey  
 M.A.V.

Ahmed Hussain

21  
(21)  
(A13b)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH, LUCKNOW  
O.A. NO. OF 1990  
Bhartiya Dak Marmchari Sangh, Kheri & Others ... ... Applicants  
Versus  
Union of India & others ... ... ... ... Respondents.

ANNEXURE NO. A-12

RECORDED IN THE COURT

RECORDED IN THE COURT OF THE DISTRICT FIELD OFFICE, KHERI-262701.

Notice to B. Ram Dulal dated at Phori the, 24.7.90

B. Ram Dulal, P/A Mahavagang remained absent  
from duty during the period from 30.3.90 to 3.4.90  
3-4-90 at Kheri.

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

Supt. of Postoffices,  
Kheri, Phori-262701.

Copy to:-

1. Smt. Ram Dulal P/A Mahavagang
2. Postmaster Kheri for taking necessary action as per  
proviso to P.R. 17(1).
3. O/C & spans.

Allied

True w/ M.  
M. Dulal w/  
W.D.W.

ब अदालत श्रीमान

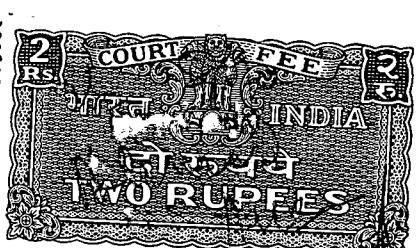
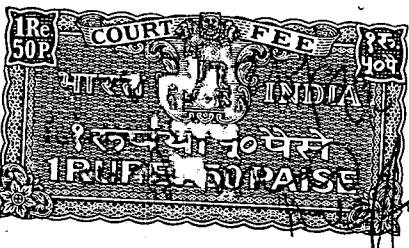
## CAT Circuit Bench, Michael

## महोदय

[वादी] अपीलान्ट

## प्रतिवादी [रेस्पान्डेन्ट]

Shantiya Dak Karnchari Sangh  
श्री का विकालतनामा  
Khar & others



Shantya  
1 Dak Karm chari Saugh Kheri बनाम 109 others प्रतिवादी ( रेस्पान्डेन्ट )  
+ others

मुकदमा नं० सन् पेशी की ता० १६ दृ०

प्रपर लिखे मकान से अपनी ओर से श्री B. Solomon Adv. High Court

Mehow + M. Dukay, Adw, 4 mi. east, Ganeshganj, Mehow *Varaiya*  
कर्कोल महोदय  
एडवोकेट

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता है और लिखे देता है कि इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विषक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपवे या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या यंच नियुक्त करें—वकील महोदय द्वारा को गई वह सब कार्यवाही हमको सर्वशा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को खेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फेसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्राप्ति रहे और समय पर जाम आवे ।

(१२) SS Mission CP of Verna (१) Ahmed Haseen Seediq  
21/1/2014

(ii) G. V. Verma (8) Mc Graw-Hill Book Co. Ltd. - Gaithan Series

(14) Parma New (S) B.V. Srinivasan  
Parma B.V. हस्ताक्षर

(1) Ram Dulay (2) हस्ताक्षर (3) Sita Khan (4) Jayanta Prasad

10 Sister Mary 11 Schwan Verne  
11 Ahmad 12 nail 200 Lue

1) Almas 2) mailoo 3) lal  
साक्षी (गवाह) Almas साक्षी (गवाह)

