FORM NO. 21

(*See* rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ...BENCH

OA/~~TA/RA/CP/MA/PT~~ 295/90 ~~of 20~~

C. S. Srivastava .....Applicant(S)

Versus

U.O.I. .....Respondent(S)

INDEX SHEET

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Certified that the file is complete in all respects.

B.C. file weeded and destroy

Signature of S.O. 15/6/2012

Signature of Deal. Hand 13/6/12

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4/9/90

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 295 of 1990 (L)

Shri C. S. Srivastav

APPLICANT(S) Shri C. S. Srivastav

RESPONDENT(S) The Accountant General II (A & E) U.P. Allahabad and others

	Particulars to be examined	Endorsement as to result of examination
1.	Is the ~~appeal~~ application 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~~ application in time ?	yes
	b) If not, by how many days it is beyond time?	N.A.
	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 sapce ?	yes
8.	Has the index of documents been filed and pageing done properly ?	yes
9.	Have the chronological details of representation made and the out come 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. Is the application/duplicate [illegible] the parties signed ?	yes
[illegible] copies of the application [illegible] ?	yes
[illegible] with the Original ?	
[illegible] ?	
[illegible] of Annexures [illegible] ?	×
[illegible] addresses of the [illegible]	yes
14. [illegible]	yes
[illegible] the names of the parties [illegible] tally with [illegible] indicated in the application ?	yes
Are the translations certified [illegible] or supported by an affidavit affirming that they are true ?	yes
[illegible] in the case [illegible] in item no. 6 of the application ?	Item No. 4
[illegible] ?	
[illegible] needed ?	yes
[illegible] consecutively [illegible]	
[illegible] in double space on one side of the paper ?	yes
[illegible] particulars for interim [illegible] indicated with [illegible] ?	yes
3. [illegible] all the remedies have been [illegible] ?	yes

Other/

Annexure is on both side of the paper

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1.7.91 - Hon. Mr. Kausal Kumar - VC
Hon. Mr. D.K. Agarwal, J.M

Adjournment application of Sri. Dr. D. Chandra counsel for respondents case is adjourned to 22.8.91 for hearing.

VC

22.8.91 No sitting adj to 28.10.91

28.10.91 No sitting of D.B. adj to 14.1.92

14.1.92 No sitting of D.B. adj to 11.3.92

11.3.92 No sitting of D.B. adj to 1.5.92

1.5.92 Case not reach adj to 25.5.92

25.5.92 Case not reached adj to 4.8.92

O.R.
C.A/R.A have been exchanged.
5.7.92

OR
Ld. for the applicant has filed MP No 37/91 for interim relief.
S.F.O
Det is already fixed on 26.4.91.
6/2

CA filed
11/4

RA not filed
24/4

26.4.91
D.R.
Both the parties are present today and C.A/R.A have been exchanged in the case today. Hence, this case is to be listed before the Hon. Bench on 27/7/91 for final hearing.

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4.8.92 Case incl. reached adjourn to 13.10.92

Boe

13.10.92 No sitting of D.B. adjourn to 20.10.92

Case is s.f.h.

19/10/92

20-10-92

Hon. Mr K. Obayya, A.M.
Hon. Mr S.N. Prasad, J.M.

List this case on tomorrow.

A.M.

J.M.

21.10.92 - Hon. Mr K. Obayya - A.M.
Hon. Mr S.N. Prasad - J.M.

Put up tomorrow as part heard case.

J.M. A.M.

22.10.92 Hon Mr K. Obayya - A.M
Hon Mr S.N. Prasad - J.M.

Heard the parties Counsel.

(DPS) Judgment reserved.

J.M. A.M.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO 295/92(L) 199 (L)

~~T.A. NO~~ _____ 199 (TL)

Date of Decession 2/2/93

C.S. Srivastava ---------- Petitioner.

---------- Advocate for the Petitioner(s)

V E R S U S

U.O.I. & Ors ---------- Respodent.

---------- Advocate for the Respondents

C O R A M

Hon'ble Mr. K. Obayya, A.M

Hon'ble Mr. S.N. Prasad, J.M

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

Vice-Chairman / Member

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

LUCKNOW

O.A. No.295/90 (L)

C.S. Srivastava :::::::: Applicant

Vs.

A.G. II, U.P.,
Allahabad. :::::::: Respondents

Hon.Mr.K. Obayya, A.M.
Hon.Mr. S.N. Prasad,JM.

(By Hon. Mr. K. Obayya, A.M.)

This application is directed against charge sheet dated 12/10/88, punishment order dated 23-8-89, appellate order dated 21-2-1990 and order dated 9-6-89 rejecting the representation of the applicant for expunging the adverse remarks.

2. The applicant who was appointed as Auditor in A.G. Office, Allahabad, in the year 1973 was allocated to Accounts Wing after the bifurcation of the department as Audits and Accounts and was appointed as Auditor in the office of A.G., Audit-II, U.P., Allahabad and posted at Lucknow. It is contended by the applicant that in due discharge of his duties, he raised objections to some bills, did not pass claims in disentitled cases, and pointed out the short-comings of the Field Staff, for which the Accounts Officer became annoyed and started harassing him and also gave him adverse entry in A.C.R. for the period 1-4-88 to 10-8-88; and because of the adverse entry the applicant was denied of increment at the stage of Efficiency Bar. The applicant alleges that he was unnecessarily involved in a disciplinary proceedings and without enquiry or opportunity, he was punished with "censure".

3. The respondents have refuted the contentions

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of the applicant and pointed out that the applicant has not made any written complaints regarding misconducts of the officers as alleged by him and he has also not produced any documents to substantiate his allegations. It is further pointed out that the A.C.R. was written on the basis of work performance of the applicant and adverse remarks were communicated as recorded by Competent Authority to enable the applicant to improve his performance and overcome shortcomings. Merely because a note put up by a subordinate employee is not agreed to, it does not lead to inference that higher authorities are annoyed. The note can always be overvalued by superiors.

4. Regarding charge sheet, the applicant was served with a charge memo dated 12/10/88, for acts of omission and commission in performance of his duties; The applicant submitted his representation on 25/10/88, denying the charges; notwithstanding this the disciplinary authority passed the order awarding "Censure" to the applicant. The applicant assails the enquiry and penal orders on several grounds, that no enquiry was held, due opportunity was not given and that the disciplinary authority has not considered the material on record. The respondents have refuted the allegations, according to them, the applicant was given opportunity of personal hearing, his representation was considered, and since the charge was for imposition of minor penalty no enquiry was held, as the disciplinary authority considered that enquiry was not called for in the case.

5. We have heard the Counsels of the parties. So far as the disciplinary proceedings is concerned, admittedly the charge was for imposition of minor

penalty. It was well within the power of the disciplinary authorities to hold or not to hold enquiry. It is not necessary that in each and every case elaborate enquiry is to be held. The representation of the applicant was considered. The disciplinary authorities have also went through the materials on record before passing the punishment order. As the proceedings was only for a minor penalty, holding of enquiry is a matter of discretion left to disciplinary authorities and as such we do not see any grounds made out calling for our interference.

6. So far as the adverse remarks are concerned, the applicant made a representation and this representation was rejected in June, 1989. A careful perusal of records indicates that the adverse remarks were communicated on 12/8/88 and the applicant represented against the same, but this representation was rejected vide letter dated 9-6-89. Having regard to the contents of the remarks which were passed on evaluation of the work of the applicant, we are of the view that the Tribunal cannot sit in appeal over the remarks passed by the competent authority. However, there is one aspect in this case i.e. the applicant was due to cross Efficiency Bar in December, 1988 for which D.P.C. was held in October, 1988. Evidently the adverse remarks were taken into consideration, as the rejection of representation made against the adverse remarks was communicated in June, 1989. In other words, the representation of the applicant was under consideration. In such circumstances, the

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D.P.C. should have considered not only the adverse remarks, but also the representation of the applicant side by side. It appears that the same has not been done. For this reason we direct that the respondents should hold a review D.P.C. and consider the record of the applicant for the relevant period upto October, 1986 and also the representation of the applicant along with the adverse remarks as a whole and in case the D.P.C. comes to the conclusion that the applicant is entitled to cross E.B., the same may be given to him from due date. Even otherwise the subsequent records of the applicant must have been found to be not adverse and the 'censure' entry also having lost its effect, there may not be any adverse factor against the applicant to deny him the benefit of crossing E.B. The respondents are directed to take into consideration all these aspects in the review D.P.C. The application is disposed of with the above directions. Parties to bear the costs.

Member (J)

Member (A)

Dated: 2nd Feb., 1993, Lucknow.

(tgk)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
L U C K N O W

O.A. No. 295 of 1990 (L)

**

C.S. Srivastava -- -- -- -- Applicant

Versus

The Accountant General II
(A&E) U.P. Allahabad and others -- -- -- opp.parties.

**

FORM I

Application under Section 19 of the Administrative Tribunal's Act 1985.

**

Title of the case- Efficiency bar due on 1.12.1988 deferred due to illegal disciplinary proceedings and adverse remarks.

INDEX

Filed today
4/9/90

Dated: August 31, 1990

Place: Lucknow:

Signature of the APPLICANT

Through: R.S. Srivastava, Advocate

Counsel for the Applicant

Address: 4/553 Vikas Nagar, Kursi Road Lucknow:

Central Administrative Tribunal
Lucknow
Date of Receipt by Post 14/9/90

Deputy Registrar (J)

FOR USE IN TRIBUNAL'S OFFICE

Date of filing : _____

or

Date of Receipt :
by post.