## साक्षी (गवाह)

Wilson

## साक्षी (गवाह)

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सन् १९७०

26  
दिनांक 10/10/2011  
Recd from B. L. Somani  
① Rs 500/-  
② Rs 500/-

महाराजा यादव मैगलगंज

उपडाकघर मैगलगंज हीरी की डकैती में हत्या

महोदय,

श्री स. स. 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 विविधत रिपोर्ट बड़ै के स्टाफ द्वारा 25.3.90 को स्थानीय पुलिस द्वारा में की जा चुकी है तथा उक्त श्री यादव के मृत शरीर को स्टेटमार्टम के बाद सीतापुर में हाई स्टाफ द्वारा अंतिम संस्कार कर दिया गया है। पुलिस द्वारा कि 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 अवसर में पीछे से न जाकर भासने 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 सिर्फ हत्या कर दी गयी। यदि डाकघर में घौकीदार होता तो संभवतः घटना टल जाती। अतः पुलिस रख डाक विभाग की महान अख्त उदासीनता ही डकैती स्वं हत्या का अख मात्र कारण है। उक्त डकैती स्वं निर्मम हत्या से मण्डल के समस्त डाक कर्मचारियों में भय उत्पादत है और वे अपनी असुरक्षा के प्रति घोर चिंतित स्वं 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 घौकीदार स्वं पुलिस की व्यवस्था की जाये।

यदि हमारी उपरोक्त तीनों मांगों को स्क. सप्ताह के अंदर अर्थात् 2.4.90 तक पूरा न किया गया तो हम दिनांक 3.4.90 से काम रोको। हड्डताल पर चले जाएंगे तथा इसके पूर्व प्रसिद्ध घरतास्त प्रदर्शन द्वारा अपनी मांगों को पूरा करने का प्रयत्न करते रहेंगे।

Muslim

क्रमांक-2

23

प्राक्तिक रूप से उत्तर सुना व योग्यताएँ का युनिवित करने के लिए

प्रक्रिया -

23

1. डाक गोपीकृष्ण खीरी
2. धाना भृद्याक धानासैगलासंस्कृती
3. जिला बिकासी खीरी
4. चीफ पोस्टमास्टर जनरल ३००० लखनऊ
5. निदेशक डाक सेवा पर्यावरण विभाग नियन्त्रण विभाग खीरी
6. प्री. एम. जी. बुरेली इंदौर नियन्त्रण विभाग नियन्त्रण विभाग खीरी
7. जनरल सेकेटरी नई दिल्ली नियन्त्रण विभाग नियन्त्रण विभाग खीरी
8. सर्किल सेकेटरी ३०००० लखनऊ
9. समस्त उपडाकपाल खीरी सण्डल लखनऊ नियन्त्रण विभाग खीरी
10. अन्य
11. नियन्त्रण विभाग नियन्त्रण विभाग नियन्त्रण विभाग खीरी

लम्प. एल. गोप्तम मंत्री राज्य विभाग अधमव द्वारा 26/3/90

नेशनल यूनियन खीरी मंत्री

भारतीय डाक कर्मचारी संघ खीरी

चन्द्र लाल धुरिया

राजेश कुमार

मंत्री

मंत्री

भारतीय ई.डी. यूनियन खीरी।

भारतीय डाक कर्मचारी संघ वर्ग -4

खीरी

दिनांक: 26.3.90

Accepted

Mr. M. D. D.

Mr. D. D.

Alfred

Mr. D. D.

Mr. D. D.

Versus

Union of India & others

Respondents.

ANNEXURE NO. 'A'

14

24

(24) A/10

सेवा में,

अधीक्षक डाक्यार,

छोरी मण्डल, जीरी-262701

विषय:- मैगलगंज उप डाक्यार में डैक्टी एवं उप डाक्याल श्री एस०स्त०प०संह० यादव की  
भपराओं द्वारा निर्मम हत्या।