Registration Number : _____

Signature
For Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH
LUCKNOW

**

C.S. Srivastava son of late Shri Girdhar Gopal aged about 37 years, resident of 559(Kha) Srinagar, Alambagh, Lucknow at present working as Auditor in A.G. II, Audit U.P. Sahakarita Bhawan, Lucknow .. .. .. Applicant

Versus

1. Accountant General II, (A&E), U.P. Allahabad.
2. Senior Deputy Accountant General, office of Accountant General (A&E)-II, U.P. Allahabad.
3. Deputy Accountant General Forest, office of the Accountant General (A&E).II, U.P. Allahabad.
4. Shri J.K.Srivastava, Accounts officer, office of A.G.II (A & E)-II, U.P. Prem Bazar, Nishatganj, Lucknow.
5. Shri R.K. Gandhi, Accounts officer, office of A.G. II (A & E)- U.P. Allahabad.
6. Shri Harish Chandra Rathore, Assistant Audit officer, office of the Accountant General (Audit)-II,U.P. U.P. State Elecy.Board Wing, Lucknow.

-- -- -- -- Respondents

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1. Details of application.

(i) Particulars of the order ~~of~~ against which the application is made

The application is being made against the

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orders dated 21.2.1990 of Accountant General (A & E) II, U.P -Allahabad issued by him in the capacity of Appellate Authority, rejecting the appeal and confirming the penalty of 'Censure'. ~~being~~ A copy of said order isbeing filed as Annexure.1.

2. Jurisdiction of the Tribunal

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

3. Limitation

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

4.1. That the applicant was appointed as Auditor on 7.12.1973 in Accountant General's office Allahabad and confirmed on that post.

4.2. That the work and conduct of the applicant was found upto the mark and his work as Auditor in outside Audit Department was appreciated by superior officers and he earned excellent entries in his ACRs.

4.3. That not a single adverse entry except the entry under challenge wasreported against the applicant and he was allowed to draw regular increments in the time scale of Auditor.

4.4. That consequence of bifurcation of Audit and Accounts w.e.f. 1.3.1984 the applicant was allocated Accounts Wing and was appointed Accountant with effect from 1.3.1984.

4.5. That in August 1989 the applicant was allocated Audit Wing and was appointed as Auditor in A.G. Audit II,U.P. Allahabad and was posted at C.A.W. Wing Lucknow where he is working at present.

4.6. That while the applicant wasposted in G.E. Section the Accounts officer Shri J.K.Srivastava asked the applicant to issue a particular leave title which could not be issued in accordance with the provisions of G.A.D. Manual when the applicant pointed out the provisions and

showed his unwillingness to issue the leave entitlement, it being not in order, Shri J.K.Srivastava Accounts Officer, got annoyed with the applicant and started bearing ill-will.

4.7. That the staff of Fund Account II was being sent on inspection for collection of schedules etc. from various units for purposes of preparation of Broad-sheets. The staff deputed either did not submit the details or if submitted it contained discrepancies. The applicant when put up a note to this effect apprising the A.O. and S.O. of this fact on 28.5.87 they became annoyed because the staff members sent on inspection duty were their favourites, copy of orders of dated 28.5.87 of Accounts Officer Shri J.K.Srivastava which are being filed as Annexure.2 may be seen. Shri Shailendra and Shri A.K.Srivastava, Shri Mohd. Shakeel and P.K.Srivastava had not submitted the concerned schedules in section. The first three members named above were not allowed to go on tour and it was also ordered that Shri P.K.Srivastava will go on inspection after handing over the concerning schedules in the section. Shri J.K.Srivastava Accounts Officer thus started bearing ill will with the applicant and became highly biased and prejudicial against the applicant.

4.8. That on 17.5.88 the applicant received a letter through sectional diary alongwith revised cash account for making some adjustment at 12.30 P.M. when the applicant at about 2 p.m. wanted to dispose of that letter, he found that necessary adjustment was already done by the section officer Shri M.C. Rathore, when the revised cash Account was kept in his drawer. When the applicant apprised the Accounts Officer Shri R.K.Gandhi of the entire matter then he asked the applicant to remain silent and do nothing on the issue. Though the applicant had not made any written complaint to any officer even then Shri M.C.Rathore S.O. on knowing that the applicant had reported the matter to Accounts Officer, became so much enraged that he told the applicant that he shall mar his service career and will not allow him to function normally in hisservice since then he started harbouring ill will and malice, against the petitioner and also started poisoning the ears of accounts officer Shri R.K. Gandhi.

4.9. That when it came to the knowledge of Shri Rathore that the applicant had managed to possess some

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indiscriminating documents which could ~~spil~~ spoil the service career of Shri Rathore and debar him from further promotion, he became so much annoyed with the applicant that he decided to take vengeance and do harm to the service career of applicant.

4.10. That Shri R.K.Gandhi Accounts Officer and Shri M.C. Rathore started a compaign against the applicant and decided to harm the service career of the applicant. They left no stone unturned to harass and victimise the applicant. The supplied concocted, frivolous and baseless material to higher authorities, on the basis of which the Disciplinary proceedings were started against the applicant. The above two officers were so much biased and prejudiced against the applicant that Shri M.C. Rathore section officer wrote the Annual Confidential Report of the applicant for the broken period of Financial Year i.e. from 1.4.88 to 10.8.88 though the applicant had not workedunder him for 3 months vague and baseless adverse remarks were recorded in the ACR. The above illegal disciplinary proceedings and adverse remarks are being challenged in the succeeding paragraphs.

4.11. That the facts mentioned below will indicate that Shri R.K.Gandhi A.O. and Shri M.C.Rathore, S.O. were bent upon to harass and victimse the applicant because they had ~~m~~ nurturned illfeelings and malice against the applicant.

4.12. That the claim of L.T.C. which was pending from 8.1.87 and the claim M.T.C. Advance pending from Ist June 1987 were cleared after 11 monthsand 3 months respectively that too when the applicant had sent a telegram to Shri Ravi Saxena, A.G. ' (A & E) II U.P. Allahabad. The copy of telegram is being filed as <u>Annexure.3.</u>

4.13. That the levave salary claimsfor leave of June 1988 and July 1988 of the applicant became due for payment on 1.7.88 and 1.8.88 respectively but the amounts pertaining to these claims were not disbursed before 5.8.88 the date on which orders were passed after intermention by A.G. II.

4.14. That the applicant was sent to the C.M.O. C.G.H.S. Lucknow vide Estt. Letter No. F.11/71 dated 11.8.88 for medical opinion. The applicant reported to the C.M.O. C.G.H.S. on 12.8.88, The C.M.O. vide their letter No.3.12/87-CGHS/LKO 839-40 dated 12.8.88 intimated to the Accounts

officer Estt. office of the A.G. (A & E) U.P. II, U.P. Prem Bazar, Lucknow, a copy of which was endorsed to the applicant, that there was no such provision for medical opinion under CGHS and directed C.M.O. District Hospital (State) should be approached for such opinion, knowing fully well that C.G.H.S. had no provision in rules, the applicant was unnecessarily harassed and bothered to go to C.M.O., C.G.H.S. Lucknow and the applicant was paid conveyance allowance which resulted in wasteful expenditure. and this could have been avoided had the Accounts officer been vigilant and alert and not ordered illegal reference to C.G.H.S. A copy of letter dated 12.8.88 of C.M.O. Lucknow is being filed as Annexure.4.

4.15. That the applicant was asked by the Accounts officer Shri R.K.Gandhi A.D. Fund 2 to attend the office on 22.7.89 and to assist the appropriation work of Forest-2 section. On 22.7.89 the applicant attended office and it being saturday (holiday) conveyance allowance is payable under normal rules. Since Shri R.K.Gandhi Accounts officer was already prejudiced against the applicant, he got the legitimate claim of Rs. 28.00 rejected by the Dy. Acctt. General (Forest) . The rejection of claim was intimated to the applicant on 18.8.89. The copies of letters dated 22.7.89 and 18.8.89 are being filed as Annexures 5 & 6.

4.16. That instructions contained in para 296, M.S.O. (Adm.) vol. I require that no member of clerical staff should be allowed to remain in the same seat for more than three continuous years and in the same section for not more than five years meaning thereby, that if work and --conduct of any member of clerical staff is found satisfactory and upto the mark he may ordinarily allowed to be continued on the same seat for 3 years and in the same section for 5 years. Since the Accounts officers Shri J.K.Srivastava and Shri R.K.Gandhi and Section officer Shri H.C.R. there were biased and prejudiced against the applicant, he was subjected to frequent transfers even after stay of short spans in one section though the applicant worked consciously and with devotion. The examples of transfers of the applicant are given below:

From 7.3.86 to October 1986 -Fund Section thereafter posted to Estt. Section and thereafter sent to Allahabad for 10 days

training; on return from training posted to GE I Section and on 1.4.87 from Estt. Section to Forest AccountsII section. After some months he wasshifted to Accounts seat -from Bread-sheet seat. Thusduring a year the applicant was posted in 4 sections viz. Fund Section, Estt. Section GE.I section and Forest II Account section. It was done merely to harass and tease the applicant and was wholly contrary to instructions cited above. The shifting to other seats after a short span was done with a view that the officers concerned could point out some defects or deficiencies in the work of the applicant. However, when no such defects/ deficiencies could be located, and when the applicant fell ill and was on leave, the concerned officers started sending memos calling forth clarification on irrelevant and vague matters.

4.17. The intention of Shri R.K.Gandhi Accounts officer to harass and victimise the applicant will be established from the following three letters which were -issued on 22.6.88 and in continuation viz. No. 2/66, No.2/67 and No. 2/68. The applicant was ill and was not in a fit condition to reply these letters by 30.6.88. These letters smack of complete inhumanity and absolute discourtsey on the part of the Accounts officer Shri R.K.Gandhi as he very well knowthat the applicant will not be in a position to reply these letters without consulting official records kept in office. Letter No.2/66 dated 22.6.88.

Thisletter was issued for explaining by 30.6.88 the reasons why the particular monthly accounts were not incorporated in the compilation sheet by a particular date. The copy of thisletter isbeing filed as Annexure.7.