महोदय,

कृपया उपरी विषयांकत मामले में हमारे सभी संघों द्वारा दिस गए  
पूर्व ज्ञापनों का संदर्भ लेने का कष्ट करें। ज्ञातव्य है कि दिनांक 24 व 25 मार्च की  
रात्रि में कुछ अद्भुत अपराधियों द्वारा हमारे स्क बहुत ही तरलीचत्त ताथी श्री  
एस०स्त०प०संह० यादव मैगलगंज डाक्यार भवन में नृशंस हत्या कर दी गयी है। श्री  
एस०स्त०प०संह० यादव मैगलगंज उप डाक्यार में उप डाक्याल के पद पर कार्यरत थे और  
डाक्यार में ही दीस्थित उप डाक्यारार्नावास में अकेले रहते थे। दिनांक 21 से 24 मार्च  
1990 के मध्य मैगलगंज उप डाक्यार में अल्पबचत पोजना के अन्दरसे लगभग एक लाख रुपये  
जमा हुए। इसकी अनक अपराधियों को लग गयी और उसी धन की लूट के उद्देश्य  
से अद्भुत डैक्टे दिनांक 24 व 25 मार्च 1990 की रात्रि में योजनाबद्ध तरीके से  
उप डाक्यार भवन में सामने से सुध्य द्वारा को तोड़कर घुसे और डाक्यार में लूटपाट करने  
ले। खटपट व शौर झराबा सुनकर जब उप डाक्याल श्री यादव ने उनके कार्य में  
हस्तेष्य किया तो अपना रास्ता साफ करने के लिए उन दुर्दन्ति डैक्टों ने उनकी निर्मम  
हत्या कर दी। इस सम्मुण्ड घटना क्रम में विवेष ध्यान देने योग्य बात यह है कि  
मैगलगंज उप डाक्यार के समीप ही स्थानीय पुलिस की एक बैरियर चौकी दीस्थित है  
परन्तु इतनी बड़ी घटना को भी चौकी पर कार्यरत पुलिस वालों ने जरुर अनदाज  
किया और मूक दर्शक बने रहे। सन्दीर्घत डैक्टों एवं हत्या के बाद उप डाक्यार का  
मैन गेट रीवार ३०.१० को सायंकाल ३ बजे तक उसी प्रकार हुआ पड़ा रहा  
लौकन पुलिस ने कोई कार्यवाही नहीं की। वरन् इसके विपरीत पुलिस दें जब इस  
घटना की सूचना हमारे एक डाक्यार्मी द्वारा किसी कार्यवाहा डाक्यार उस दिन पहुंच  
गया था। 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 डैक्टों के बारे में पूर्ण जानकारी थी और उसने  
हत्यारों को अपने द्विया लापूर्ण द्वारा पूरा संरक्षण प्रदान किया। इस तथ्य का  
एक प्रमाण यह ही है कि हत्यारों को मैगलगंज पुलिस ने अब तक गिरफ्तार नहीं  
किया है तथा डाक प्रशासन से मिलकिभगत 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 डाक्यारों के कर्मचारियों में असुरक्षा के प्रति असन्तोष सर्व भय व्याप्त है। अतः समस्त बांकसंघ इस मामले में सीधी कार्यवाही करने हेतु बाध्य है।

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 छोरी जनपद के समस्त डाक कर्मचारों दिनांक 30 मार्च 1990 प्रातः 6.30 से  
अनिश्चित कालीन हड्डताल पर चले जाएंगे जिसके दृष्टिरूपामूँका पूर्ण उत्तरदायित्व  
डाक प्रशासन सर्व जिला प्रशासन का होगा:-

द्रमशः पैज 20000 पर

Mohamed Hussain

हमारी

४१४ मामले से सम्बन्धित डैक्टॉरों एवं हत्यारों को तुरन्त गिरफ्तार किया जाय,

४२५ भेगलगंज पुलिस थाने के प्रभारी अधिकारी को अवैतनिक निलम्बन किया जाय;

४३६ उक्त मामले को ऐन्ड्रीय जांच ब्यूरो द्वारा तुरन्त निष्पक्ष जांच करायी जाय और मामले में उदासीनता बरतने हेतु दोषी पार्थे गये अधिकारियों के अवैतनिक उठोर शार्यवाही की जाय।

४४७ जनपद के समस्त डाकघरों में सशास्त्र सुरक्षा कीमियों की तुरन्त नियुक्ति की जाय,

४५८ जनपद के समस्त डाक कीमियों की सुरक्षा भुग्नीश्वति की जाय

४६९ सभी डाकघरों में प्रेषा काउन्टर पर सुरक्षा की दौड़िट से क्लोण्ड आयरन फ्रैबन्स का निर्माण कराया जाय।