Unless the records of the office were consulted it wasnot possible to give replies by 30.6.88 when the applicant was ill and it wassimply done to harass and to give mental agony to the applicant.

Letter No. 2/67 dt. 22.6.88.

Thisletter was issuedto show cause why period from 13.6.88 to 17.6.88 should not be treated as unauthorised absence as the applicant had gone out after getting leave sanctioned from 1.6.88 to 10.6.88 and when he had returned to Lucknow on 12.6.88 and had sent letter through post for extension of leave upto 1.7.88 which letterwas received in office on 17.6.88. Calling for this explanation by 30.6.88 was worthless and wholly tainted with malice

Srivastava

and prejudice because even the letter sent locally takes a week or more to reach the destination and when application wasreceived on 17.6.88 for extension of leave it was futile to have called such an clarification. A copy of this letter is being filed as Annexure.8.

Letter No. 2/68 dated 22.6.88.

The contents of this letter will indicate that in this letter also the Question of treating the period of absence as unauthorised absence hasbeen repeated. It has also been mentioned that after being present in office on 17.6.88 A.N. the applicant was not coming to office nor leave has been got sanctioned. Further it was stated that the applicant had caused loss to office work by not obeying orders of higher officers. A threat was also given asto why the disciplinary action should not be taken against the applicant.

It is clear from letter No. 2/67 that leave application of the applicant for extension of leave upto 1.7.88 was received in office on 17.6.88. The apparent need for issue of this letter cannot be understood. It is established without doubt that this was simply done to harass the applicant. No doubt the sanction of leave or rejection of leave rested with the competent authority and from 17.6.88 to 22.6.88 there was enough time with Shri R.K.Gandhi to have got the leave application rejected in public interest and intimation sent to the applicant than to have wirtten the letter in Question.

These letters were written by Mr. R.K.Gandhi Accounts officer without applying mind and simply to torture and terrorise the applicant. A copy of above letter is being filed as Annexure.9.

4.18. That para 202 of F.M.B. lays down that in case the accounts of any unit were not received by 10th of the following month, they shall be excluded from the compilation of State Account when the accounts of conservators of Forests and D.F.os. were not received by 10th as statedabove, there used to be issued a letter (the copy of proforma of this letter is being filed as Annexure-10). The applicant had also taken the orders of the S.O. and A.O. to this effect that only accounts received upto 12th should be incorporated in Group Accounts and those received after 12th were to be excluded and shown

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as not accounted for due to late receipt. A copy of this note is being filed as Annexure 11. The above procedure was being followed by the applicant and it wasnot objected to any time. That vide registered letter No. Van.2/66 dated 22.6.88 the applicant was asked to explain as to why the accounts mentioned in the letter were not accounted for in account of April 1988. A copy of the said letter is being filed as Annexure.7. The perusal of the letter itself indicates that the accounts for which explanation has been called for not including in the compilation of accounts for April 1988 were received on 16.5.88 and 19.5.88 , 24.5.88, 31.5.88 respectively and thus the applicant as per above provisions of para 202 ibid and orders of S.O. and A.D. was wholly justified not to include the Accounts in Question in compilation sheet for April 1988 accounts. The applicant had not submitted any explanation of contents of letter No. 2/66 dated 22.6.88 but had requested the Accounts Officer Forest-II to send the certified copies of the documents mentioned below:

(i) Accounts Compilation Sheets for 3/88 (Supplementary) 4/88 and 5/88,

(ii) Details of daily receipt of Accounts.

(iii) Letters sent in connection with the Accounts.

(iv) Attendance register of May 1988.

It wasfurther requested that since the applicant was ill and could not come to office, the copies of documents may be sent at residential address of applicant. It would thus be seen that the calling for the explanation of applicant for non-inclusion of accounts was neither convincing nor tenable. It wasmerely done to harass and victimise the applicant. A copy of the letter written by applicant to Accounts Officer Forest II is being filed as Annexure 12. It is also stated that the compilation sheet for April 1988 and May 1988 wasone and in case copy of the same would have been sent to the applicant, the same should have falsified the charge as the accounts of April 1988 which were received late were accounted for in May 1988 compilation sheet when the applicant requested for the copy of the compilation sheet for April 1988 and May 1988, the Accounts Officer Shri R.K.Gandhi and Section Officer Sri M.C. Rathore managed to get the compilation sheet disappeared. The matter of non-traceability of the said compilation sheet was also reported by the applicant to the Section Officer FA.2 Section on 11.7.1988. The copy of this letter is being

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being filed as Annexure 13. The compilation sheet for April 1988 and May 1988 of the seat of applicant for Avadh Vratta Lucknow and South Vritta Allahabad may be got summoned by the Hon'ble Tribunal and the truth verified.

4.19. That the applicant was awarded the following adverse entries for the period from 1.4.88 to 10.8.88. The said adverse entries were intimated to applicant vide confidential letter No.Forest II/75 dated 12.9.88 issued under the signature of Shri R.K.Gandhi, Accounts officer.

PART - II Assessment of the Reporting officer

Nature	Entries given
1. Do you agree with the statement made in part II	Entries given .Habitual to left the accounts in accounted for which have already been handed over to him for compilation.
7. Promptness in disposal work.	Not prompt.
8. Amenability to discipline	Indisciplined.
9. Punctuality in attendance	Punctual but not regular.
10. Relations with fellow employees	Not easy in hisrelationship but gets by.

The copy of letter dated 12.9.88 is being filed as Annexure 14.

4.20. That the above adverse entries were given out of malice, ill will and prejudice and in utter disregard to instructions issued by Government of India from time to time.

4.21. That the reporting officer is authorised to write the character roll entries of the subordinate only when he had seen the work of the subordinate reported upon for a period not less than three months. The instructions to this effect have been incorporated in the Government of India O.M. No. 51/M/90-Estts (A) dated 31.10.61 Ministry of Home Affairs. The applicant, though had not worked under the reporting officer for three months, even then the reporting officer hurriedly wrote the character roll entries with a view to harm the service career of the applicant. The reporting officer was well aware that the applicant was due to cross the E.B. on 1.12.1988. The applicant had worked under the reporting officer for less than 3 months as will be seen from the statement filed at Annexure 15. and as such he

was not authorised to write the character roll of the applicant. The adverse entriesthus deserve to be declared non-est. In Union of India Vs. Ranjit Singh Grewal and others 1980(3) SLR 256 (Delhi) it was held that " Reporting officer/authority has no jursidiction to record unless such authority has seen the performance of officer at least three months during the period for which the report is written. Governor neither the reporting authority nor the review authority- confidential report for a period less than 3 months recorded by Governor not a proper confidential report- cannot be taken into consideration for compulsory retirement".

That the adverse remarks given by the reporting officer are wholly vague, unfounded and irrelevant because the remarks are general and not a single instance has been quoted by reporting officer in support of his remarks. The Hon'ble Tribunal in Krishan Lal Sharma Vs. Union of India 1987 ATC vol. IV.P. 713 has held asunder in para 7.

Para 7. The next challenge is to the adverse remarks recorded for the year 1988. The adverse remarks read as follows:

Average.
Highly indisciplined
Doubtful in honesty
Irregular, careless and casual
~~Unfit~~ Unfit.
No

Against these remarks the petitioner made a representation and that was rejected. It is the grievance of the petitioner that these remarks were recorded because of his refusal to do menial work requested by respondent no.4. In the adverse remarks it was recorded that he washighly indisciplined. It is not clear as to how he was indisciplined as no particular incident is mentioned or communicated to the petitioner. It is also stated that he is irregular careless and casual but no particulars what-so-ever are given. In the absence of these particulars and specially in the background of the facts of this case, these adverse remarks cannot be sustained and are accordingly quashed.

4.22. That the perusal of entries given to the applicant would show that the entries were all vague and irrelevant and were tained with malice and caprice.,since the reporting officer had failed to point out even a single instance in support of the entries given, the said adverse remarks, need to be declared as non-est in the light of

para 7 of the judgment quoted in para 4. 21 of the application.

4.23. That the self appraisal report in part-II of the form of confidential report wasto be filled up by the -officer reported upon i.e., the applicant should have been asked to fill up this portion, but no appraisal report was obtained by the Reporting officer from the applicant. Writing the CR without the appraisal report having been called from the applicant, wasan empty exercise and it also shows the high handedness of Reporting officer to write C.R. without observing the basic instructions, such entries carry no weight and need to be declared non-est.

4.24. That in accordance with the instructions issued from time to time by Government of India, the reporting officer has to maintain a memorandum of services of the officer reported upon to enable the reporting officer to make correct and overall assessment of the work and conduct of the subordinate. This record was to be maintained in repsect ofeach subordinate and was to be consulted by reporting officer while writing the C.R. It may be submitted that no such memo of services has been maintained by the reporting officer in respect of the applicant.

4.25. That there are clear instructions of Govt. of India contained in G.I. D.P and A.R. O.M. No. 21011/1/81-Estt. (A) dated 5th June 1981 that there may be occasions when it may be necessary to criticise adversely the work of an officer or to call for his explanation for some act of omission or commission or to issue a written warning or reprimand etc. At the end of the year (or period of report, the reporting authority while writing the report may decide not to make a reference in the confidential report to warning /reprimand if in the opinion of the Reporting officer the performance of the officer reported upon hasimproved after issue of warning / reprimand. If however, the reporting officer comes to the conclusion that despite such warning/ reprimand the officer reported upon hasnot improved, he may make appropriate mention of such warning, reprimand etc. in the relevant column in part III of the form of C.R. As per the above instructions the reporting officer was required to issue memos for warning/reprimand etc. for every act of omission or commission before giving adverse remarks in C.R. of the applicant but not a single memo of displeasure/warning/ reprimand was ever issued to by the reporting officer to the

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the applicant and therefore, the adverse remarks recorded by the Reporting officer were neither justified nor sustainable in the eye of law.

4.26. That the applicant had submitted the representation to the Accounts officer Forest II Section on 27.9.88 a copy of which is being filed as Annexure.16. While the adverse remarks were challenged being contrary to rules & instructions issued by Government of India but it was also stressed that the reporting officer was obsessed with a queer, irresistible habit of recording adverse entries in the character rollsand in the past he had given adverse entries to S/Shri Lalta Prasad N.N. Singh, Akhilesh Kumar, and R.C. Arya which had to be expunged later by the Administration. They all had been promoted and are working as senior Accountants when the applicant did not receive the reply of his representation, he addressed a letter to the Deputy Accountant General (Forest) Allahabad on 27.2.1989 stating therein the representation should have been decided within 3 monthsas laid down in Rule V of the confidential O.M. No. 2011/1/77-Estt. dated 30.1.78 of Government of India, Ministry of Home Affairs, Department of Personal and A.R. and also requested that the adverse remarks be declared inoperative expeditiously. The copy of letter dated 27.2.89 is being filed as Annexure.17. vide Confidential letter No. Estt/CR/113 dated 9.6.89 issued under the signatures of Shri J.K.Srivastava, Accounts officer Estt. A copy of which is being filed as Annexure.18. the applicant was informed that Sr. DAG Admn had rejected the representation dt. 27.9.1988.

It was stated in the letter dated 9.6.89 that Sr. DAG/Admn, has rejected his appeal and ordered that the adverse remarks in question for the period from 1.4.88 to 10.8.88 stand. The order of rejection being non-speaking was not substainable in the eye of law. In N.K. Narayankar -Versus Member (T P) Telecom Board 1989 (10) ATC 477 the Hon'ble Tribunal have held as under:

" The adverse remarks would effect the career of the applicant adversely and therefore visit Civil consequences on him. The consideration of a representation was a quasi-judicial function and the principles of natural justice were applicable to it. Therefore, the cryptic order merely rejecting the representation in this case was a bad order and should be struck down as bad in law ".

The adverse remarks given to the applicant could

could not therefore be considered tenable in the light of the above judgment. The applicant has filed his appeal against the orders dated9.6.89 to the Accountant General A.&.E. U.P. II Allahabad on 15.9.89. The copy of letter dated 15.9.89 is being filed as Annexure.19. The said appeal is still pending with A.G. and had not yet been decided.

4.27. That in the Character Roll entry it has been stated asunder:

Relationship with fellow employees.	Not easy in his relationship but gets by.

It is stated that the relations of the applicant with fellow workers were most cordial. Certificate given by fellow employees vis. Shri S.N. Gupta, Shri Shyam Jee Malviya Shri Ashok Chowdhary and Smt. Meena Srivastava will testify the truth. A copy of this certificate is being filed as Annexure.20. This will indicate that the entry recorded by Section officer wasout of ill-will and malice and is to be declared nulland void.

4.28. That in the case of S.R. Julka vs. Union of India, and others 1988 ATC (6) P.18, it has been held by the Hon'ble Central Tribunal that the acid test for a valid ACR is objectivity in reporting. It was further held that applicant's efficiency personality traits and technical ability all of a sudden reported as of low order while in previous reports they were reported of a high order. Neither efficiency nor personality characterstics can deteriorate so markedly in a short span. In the case of applicant adverse remarks were recorded out of bias and malice. The Hon'ble Tribunal may summon the ACRs of previous years and after verifying of previous years andafter verifying the truth may declare the adverse remarks as invalid and non-est.

4.29. That the charge-sheet was issued vide A.G.(A&E) I, U.P. Allahabad letter No. PrashaShan II/Anu/115/378 dated 12.10.1988. It was signed by Shri S.B. Pillai Sr.Dy.Accountant General (Admn.). The copy of the charge-sheet is being filed as Annexure. 21.

The said-charge sheet contained the following charges:-

Annexure

श्री चन्द्रशेखर श्रीवास्तव लेखाकार 04/3565 के विरुद्ध दुराचरण का दुर्व्यवहार दोषारोपों का विवरण

उक्त श्री चन्द्रशेखर श्रीवास्तव लेखाकार मई-88 से अगस्त 88 की अवधि में कार्यालय महालेखकार-2 लेखा एवं हकदारी उत्तर प्रदेश शाखा कार्यालय लखनऊ में वन-2 अनुभाग में कार्यरत थे। उक्त श्री श्रीवास्तव दिनांक 31.5.88 की अवधि में अपनी सीट से संबंधित कार्यालयीय कार्यों को नहीं सम्पादित किया। वे अनुभाग में बैठकर उपन्यास पढते थे। दिनांक23.5.88 को सम्बन्धित अनुभाग अधिकारी श्री हरिश चन्द्र ने उनसे कहा कि उन्हें (श्री श्रीवास्तव को) अनुभाग में उपन्यास नहीं पढ़ना चाहिए। उनके इस प्रकार उपन्यास पढ़ने से मना करने पर श्री श्रीवास्तव ने कहा आपको जो भी करना हो करलें मैं उपन्यास पढूँगा अपनी सीट से सम्बन्धित कार्यों को परा न करने हेतु उन्हें पत्र संख्या फारेस्ट -2/66 दिनांक 22.6.88 द्वारा स्पष्टीकरण प्रस्तुत करने को कहा गया परन्तु उनके द्वारा प्रस्तुत स्पष्टीकरण संतोष जनक नहीं पाया गया। दिनांक 24.5.88 को श्री श्रीवास्तव ने लेखाधिकारी श्री आर.के. गाँधी के समक्ष यह कहा कि उनका स्थानान्तरण किसी अन्य अनुभाग में कर दिया जाय तथा उन्होंने श्री हरीशचन्द्र अनुभाग अधिकारी के नियंत्रण में कार्य करना अस्वीकार कर दिया एवं यह कहा कि वे जब तक लेखा परीक्षा कार्यालय के लिए मुक्त नहीं किये जाते तब तक अवकाश पर रहेंगे। दिनांक 17.6.88 को श्री श्रीवास्तव सायंकाल 5 बजकर 10 मिनट पर 1.6.88 से 16.6.88 तक का अर्जित अवकाश बिताने के बाद कार्यालय उपस्थित हुए एवं लेखा अधिकारी श्री आर.के. गाँधी एवं अन्य लेखाधिकारी श्री जे.के. श्रीवास्तव के समक्ष पुनः यह कहा कि वे जब तक उस अनुभाग से हटा नहीं दिये जाते या लेखा परीक्षा कार्यालय के लिए मुक्त नहीं कर दिये जाते तब तक वे इसी प्रकार अवकाश लेते रहेंगे। उन्होंने यह भी कहा कि दिनांक 20.6.88 से ही चिकित्सा के आधार पर अवकाश पर चले गये जो कि इस बात का द्योतक है कि उनका 20.6.88 से चिकित्सा के आधार पर अवकाश पर जाना पूर्व नियोजित था। इस विषय पर उनसे पत्र संख्या वन-2/68 दिनांक 22.6.88 द्वारा स्पष्टीकरण माँगा गया तथा उनके द्वारा प्रस्तुत स्पष्टीकरण को संतोष जनक नहीं पाया गया। केन्द्रीय सामान्य सेवायें (आचरण) नियमावली 1964 के नियम 3(1) (2)एवं(3) के अनुसार प्रत्येक कर्मचारी का यह कर्त्तव्य है कि वह अपने शासकीय कार्यों को प्रति पूरी निष्ठा रखे तथा कोई भी ऐसा कार्य न करे जो कि किसी सरकारी कर्मचारी से अपेक्षित नहीं है। उक्त श्री चन्द्रशेखर श्रीवास्तव अपने उक्त आरण से केन्द्रीय सामान्य सेवायें (आचरण) नियमावली 1964 के नियम 3 (1) (2)एवं(3) का उल्लंघन किया है तथा तत्सम्बन्धित कदाचार के दोषी हैं।

4.30. That the applicant submitted the replies to the Chargesheet on 25.10.88. A copy of the chargesheet is being filed as Annexure.22. The applicant had denied all the charges and had stated that the charges were vague, infructous , unfounded and concocted and they were the outcome of malice and illwill which Shri J.K. Srivastava,

चले जायेंगे और अपने कथनानुसार दिनांक 20.6.88 से अवकाश पर

Shri ..K. Gandhi , Accounts Officer and Shri M.C. Rathore S.O. bore against the applicant. The details as to why the -se officers became prejudiced against the applicant were given in paras 1 to 17 of the replies given by applicant in his letter dated 25.10.88. He had written regarding the charge of not doing any work of his seat from 17th May 1988 to 31st May 1988 as under:-

यह आरोप कि मैने दिनांक 17.5.88 से 31.5.88 की अवधि में अपने सीट का कोई कार्य नहीं किया मेरे द्वारा उक्त अवधि में किये गये कार्यों से संबंधित रिकार्डस देखने से स्वतः झूठा साबित हो जायेगा। इस अवधि में मैने 17.5.88 को माह अप्रैल 88 के लेखे से संबंधित शिड्यूल्स को बनपया। समरी पोस्ट की तथा माह अप्रैल 88 का एकाउन्ट क्लोज किया इसके अतिरिक्त दिनांक 18.5.88 से 245.88 तक दक्षिण वृत्त के अप्रैल 88 के विलम्ब से प्राप्त लेखों को मई 88 के लेखे में लेखा ... किया। इस अवधि में प्राप्त समस्त सामान्य डायरी ए' अर्जेंट डायरी द्वारा प्राप्तपत्रों का निस्तारण किया। मार्च पूरक के लेखों में समायोजन किया। दिनांक 25.5.88 से 30.5.88 तक मैं कम्पेंसेटरी कैजुअल लीव पर रहा। दिनांक 31.5.88 को मैने अपने वर्ग से संबंधित मार्च पूरक तक के लेखों का चार्ज अनुभाग अधिकारी के आदेशानुसार श्री अशोक कुमार चौधरी को दिया। स्पष्ट है कि मैंने दिनांक 17.5.88 से 31.5.88 की अवधि में अपनी सीट से संबंधित सभी कार्य किये तथा समस्त आदेशों का अनुपालन किया