भवद्वौय,

मंत्रीगण, समस्त डाकघर, छीरी मण्डल

प्रोतीलौपः - निम्नांकत दो शूचनार्थ एवं अवैतनिक आवश्यक शार्यवाही हेतु प्रेषितः -

१. जिला अधिकारी, छीरी

२. पुलिस अधीक्षक छीरी

३. प्रशारी अधिकारी थाना भेगलगंज, छीरी

४. चीफ पोस्टमास्टर जनरल ३०४००लखनऊ

५. पोस्टमास्टर जनरल बेरेली प्रक्षेत्र, बेरेली

६. सभी प्रान्तीय मंत्री डाकघर उ०४०४०रमण्डल

७. सभी जनरल सेक्रेटरी डाकतंत्र ऐन्ड्रीय मुख्यालय नईदल्ली

८. संचार मंत्री भारत तराकार, नईदल्ली

९. मुख्य मंत्री उत्तर प्रदेश शासन लखनऊ

१०. सभी स्थानीय संकादाता प्रान्तीय समाचार पत्रों के

११. सभी उप डाकघाल, छीरी मण्डल को इस आशाय से प्रेषित कि यदि दैनांक

२९.३.७० सायंकाल तक उन्हें मुख्यालय से प्रस्तावित हड़ताल पापती से तब्दीलत

को इस शूचना प्राप्त न हो तो ५ दृश्या निर्धारित तिथि ३०.३.७० से अपने

पूरे स्टाफ सीहत और शक्ति का लाने हड़ताल पर चले जायं और मुख्यालय से

बराबर तम्पक बनायें रहें।

अहमद हूसैन

२७/३

आरोरली मश्रूम

२८/३

छन्नूलाल धीरया

राजेश दुमार

(२० च २० द शुक्र)

Ahmed Hussain

Mr. Hussain

True copy  
M. Hussain  
12/4/2013

(26) 14/2

26

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH  
LUCKNOW

O.A. No. of 1998

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

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).

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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 18, 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

*Amrit Bhawan*

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.

Mohammed Hussain

Mesled  
True copy  
M. Sultan  
P.W.

28  
N44

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

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

In  
Case No. 281 of 1990

*Bhagirat Kumar Singh versus.* .... .... Applicant.  
*Shri*

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.

*F.T. S. 22/11/90*  
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

(Dr. Dinesh Chandra)  
Counsel for the Respondents.

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 <sup>for</sup> postmortum. On 26-3-90 the body of the deceased was cremated.

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

When the deponent returned from tour on 28-3-90 at ~~Kheri~~  
<sup>his</sup> Shri A.K.Dikshit, 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 deponent 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 deponent 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

SL  
Contd...3/-

32

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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 deponent 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 deponent 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 deponent 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/-



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 deponent 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 deponent had already been pursuing the matter with the District and departmental administration.

66. The deponent, 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~~ grievances 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 and fulfilment of their demands.

Contd.. 6/-

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.

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 ~~if~~ 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 is subversive of discipline. In

Contd..7/-

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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.

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 officials 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.

Contd..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~~ 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:-

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Contd...9/-

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/-

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11.10.11

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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.

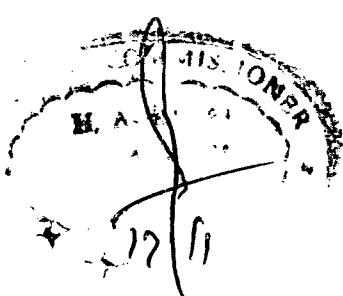
14. That the contents of para 7 are not in the knowledge of the deponent, hence no comments are offered.

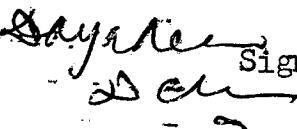
15. That in view of the submissions made in the above paragraphs, the relief sought for in para 8 and Interim Relief prayed for in para 9 are not admissible. The application is not maintainable and is liable to be dismissed with costs.

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

  
(DEPONANT)

-: VERIFICATION :-

  
I, the above named deponent do hereby verify that the contents of paras 1 to 16 of this affidavit are true to my personal knowledge and those of paras 2 to 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.

  
Signed and verified this the

17 day of Nov. 1990

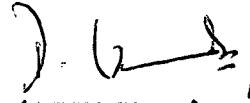
within the court compound at Lucknow.