As regards reading novels in the section, the applicant had stated as under:-

जहाँ तक यह आरोप कि मै अनुभाग में बैठकर उपन्यास पढता था, का प्रश्न है यह आरोप बिल्कुल निराधार एवं झूठा है। प्रथमतः यह स्पष्ट नहीं है कि मैंने किस दिनांक से किस दिनांक एवं किस समय से किस समय तक अनुभाग में उपन्यास पढ़ा था और इस निराधार आरोप की पुष्टि के लिये अनुभाग अधिकारीके अलावा अनुभाग तथा कार्यालय के अन्य कौन कौन कर्मचारी या अधिकारी है जिन्होंने उक्त आरोप की पुष्टि में मुझे उपन्यास पढ़ते देखा था और इस संबंध में प्रत्यक्षदर्शी साक्ष्य है। श्री हरीशचन्द्र अनुभाग अधिकारी का यह कथन है कि उन्होंने मुझे दिनांक 23.5.88 को कहा कि मुझे अनुभाग में उपन्यास नहीं पढना चाहिए, बिल्कुल झूठा है और पहले वाले आरोप कि वे अनुभाग में बैठकर उपन्यास पढते थे" वाले आरोप से परस्पर विरोधी है। क्योंकि पहले वाले आरोप से स्पष्ट होता है कि मैं अनुभाग में साधारणतया: रोज उपन्यास पढ़ता था जब कि दूसरे आरोप कि दिनांक 23.5.88 को संबंधित अनुभाग अधिकारी श्री हरीशचन्द्र ने उनसे कहा कि उन्हें अनुभाग में उपन्यास नहीं पढने पर मना करते हुए श्री श्रीवास्तव ने क्या आप को जो करना हो घर से मैं उपन्यास पढूँगा से स्पष्ट होता है कि उपन्यास पढ़ने का आरोप केवल दिनांक 23.5.88 से संबंध में है। उपरोक्त से एवं मेरे द्वारा कृत्य कार्यों से स्वतः स्पष्ट है कि आरोप मनगढन्त एवं झूठा है।

इसके अतिरिक्त यदि मैं उपन्यास अनुभाग में बैठकर पढ़ता था तो अनुभाग अधिकारी इस कृत्य को लेखाधिकारी को भी बड़ी आसानी से दिखा सके थे और मुझे स्वयं अपने द्वारा या चेतावनी आदि दे या दिलवा सकते थे। और यदि मैं अनुभाग में रोज उपन्यास पढ़ता था तो श्री हरीशचन्द्र ने इसके पहले कभी ऐसा करने से नहीं मना किया। 23.5.88 को ही ऐसी क्या बात थी कि जब उन्होंने मुझसे कहा कि अनुभाग में उपन्यास नहीं पढ़ना चाहिए और मेरे द्वारा उनके अनुसार यह कहने पर आपको जो करना हो कर लें मैं उपन्यास पढ़ूँगा तक उन्होंने स्वयं या लेखाधिकारी ने ऐसा न करने की लिखित हिदायत या चेतावनी उस समय क्यों नहीं दी। यह चन्द प्रश्न हीन आरोप को झूठा साबित करने के लिये पर्याप्त से भी अधिक है। जैसा कि आरोप से स्वयं सिद्ध है कि न तो लेखाधिकारी ने मुझे कभी भी अनुभाग में उपन्यास पढ़ते स्वयं देखा है न कि अनुभाग के अन्य लेखाकारों अथवा कार्यालय के किसी अन्य कर्मचारी ने, एकतरफा एवं सरासर झूठा आरोप को चार्टशीट का एक महत्वपूर्ण आरोप बना देना पूर्णतः विधि एवं प्राकृतिक न्याय के सिद्धान्तों के विरुद्ध है।

जहाँ तक सीट से संबंधित कार्य पूरा न करने हेतु दिये गये स्पष्टीकरण संख्या वन-2/66 दिनांक 22.6.88 के स्पष्टीकरण देने का प्रश्न है उसका स्पष्टीकरण का उत्तर देने के लिए तथा बेबुनियाद साबित करने के लिये मैंने संबंधित अभिलेख जिन पर मैंने कार्य किया था उनकी प्रतियाँ तथा उनसे संबंधित अभिलेख मांगे थे न कि स्पष्टीकरण का कोई उत्तर दिया था। मुझे बचाव हेतु अथवा स्पष्टीकरण के साक्ष्य हेतु माँगे गये अभिलेख तथा सूचनायें आज तक नहीं दिये गये। यहाँ तक कि अप्रैल 88 एवं मई 88 की अवधि तथा दक्षिण वृत्त की कम्पाइलेशन शीट भी गायब कर दी गई जो कि अभी तक बार बार मौखिक एवं लिखित रूप से माँगने पर भी नहीं दी गई ताकि सच्चाई का पर्दाफाश न हो सके। संबंधित अधिकारियों से यह पूछा जा सकता है कि संबंधित अभिलेख/कम्पाइलेशन शीट स्पष्टीकरण का प्रत्युत्तर देने हेतु उपलब्ध कराने में आखिर क्या परेशानी थी, अथवा है। चूँकी संबंधित अभिलेख उपलब्ध न कराने के कारण कोई भी स्पष्टीकरण का उत्तर आज तक प्रेषित नहीं किया गया है तो उसके असंतोषजनक पाये जाने का प्रश्न ही नहीं उठता है।

That the regarding the other charge the applicant had stated as under:

दिनांक 24.5.88 - - - - - - - - - - -

संतोषजनक नहीं पाया गया।

यह कि प्रथमतयः मैंने स्थानान्तरण हेतु कोई भी प्रार्थना पत्र अब तक लखनऊ कार्यालय में नहीं दिया है अपितु बार बार अल्पावधि में ही स्थानान्तरण के विरुद्ध आवश्यक ही प्रतिवेदन दिये हैं। यदि मुझे वास्तव में स्थानान्तरण की इच्छा होती तो मैं लिखित प्रतिवेदन देता। यहाँ यह भी उल्लेखनीय है कि मैं आज तक वन-2 अनुभाग में ही कार्यरत हूँ। साथ ही यह बात 24.5.88 की कही बतायी गयी है। दिनांक 31.5.88 को मैं कार्यालय आया तथा श्री हरीश चन्द्र के निर्देशन में कार्य किया तथा स्वयं उन्होंने ही मेरा एक जून से दस जून तक का अर्जित अवकाश संस्तुति सहित लेखाधिकारी को स्वीकृति हेतु भेजा जिसे लेखाधिकारी ने स्वयं ही स्वीकृत किया। यदि

मैंने अवकाश पर रहने की बात 24.5.88 को वास्तव में कही थी तो लेखाधिकारी श्री आर.के गाँधी को मेरा उक्त उपार्जित अवकाश स्वीकृत नहीं करना चाहिए था। न ही मुझे 31.5.88 को कार्यालय में ही आना चाहिए था।

स्पष्ट है कि जब तक मैं कार्यालय में नियमित रूप से कार्यरत था तो व्यक्तिगत विद्वेष के बावजूद मेरे कार्य में कोई कमी न तो अनुभाग अधिकारी न ही लेखाअधिकारी निकाल सके पर मेरे अस्वस्थ पड़ते ही मिथ्या आरोपों की बौछार दिनांक 22.6.88 को एक साथ तीन-तीन स्पष्टीकरण भेज कर कर दी। न तो उन्होंने साक्ष्य में कोई लिखित साक्ष्य प्रस्तुत किया है न ही बचाव हेतु कोई लिखित साक्ष्य ही नकल दिया। उल्लेखनीय है कि आज तक न तो मैं लेखा परीक्षा अधिकारी कार्यालय के लिए कार्यमुक्त हुआ न ही मेरी सीट पर कोई ऐरियर ही शेष बचा है। मैं अपनी सीट से संबंधित समस्त कार्य सम्पन्न कर चुका हूँ एवं कर रहा हूँ। इसके अतिरिक्त लेखाधिकारी को यह चाहिए भी था कि अगर मैंने उनसे कोई इस प्रकार की बात की थी तो उन्होंने मुझसे कोई स्पष्टीकरण क्यों नहीं माँगा अथवा चेतावनी इत्यादि क्यों नहीं दी। उनका ऐसा न करना स्वयं में इस बात का द्योतक है कि मेरी उनसे ऐसी कोई बात नहीं हुई थी।

यह कि यह आरोप कि मैंने लेखाधिकारियों के समक्ष पुनः यह कहा कि जब तक मैं इस अनुभाग से हटा नहीं दिया जाता तब तक इसी प्रकार अवकाश लेता रहूँगा तथा 20.6.88 से चिकित्साके आधार पर अवकाश पर चला जाऊँगा, भी कपोल कल्पित है यदि मेरी उनसे इस प्रकार की कोई बात हुई होती तो स्पष्टीकरण संख्या वन-2 दिनांक 22.6.88 में इसका जिक्र होता। उनके द्वारा ऐसा न करना स्वयं में इस बात का द्योतक है कि मेरीउनसे इस प्रकार की कोई बात नहीं हुई थी।

इसके विपरीत कोई सरकारी सेवारत चिकित्सक जो कि सामान्यतयः प्रथम वर्ग या द्वितीय वर्ग का राजपत्रित अधिकारी भी हो ता है से यह अपेक्षा नहीं की जा सकती है वह गलत चिकित्सीय प्रमाण-पत्र दे देगा। मेरे तरफ से चिकित्सीय प्रमाण-पत्र केन्द्रीय स्वास्थ्य सेवा योजना/राज्य अस्पतालों के राजपत्रित अधिकारियों द्वारा प्रदत्त है। यदि मैं सुनियोजित ढंग से चिकित्सीय आधार पर अवकाश पर गया था, इस सुनियोजन में केन्द्रीय सेवा के तीन प्रभारी चिकित्सा अधिकारी तथा एक प्रथम वर्ग का प्रान्तीय चिकित्सा अधिकारी भी सम्मिलित मानना पड़ेगा बिना उनके विपरीत प्रमाणों के यह कहना कि मैं सुनियोजित ढंग से अवकाश पर गया था गलत एवं बेबुनियाद है।