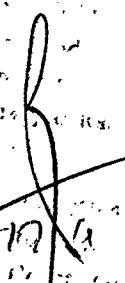
Lucknow.

Dated: 19-11-90

  
(DEPONANT)

I identify the deponent who signed before me.

  
(ADVOCATE) 17/11

  
O.P. Singh  
Advocate  
M.K.N.P.

Bharatiya Janata Party v/s State of Bihar

35

भारतीय द्वावा विभाग

अपील

भृ. समस्त डाक कर्मचारियों सवं संघों के पदार्थकार्यों से यह अपील करता हूँ कि जो आप लोगों ने 30-3-90 से स्व० सन० एन० संहृ. यादव उप डाकपाल मैगलगंज छीरी छीरी की अपराधियों द्वारा निर्मम हत्या के सम्बन्ध में अनिश्चित कालीन हड्डताल में जारी के लिए जो ज्ञापन दिया है, इस सम्बन्ध में भृ. पुलिस अधीक्षक, छीरी, जिलार्थकारी छीरी तथा थाना इन्वार्ज मैगलगंज से व्यक्तिगत सम्पर्क किया और उन्होंने आशंकासन दिया है कि हत्यारों को श्रीघृ पकड़ लिया जावेगा और मामले का पर्वकाश हो जायेगा इस सम्बन्ध में आप सब लोगों से सहयोग देने का उन्होंने कहा है कि क्या है और क्या मामले की जांच कूप गति से ही रही है। इसीलए आप लोग अपनी प्रस्तावित अनिश्चित कालीन हड्डताल कुछ समय के लिए स्थिरित कर दें जिससे प्रशासन को मामले की जांच में व्यवधान उत्पन्न न हो।

भृ. आप सब लोगों से मुझे अपील करता हूँ कि आप लोग ज्ञांत मन से इस सम्बन्ध में विचार कर अपना सहयोग प्रशासन वे डाक विभाग को देंगे।

दिनांक: 29-03-1990.

द्वावा राम  
अधीक्षक डाकपाल  
छीरी मण्डल  
छीरी-262 701.

सेवा में

समस्त संघों के पदार्थकारी सवं डाकपाल/उप डाकपाल/अतिरिक्त-  
उप डाकपाल छीरी मण्डल, छीरी।

Bhagini, Kamlesh, Soni, रुक्मिणी भाक, अधिकारी  
भारतीय डाक अधिकारी

Annexure R. 2

NCS

## अपील-11

मेरी पूर्व अपील दिनांक २९-३-१० दे क्रम में आप समस्त डाक कार्यालयों  
पर संघों के पदाधिकारीयों से पुनः अपील करता हूँ औंक मैंने परिषट्टीय कार्यालय  
के वौरेठ औधिकारी से दूरभाष भें वार्ता की है। आप सभी कर्यालयों द्वं  
संघों के पदाधिकारीयों को अवंगत दराना चाहता हूँ औंक भारत सरकार द्वे  
ड़हुताल का नोटेस देने का अधिकार संघ के एन्ड्रीय मुख्यालय द्वारा ही दिया  
जा तकता है। आपका भण्डल हुआ रहा इव्हा गया नोटेस कानून लोप्त नहीं  
है। इस तरह ड़हुताल करना हम सब के लिए अहतकर नहीं है। हत्या के जांच के  
मामलों में अधिक समय लगना स्वाभाविक है और आप सब की मांग में उच्चाधि-  
कारीयों तक पहुँचा रहा हूँ और वौरेठ औधिकारीयों से वार्ता भी कर चुका  
हूँ और पोस्टमास्टर जनरल, बेरेली से भी वार्ता करने का प्रयत्न कर रहा हूँ।  
आप सब से मेरी पुनः समझ अपील है औंक आप लोग अपने-अपने पार्टी में वापस  
आयें तथा सरकार के कार्य में व्यवधान उत्पन्न न दरें।

मैं आज्ञा ही नहीं अपेतु पूर्ण प्रश्नास करता हूँ औंक आप सब लोग  
मेरी इस अपील पर ध्यान देकर अपना-अपना कार्य शुरू कर दें।

दिनांक-३०-०३-१०

समय-८-०० प्रातः

क्षा. राम  
अधिकारी छोरा  
छोरा भण्डल,  
छोरा-२६२ ७०।

सबा में,

समस्त संघों के पदाधिकारी एवं डाकमाल/उप डाकमाल/अतिरिक्त उप-  
डाकमाल/डाक सहायक/कार्यालय/सहायक छोरी भण्डल, छोरा-२६२ ७०।

बदलत श्रीमान  
[वादी] अपीलान्ट

Central Administrative Tribunal

Civil Bench, Lucknow

महोदय

वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]

टिकट

(वादीअपीलान्ट)

Bharat Karamchand Singh v/b/nam प्रतिवादी (रेस्पान्डेन्ट)

नं० मुद्रामा २४। सन् १९८० पेशी को ता० १९ ई०

ऊपर लिखे मुद्रामा में अपनी ओर से श्री Dr. J. mesh <sup>एकीकृत</sup> <sup>महोदय</sup>  
Adv. Cen. S. v. L. <sup>एकीकृत</sup> <sup>महोदय</sup>  
L. Lucknow एडवोकेट

ठो अपना बकील नियुक्त द्वारके प्रतिज्ञा (इक्कार) करता हूँ और लिखे देता हूँ कि इस मुद्रामा में बकील महोदय स्वयं अथवा अन्य बकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोच्चर करें या कोई कानून दाखिल करें या लौटावें या हमारी ओर से डिग्री जारी करावे और रुपया वसूल करें या सुलहनामा व इक्कालदावा तथा अपील निष्ठारानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और वसदीक करे या मुकदमा उठावे या कोई रुपया जमा करे या हमारी या विषयी (फरीकासनी) या दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंचनियुक्त करें बकील महोदय द्वारा यो गई वह सब कार्यवाही हमारी सर्वदा स्वीकार हैं और होगी मैं यह भी स्वीकृत लगता 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 बकील पर नहीं होगी इसीलिये यह बदलत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Acc. bkt  
J. mesh  
Advocate

हस्ताक्षर

Pla.  
(RATAN AM)  
Respondent

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९ ई०

स्वीकृत

A/56

42

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH  
LUCKNOW

OA No. 281 of 1990

Bhartiya Dak Karmshari 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 Karmshari 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 replying 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  
SSR  
7/1/91*

*Ahmed 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. 10, is not a member of the Union. He is the member of applicant Union no. 1.

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 in for satisfaction to feel that their grievance ~~were~~ <sup>were</sup> 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 that 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

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~~ <sup>closed</sup> 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 <sup>not</sup> 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 discriminately- 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 ~~mischievous~~ <sup>sub</sup> mongers and the assassins of late Sri S.N. Singh Yadav the then ~~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

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 ~~Mar~~ 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 holoday 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 contens 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 extablished that the concerned member of the union actually absented and

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~~ 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

*Mohd. Ihsan*'s prayer made in para 8 of the application is cogent and

*Mohd. Ihsan*

6.

ALW

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 ~~was~~ 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.

Ahmed 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 advise.

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

Signed and verified this 30<sup>th</sup> day of December 1990,  
at Lucknow.

Lucknow, Dated:  
December 30, 1990.

Ahmed Husain  
Deponent.

I identify the deponent  
who has signed before me.