उल्लेखनीय है कि जब मुझे मुख्य चिकित्सा अधिकारी केन्द्रीय स्वास्थ्य सेवा योजना के पास राय लेने हेतु भेजा गया तो मैं वहाँ भी उपस्थित हुआ एवं आदेशों का पालन किया। यद्यपि किसी भी नियम के अन्तर्गत मुख्य चिकित्सा अधिकारी केन्द्रीय स्वास्थ्य सेवा योजना के पास पुनः परीक्षण हेतु भेजे जाने का प्रावधान नहीं है एवं आदेश सर्वथा अनियमित था। इस आदेश के फलस्वरूप कन्वेंस पर व्यर्थ ही जन धन का अपव्यय भी हुआ। न तो कोई व्यक्ति अस्वस्थता पूर्व नियोजित कर सकता है न ही कोई आथराइज्ड मेडिकल एटेन्डेन्ट इतना अल्प बुद्धि कि गलत प्रमाण निर्गत कर अपनी सेवाओं से खिलवाड़ करे। जहाँ तक स्पष्टीकरण के उत्तर के संतोषजनक पाये जाने का कोई प्रश्न ही नहीं है।

लेखाधिकारी मुझसे इतने अधिक विद्वेषित थे कि एक ओर तो मैं अस्वस्थ

लेखाधिकारी मुझसे इतने अधिक विद्वेषित थे कि एक ओर तो मैं अस्वस्थ था तथा चारपाई से उठ भी सकता था तथा दूसरी तरफ मेरी अस्वस्थता अवकाश का वेतन भी रोक दिया गया ताकि मैं अपना उपचार सुचारू ढंग से न करा सकूँ। जब दो माह तक का वेतन नहीं मिला और मैं अथवा मेरे परिवार के सदस्य भूखे मरने लगे तो मजबूरन मुझे महालेखाकार मिशिमि से अवकाश वेतन दिलाये जाने की प्रार्थना तार द्वारा करनी पड़ी। जब वरिष्ठ उप-महालेखाकार प्रशासन ने कृपा करके मुझे अवकाश वेतन के भुगतान के भुगतान हेतु आदेश दिये तभी मेरे अवकाश वेतन का भुगतान हुआ। यदि लेखा अधिकारी यह समझ रहे थे कि मैं अस्वस्थ नहीं हूँ और फर्जी चिकित्सीय प्रमाणपत्र प्रस्तुत कर रहा हूँ तो उन्हें प्रमाण पत्र देने वाले चिकित्सक से पूछना चाहिए था या स्वयं मेरे निवास पर आकर मानवता के नाते ही देखना चाहिए था न कि बगैर सेल्फ एक्सप्लेनेशन लिखाये ही एडवर्स इन्ट्री निर्गत करना।

यह इस बात का द्योतक है कि मेरी अस्वस्थता का लाभ उठाकर विद्वेष पूर्ण भावना से प्रेरित होकर उक्त तथ्यहीन एवं मिथ्या दोषारोपण किया गया है तथा विपरीत प्रविष्टियाँ भी दी गई हैं।

x

x The charge of reading novels in the section was wholly concocted frivolous & false because when on 22.6.88 three memos No 2/66, 2/67 & 2/68 were issued by Shri RK Gandhe, accounts officer, no mention was made of reading novels in section & trolling was also mentioned that Shri Rajkore had asked the applicant on 23.5.88 not to read novels in section. It was only an afterthought to include one more charge against the applicant.

Srivastava

4.31. That the applicant had submitted the replies of the charge-sheet on 25.10.1988 as stated above mentioning therein that if the replies were not considered satisfactory the applicant should be allowed opportunity to inspect the following documents:

1. Comments and notes (Aakhya) along with the dates sent by Shri Harish Chandra Section officer.

2. Comments and notes (Aakhya) alongwith the dates sent by Shri R.K. Gandhi, Accounts officer.

3. Comments and notes (Aakhya) alongwith the dates sent by Shri J.K.Srivastava Accounts officer.

4. Compilation sheets of April 1988 of Avadh Kshetra and South Vratta.

and the replies be considered 'Interim' and right for giving final replies be reserved after an inspection of the records stated above, is done. It was also impressed upon that the enquiry as required under CCS (CCA) Rules 1965 should also be conducted to enable the applicant to cross examine the witnesses. That the said replies, were only 'Interim and adhoc ' and final replies were to be given only after opportunity was given for inspection of records mentioned above. Passing the punishment order which was based on interim replies was thus wholly unjustified and attracted the frown of principle of natural justice.

4.32. That the discplinary authority viz. senior Deputy Accountant General (Admn.) passed the order of punishment dated 23.8.1989 awarding the punishment of Censure to the applicant. The said order was completely a non-speaking order as every charge ~~the~~ together with reasons for proving / disproving wasnot discussed it was passed without application of mind. It is well settled law now that the punishment order has to be a speaking order. The order suffered from vice of denying the adequate opportunity to the applicant for inspection of relevant records and was based on interim replies of the applicant. It was stated in the punishment order that Shri Srivastava came to Allahabad in the month of August 1989 and expressed his wish to give personal hearing and he ~~a~~ was allowed this opportunity. It was also mentioned in the punishment order that it was apparent from concerned recordsthat there wasno necessity of any inquiry. It is submitted that the applicant had been to Allahabad in connection with House Building Advance and

crossing of E.B. case and it was wholly wrong and totally false that he was given opportunity of personal hearing. The applicant had specifically mentioned in his replies to charge-sheet that the enquiry should be conducted under CCS CCA Rules 1965 and he be afforded opportunity to cross examine the witnesses. Denial of opportunity to inspect the records assuch and rejecting the request of applicant for conducting an enquiry has resulted in flagrant breach of principle of natural justice. The reasons for not conducting enquiry should have been recorded first and the applicant should have been intimated about it and only then punishment order should have been passed. The Disciplinary Authority was to act fairly and equitably and every charge alongwith the replies of applicant should have been discussed. The order being a quasi-judicial order was required to be fair and just and it thus suffered from vice of arbitrariness and legal infirmity. The punishment order thus being non-speaking and arbitrary and passed on the basis of iterim replies is liable to be declared null and void. A copy of the punishment order is being filed as Annexure.23. It is also pointed out that in the charge-sheet it was mentioned that proceedings on leave by applicant was pre-planned and he had said so before the Accounts officers Shri R.K.Gandhi and Shri J.K.Srivastava. It was only incidental that the applicant fell it and the illness of any person could not be foreseen. The charge was framed on the reports/statements of two accounts officers. This charge has not been proved and the disciplinary authority has not mentioned anything about pre-planned leave. obviously the statements of Accounts officers were false and were manourred to implicate the applicant. Since the statements of above --two accounts officers regarding pre-planned leave turned out to be false, The disciplinary authority erred in believing their rest of the statements in regard to other charges and inflicted punishment of censure. The disciplinary authority thus did not act in a quasi-judicial manner and his action of punishing the applicant was based on half believing and half dis-belieeving the falsified and concocted statements. of the aforesaid Accounts officers.

4.33. That it requires the competent authority to act asa court to reach the result of examination and investigation of facts. The order of guilt should be preceded by not only the mention of the charges in the light of the employees representation. Rule 16 (1)(d) requires the order to

give an idea that the authority concerned has objectively applied his mind. His assessment of the evidence must be recorded by him. The punishing authority hasrecorded his finding asunder:-

" सभी संबंधित मूल अभिलेखों [illegible] मौखिक सुनवाई के आधार पर यह स्पष्ट है कि श्री श्रीवास्तव को 1.6.88 से 10.6.88 तक का अवकाश दिनांक 11.6.88 एवं 12.6.88 की छुट्टियों के जोड़ने के साथ स्वीकृत किया गया था तथा मुख्यालय छोड़ने की अनुमति प्रदान की गई थी। जब वे दिनांक 13.6.88 को अवकाश समाप्त होने पर कार्यालय नहीं उपस्थित हुये तो उन्हें ड्यूटी ज्वाइन करने के लिए एक तार प्रेषित किया गया जो कि सर्वथा नियमों के अनुकूल था। दिनांक 23.5.88 को श्री श्रीवास्तव द्वारा अनुभाग अधिकारी के अपन्यास पढ़ने से मना करने के आदेश को न मानना तथा दिनांक 24.5.88 एवं 17.6.88 को लेखाधिकारी श्री आर.के. गाँधी के समक्ष कार्य करने से मना कर करने के वक्तव्य पर अविश्वास करने का कोई कारण नहीं है दिनांक 17.6.88 के वार्तालाप की पुष्टि अन्य लेखाधिकारी श्री पी.के श्रीवास्तव ने भी की है। कार्यालय कार्यों को न करना था करने से मना करना एवं अधीक्षण अधिकारियों के आदेश को न मानना एक गम्भीर दुराचरण है और श्री श्रीवास्तव उस दुराचरण के दोषी हैं। "

The above findings have been recorded without application of mind by the Disciplinary authority and are not reasoned. Nothing hasbeen recorded about the representation of the applicant in the finding by Disciplinary authority and as such the punishment order has been passed in utter disregard of mandatory provisions of Rule 16(1)(d) and is wholly arbitrary and onesided. The same is therefore liable to be set aside.