M. Duleep  
H&W

463

Annexure R-1

५७

अधीक्ष

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

  
मैकू लाल गौतम  
कृते नेशनल यूनियन,  
छांती।

भवदीय,   
अहमद हुसैन  
कृते भारतीय यूनियन  
छांती।

30-3-90

Merred  
Time 11 AM  
M. Duleep  
Singh  
Dw

# INDIA POSTAL EMPLOYEES UNION

166

## ( KHERI )

No. B. U-31/उत्तराखण्ड/90

50 Dated 1/9/90

संग्रहीत

5705 अमीकर,

२९२

४६/३८

आप ने 22/3/190 अप्रैल विषय के मामले को आ  
दिलाते हुए लेखा है कि मालवाले उपराजनका  
दिनांक 24-25/3/190 को हुए दिनों में उपराजनका  
कृपा को लेकर अपराजनका को प्रकरण दिन 21/3/190  
को शाही अधिकारी लोरान द्वारा 500 मरुदल के  
कामया द्वारा को दिया गया था उसमें लोरा  
कामया ने लोरा को तभा लोरा-कामा उक्त  
दृष्टाल से अलग रहे थे को निष्पत्त जाएना आज  
तक नहीं को शका है वही दोषित दिन  
कादापुर कामया को जगना शाही अधिकारी को शका है  
दिनांक 30/3/190 द्वारा 3/4/190 तक को अवधियां को दृष्टाली  
आवाय मानकर मनमाद द्वारा दो अवधियां को  
दोषित किया जाना जाए है। दृष्टाली कामयों को  
रख ही दिया था उक्त ही शका है दोषित ने करना  
प्रयोगिक पक्षपात है तब 30 शुक्रवार किंतु कामयाद  
को दोषित करता है जिसके कानून तुरह को जारी  
जारी करना जो उपराजनका विधायक शर्कराने प्रयोग करता है।  
तभा द्वारा दोषित को अनुचित द्वारा दोषित किया  
जाया है जिसके कानून दृष्टाल के अन्दर नहीं लिया  
था तभा तभा द्वारा दोषित को दोषित किया जाया है  
दोषित दृष्टाल के अन्दर दोषित किया जाया है अब  
जात कियत दृष्टाल के पक्ष द्वारा दिन 29/3/190 का  
साम दोषित दृष्टाल के पक्ष द्वारा दिन 30/3/190  
को लोग पर जाने के दृष्टाल को गो अद्वितीय  
दिन काम नहीं कर सके किंतु जाया जाया उसका अधिकारी

अखोदा (इटाल) में डोकपाल रखी रखा जिरीकान गण द्वारा  
इस अधिकारी का अधिकारी अधिकारी लोगों ने गर्व कोड़ी की  
ने अपने लोगों द्वारा में साकेत भगवा लिया था  
तभा लोगों द्वारा में छोरा गाँड़ित लोगों में पुश्चारण  
ने पुर्ण रहिया रहा था तभा तमाम लोगों ने लोग  
ने लोग लोग/अपोल लोगों गई आरे ने तालाबन्दी रामायण  
परिवार ने द्वीप लोगों द्वीप गदा भा/उक्त छमरकलम्बा  
के इटाल पर रही लोगों अवेद्या लोगों लोगों तक उक्त  
विस्तृत लोग लोगों नहीं लोगों गई है। उस रामायण में  
सब दोनों लोगों लोगों पर ने इटालों पर उक्त इटाली  
लोगों ने लोग लिरर ने तो द्वीप गदा गई ने उक्त इटाली  
लोगों गदा है लिरर लोग लोगों लोगों लोगों हुई है आरे  
पुराणोंके लोगों लोगों गदा है।

अतः आप इस अनुशोधा के लिए शब्दों को उत्तर  
लिरर लोग लोगों लिरर शब्दों लिरर प्रदान किया जाए  
लोग लोग लोग लोग लोग उचित द्वारा अनुशोधा को  
इटाल लिरर द्वारा अपने लिरर रहे अर्थ आवश्यक लोगों लोगों  
लोग लोगों में शब्द है।

प्रातिलिपि शब्दात् उच्चारणकारी है द्वारा पुराणी द्वारा  
प्राप्तिभूमि शब्दों को शब्दात् द्वारा अलग करने द्वारा प्राप्तिभूमि है।  
प्राप्ति द्वारा शब्दात् के शब्द के उच्चारण में लिरर लोगों लोगों  
पुरा द्वीप 24-25/१९९० को उल्लेख पड़ता है आरे उक्त अनुशोधा  
डोकपाल गर्व द्वारा लिया गया।

*Ahmed Husain*  
16/9/90

(Ahmed Husain  
S.V.I. SECRETARY  
P.E. COLLEGE, KHERI U.P.)

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*True copy*

*M. D. Husain*

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