4.34. The Hon'ble Central Administrative Tribunal Madras Branch in case of Shri Palaiswamy vs. Union of India and others 1989 (ii) ATC 689 have set aside the punishment order only on the ground that the disciplinary authority had not complied properly with the provisions of Rule 16 of CCS CCA Rules 1965 and the findings on each charge were not recorded. They held that-

" When a representation is made against memo of charge , it should be considered by the Disciplinary authority and the order passed should indicate that the Disciplinary Authority became aware of points raised in representation and answer those points. In the present case the Disciplinary Authority has merely said that after careful consideration he hascome to the conclusion that charges stood established. This is not a proper compliance with the provisions of Rule 16 of the CCS (CCA) Rules. Therefore the order is necessary to be setaside".

4.35. That in case Manga Ram Vs General Manager Tele. Communication J & K circle Srinagar and others 1980(3) SLR 520 (J & K) it hasbeen held that --

" Imposition of minor punishment without holding an enquiry is invalid unless disciplinary authority gives a reasoned finding whether or not enquiry is necessary and that it will cause no material prejudice to the employee if enquiry is not held" The Disciplinary Authority has recorded as under regarding non-holding of an enquiry:

" Manley meyn uplabdh Abhileykho Aadi ko deykhney sey mera yeh nishkarsh hai ki isney janch karyavahi ki koi aavashyakta nahi hai".

It will thus be seen that Disciplinary Authority has not applied his mind to consider whether the enquiry was necessary or not and has summarily rejected the request of the applicant with the result that punishment order hasbecome erroneous and defective and suffers from legal infirmity and is likely to be declared invalid. Rule 16(1)(d) of the CCS (CCA) Rules 1965 lays down that no order imposing on a Govt. servant any of the penalties specified in clause (i) to (iv) of Rule 11 shall shall be made except after recording a finding on each imputation of misconduct or misbehaviour. -The Hon'ble High Court of Allahabad in their judgment in Bijoy Kumar Vs. Union of India and others (Civil Misc. petition No. 1188A of 1977 decided on August 24, 1984 U.P. Services Cases P- 105 have been held that order finding the charged officer guilty without recording a finding on each imputation of misconduct or misbehaviour, wasbad . They have observed in para 4 & 5 of the Judgment asunder:

" Rule 16 (1)(d) Postulates the passing of a reasoned order based on consideration of the material on record".

4.36. That Rule 16 (b) laysdown that no order imposing on a Govt. servant any of the penalties specified in clause

(i) to (iv) of Rule 11 shall be made except after holding an enquiry in the manner laid down in sub rules (3) to (23) of Rule 14 in every case in which the disciplinary authority is of the opinion that such inquiry is necessary. Govt. of India instructions No.1 below Rule 16 of the said Rules that the Disciplinary Authority should say in writing indicating its reasons instead of rejecting the request for holding inquiry summarily without any indication that it has applied its mind to the request as such an action could be construed as denial of natural justice. That so much so that the Disciplinary Authority has completely ignored the mandatory provisions of rule 16 of CCS (CCA) Rules 1965, Govt. of India instructions (2) below Rule 16 of the said rules states as under:-

" If however an accused officer in such a case makes a request for permitting him to inspect the relevant records to enable him to submit his defence, the Disciplinary authority may grant the necessary permission". This provision has been made so that there is no violation of principle of natural justice. The applicant in his letter dated 25.10.88 submitted in reply to Charge-sheet had specifically mentioned about the inspection of relevant records but this facility was not accorded to the applicant and the applicant was deprived of his right of putting up a forceful and effective defence. The punishment order thus was passed without observing ~~mandatory~~ mandatory provision of Rule 16 and the same is likely to be declared illegal and arbitrary.

4.37. That against the said punishment order dated 23.8.89 the applicant preferred an appeal vide his letter dated 17.10.89 to the Accountant General (Accounts and Entitlement) II U.P. Allahabad, the Appellate Authority. The said Appellate Authority has upheld the punishment order of Censure and rejected the appeal vide his orders dated 21.2.1990. The applicant had specifically mentioned that opportunity of inspection of records and personal Hearing was not given to him, no enquiry as requested by him was conducted and the punishment awarded was based on the reports and statements of Section officer and Accounts officers which were taken trustworthy without any confrontation with the applicant having been allowed thereby resulting in exparte decision by Disciplinary Authority. The applicant had also stated that this one-sided punishment was awarded only with a view that my E.B. which was due on 1.12.88 may be kept pending . It is a well settled law now that the Appellate order should also be a speaking order and Appellate Authority should discuss each and every point on merits and record his findings. The appellate order iscryptic and erro-

erroneous in as much as nothing has been said about non-conducting of enquiry as requested by the Applicant in his replies to charge-sheet nor any mention has been made in the said order about the exparte decision to with-hold E.B. of the applicant due on 1.12.1988. The appellate authority has thus completely failed in discharging his duties assigned to him in CCS (CCA) Rules 1965 and the Appellate order passed on -extraneous grounds is not sustainable in the eye of law and declared null and void. The copy of the appeal made by Applicant in his letter dated 17.10.1989 is being filed as Annexure 24.

4.38. That the Hon'ble CAT Jabalpur have held in TC ojha Vs. Union of India and others 1990 (12)ATC P. 332 as regards rule 16 (1)(b) of CCS CCA Rules, 1965, as under:

> " Imposing minor penalty without enquiry - Delinquent demanding inspection of documents and a chance to cross examine the witnesses rejecting such request without recording any reason and imposing penalty held improper".

Delinquent requesting to hold enquiry to enable him to prove his innocence and to cross examine witnesses- such request ought not to have been rejected particularly that the delinquent had alleged victimisation and harassment.

The case of the applicant was on all ~~force~~ fours with the case cited above. He had requested forholding enquiry and inspection of documents and a chance to cross examine witnesses. Nor the doduments were allowed to be inspected nor the enquiry washeld thus denying the applicant the opportunity for proper defence to disprove hisguilt. The punishment order and the appellate order both are liable to be demolished in view of judgment cited above.

4.39. That the applicant was served with a charge-sheet on 12.10.1988, Thus the disciplinary proceedings willbe deemed to have been started only on 12.10.88. The E.B. case could not be therefore be deferred by D.P.C. in case the D.P.C. met on a prior date than 12.10.88 i.e. between 1 10.88 to 11.10.88. The records of the D.P.C. should be summoned by the Hon'ble Tribunal with a view to verify the date of meeting the D.P.C. In case the D.P.C. was held between Ist to 11th october 1988 the DPc could not defer the case because no disciplinary proceedings were pending till then. In case the DPC deferred the case on the basis of initiation of disciplinary proceedings it was not just andfair because the EB could not be deferred on the basis of pending disciplinary proceedings.

Even promotions were to be considered by DPC ignoring the pending disciplinary proceedings. In the Division Bench case -the Director of Postal Services Andhra and another Vs. (C. Muneshwara Rao 1980(2) SLR 662 it was held that pendency of disciplinary proceedings could not stand in the way of consideration of promotion. In V. Jagdishwara Rao Vs. The Post Master General Andhara Pradesh circle and others (1978 AILJ-201) it was held that pendency of the disciplinary proceedings cannot be a ground for overlooking the petitioner for promotion. The defering the case by DPC wastherefore contrary to established procedure of law.

4.40. That the initiation of disciplinary proceedings and adverse character roll entries were the result of bias and prejudice which Shri J.K.Srivastava and R.K. Gandhi Accounts officers and Shri Harish Chandra Rathore Section officer had developed against the applicant.

4.41. That FR 25 read with Govt. of India orders No. (3) casts a statutory duty on the competent authority to intimate to the Government servant concerned every time in case the decision is to enforce the bar against him. Respondents have failed to perform this statutory duty with the result that the DPCS which were contemplated to be held in october 1988 and october 1989 for consideration of the E.B. case of the applicant were required to pass some orders and in case the decision wasto enforce the bar, it was the right of the applicant that he should have beenintimated accordingly. It was only when the applicant made an application on 3.1.89 that he was intimated on 3.2.89 about deferment of his EB case. The intimation should have been sent suo-moto by the competent authority. Nothing has been heard by the applicant as regards the decision of D.P.C. contemplated to be held in the month of october 1989. without this intimation the applicant would not be able to enforce his right of representation which shallbe detrimental to the interest of the applicant.

4.42. That the applicant was due to cross the E.B. on 1.12.88 in the scale of 1200-30-1560-EB-40-2040 raising his pay from Rs. 1560.00 to Rs. 1600.00 . The applicant made an application on 3.1.89 regarding the crossing of E.B. w.e.f. 1.12.88 and he was intimated vide letter No.Estt/PC/EB dated 3.2.89 issued under the signature of Accounts officer office of the A.G.(A&E) II UP Lucknow that the case of

crossing E.B. was deferred by D.P.C. A copy of the said letter is being filed as Annexure 25. That the deferring of E.B. case by DPC was not justified on account of the reasons given below:-

1. That in accordance with the rules on the subject the DPC was to meet in October 1988 for consideration of cases due in November and December 1988. The Annual Character Rolls in the Department are written financial year wise i.e. from Ist April to 31st March. The Government of India CS (Deptt. of Personnel) O.M.No. 29014/76-Estt.(A) dt. 18.10.76 clearly lays down that in respect of cases of E.B. becoming due during the months August to December it would not be necessary to obtain special reports as a matter of course for the incomplete portion of the year for which regular confidential reports are not yet due. Therefore, the confidential reports upto 1987-88 were only to be considered. Since the applicant had not been communicated any adverse entry for financial year 1987-88 and also for back years, the DPC erred in deferring the case of the applicant. The adverse entries for the period 1.4.88 to 10.8.88 communicated to the applicant and against which representation was pending, could also not be acted upon by the Respondents and D.P.C. The DPC therefore did not act fairly in deferring the case of EB of applicant.

4.43. That the cause of action arose on 21.2.90 the date on which the Appellate order was issued confirming the punishment order of censure given by the Disciplinary Authority.

5. That aggrieved by the punishment order dated 23.8.89 of the Disciplinary Authority awarding the punishment of 'Censure' and the order dated 21.2.1990 of the Appellate Authority who has confirmed the punishment of Censure the applicant is left with no other alternative for redressal of his grievances except to invoke the jurisdiction of this Hon'ble Tribunal for enforcement of his legal and constitutional rights interalia on the following grounds:

Sinhdas

GROUNDS

1. Because the adverse remarks recorded by the Section officer in the character roll of the applicant for broken period from 1.4.88 to 10.8.88 were the outcome of malice, ill will and prejudice.

2. Because the adverse remarks were wholly contrary to the instructions issued from time to time by Govt. of India on the subject.

3. Because the adverse remarks were vague, baseless and untenable.

4. Because the charges were based on concocted and false material supplied by biased officers.

5. Because the disciplinary authority did not act according to provisions of Rule 16 of the CCS(CCA) Rules 1965 and passed a non-speaking order of punishment of Censure.

6. Because the principles of natural justice was violated as the applicant wasnot allowed to inspect the record.

7. Because the punishment order was passed on the basis of interim replies of applicant and was a non speaking order.

8. Because the appellate order was also non-speaking.

9. Because the efficiency bar was deferred on flimsy and frivolous grounds.

10. Because the disciplinary authority had failed to perform the statutory duty cast upon him by CCS (CCA) Rules 1965.

11. Because the punishment order was passed without holding the enquiry while the applicant had specifically requested in his reply to charge-sheet, for holding the enquiry.

12. Because the principles of many legal decision on the subject were not adhered to.

6. Details of the remedies exhausted---

(i) That against the charge-sheet issued on 12.10.88 (Annexure 21) the applicant submitted his replies on 25.10.1988.

(ii) That against the punishment order dated 23.8.89 (Annexure 23) the applicant submitted his appeal on 17.10.89 (Annexure. 24) The appeal was rejected on 21.2.90 vide Annexure. 1.

(iii) That against the adverse remarks of character roll for the period from 1.4.88 to 10.8.88 the applicant was informed on 12.9.88 and he submitted his replies on 27.9.88 (Annexure. 16).

(iv) The representation was rejected on 9.6.89 (Annexure.18). An appeal was made to Accountant General on 15.9.89 (Annexure. 19) which is pending.

(v) That an application was submitted by applicant on 3.1.89 regarding his E.B. case. He was intimated on 3.2.89 (Annexure 25) that his case of EB was deferred by D.P.C.

7. The matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, writ petition, or suit regarding the matter in respect of which this application has been made, before 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. <u>Reliefs sought</u>

The Hon'ble Tribunal may be pleased to grant the following reliefs:

(i) The letter No. Prashashan-11/Anu-115/378 dated 12.10.88 issued under the signature of senior Deputy Acctt. General Allahabad, containing the charge-sheet' (Annexure-21). The punishment order dated 23.8.89 awarding the punishment of Censure (Annexure.23) and the orders of Appellate Authority dated 21.2.90 rejecting the appeal of applicant and confirming the punishment of censure (Annexure 1) may be quashed.

(ii) The adverse entries (Annexure 14) written unauthorisedly may be declared non - est and the respondents 1 to 3 may be directed to expunge the same ,

(iii) consequently the respondents Nos. 1 to 3 may be directed to convene a DPC/ Review DPC to consider the case of E.B. of the applicant for crossing Efficiency Bar from due dated 1.12.88 and passing orders for allowing the increment from 1.12.88 raising the pay of the applicant from Rs.1560/- to Rs. 1600/- and also allowing arrears with effect from 1.12.1988.

(iv) Any other relief/reliefs which the Tribunal may deem fit in the circumstances of the case.

(v) To award the cost of the application.

9. Interim order if any prayed for-

The D.P.C. for consideration of crossing Efficiency Bar should as per rules meet in october 1990. The Hon'ble Tribunal may be pleased to pass an interim order that respondents be directed to get the E.B. case of the applicant considered by D.P.C. to avoid any further and irrepairable loss to the applicant.

10. The application is not being sent by registered post but is being filed personally in Registrar's office.

11. Particulars of ~~Bank Draft~~/Postal orders filed in respect of the application fee.-

707 489816 for Rs 20:00 dated 3.9.90 of Jawahar Bhawan P.O. Lucknow

707 489817 for Rs 20:00 dated 3.9.90 of Jawahar Bhawan P.O. Lko

612 993616 for Rs 10:00 dated 3.9.90 of Jawahar Bhawan PO Lko

12. List of enclosures: As per Index and postal order as detailed in para 11 above.

.Verification.

I, C.S. Srivastava, son of late Shri Girdhar Gopal aged about 37 years, working as Auditor in the office of the Accountant General II, Audit, U.P. Sahakarita Bhawan, Lucknow resident of 559 (Kha) Srinagar, Alambagh, Lucknow do hereby verify that the contents of paras 1 to 4.20, 4.22 to 4.27, 4.29 to 33, 4.36 to 4.37, 4.40 to 4.43 & 6 to 12 are true to my personal knowledge and paras 4.21, 4.28, 4.34, 4.35, 4.38, 4.39 & 5 believed by me to be true on the legal advice and that I have not suppressed any material fact.

Signature of the Applicant

Lucknow:
Dated: August 31 1990.

R B Srivastava
Advocate
Counsel for Applicant

issued under rule 16 of CCS(CCA) Rules, 1965. Even then, in the instant case the official was given this opportunity by the disciplinary authority before deciding the case when he visited this office in the month of August 1989. Therefore, it was perfectly correct for the Disciplinary Authority to come to a conclusion after considering the written statement and hearing granted to the government servant.

2. Shri Srivastava had denied all the three charges levelled against him. The disciplinary authority while deciding the case had taken all the facts into account and had come to a conclusion that there was no reason to disbelieve the reports of section officer regarding non-performance of his normal duties during 16-5-88 to 31-5-88 and reading novels in the section during office hours. Similarly, the statements of two Accounts Officers that he had said that he would proceed on leave till he is transferred to audit, was also relied upon. I am also of the view that the reports of Section Officer and statements of Accounts Officers should be relied upon in connection with the charges levelled against the official.

3. After considering the grounds given in his appeal, which are mostly irrelevant to issue, and other relevant documents, I have come to the conclusion that the disciplinary authority has given due consideration to the facts of the case before awarding the penalty of 'censure' which is the least severe of the penalties under the CCS(CCA) Rules.

I have also seen that the case has been dealt with according to the rules and there is no infirmity in the case. I also find no violation of the rules or natural justice.

Attested True copy
Ramantas.
Advocate

ORDER

I, therefore, reject the appeal of Shri Chandra Shekhar Srivastava and confirm the penalty of 'censure' as mentioned in rule 11(i) of Central Civil Services (Classification, Control & Appeal) Rules, 1965 awarded by the Disciplinary Authority.

C.V. Avadhani 21/2/90
(C.V. Avadhani)
Accountant General(A&E)II

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A-2

[illegible] •2.

[illegible] L [illegible] TRIBUNAL L[illegible] BENCH [illegible] O.

O.A. No. /1990

[illegible] -- -- -- [illegible]

Versus

[illegible] ([illegible]) Allahabad
[illegible] -- -- -- Opp. [illegible]

* *

1. [illegible]
2. [illegible]

It [illegible] to my knowledge that the fresh p[illegible] being [illegible] for collection of schedule of C.L.R's relating to [illegible] from various units for [illegible] to complete the collection of data for the preparation of [illegible]-sheet. However, from the past parties s[illegible] 3 have submitted the schedules of CLR's so collected and these has contained some discrepancies which has been [illegible] to the [illegible] Rest parties have not submitted the details so collected.

In view of above it is proposed that no personnel of the past parties may be [illegible] unless he submits the details collected [illegible] discrepancies as well.

[illegible] for [illegible].

L.O./P [illegible] 26.5.87 [illegible] 29.5.87
L.O.

[illegible] / o the schedules of [illegible] Shri [illegible] Shri [illegible] have not [illegible] Shri [illegible] , Shri [illegible] Shri [illegible] are not [illegible] comm[illegible] [illegible].

[illegible].

L.O./S-II [illegible].5.87

[illegible]

[illegible].

[illegible]

[illegible] copy
Attested
RS Srivastava
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH),
Lucknow.
**

O.A. No. /1990

C.S. Srivastava .. Applicant

Versus

A.C.II(A&E), Allahabad & others .. Respondents.

Annexure No.3.

To

SRI RAVI SAXENA
ACCOUNTANT GENERAL (A&E)-II, U.P. ALLAHABAD

L.T.C. CLAIM PENDING FROM 8 JAN 87. H.T.C. ADVANCE FROM 1 JUNE. PRAY EXPEDITION.

C.S.SRIVASTAVA
04/3565

Senders's Signature

Name: C.S. Srivastava
Address : 559 /60 Bahadu Khera Sri Nagar
Lucknow.

//True copy//
Attested
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH),

Lucknow.

**

O.A. No. / 1990

C.S.SRIVASTAVA .. Applicant

Versus

A.G.II(A&E), Allahabad & others .. Respondents.

Annexure 4.

3-12/87-CGHS/LKO 839-40
Government of India
Central Govt. Health Scheme,
9-A, Rana Pratap Marg-Lucknow.

Dated : 12.8.88

To

The Accounts Officer/Estt.
Office of the A.G.(A&E)-II, U.P.,
Prem Bazar Nishatganj,
Lucknow.

Sub: Regarding the medical opinion in r/o Shri C.S. Srivastava, Accountant.

True copy
Alisha
Ramandey
Advocate

Sir,

Kindly refer your letter No.F-II/70 dated 11.8.88 on the above quoted subject I am to state that so far there is no provision of such medical opinion under CGHS.

You are therefore requested to please approach CMO Distt. Hospital (State) directly for the such medical opinion who is the competent for the same as per Govt. of India' decision.

Yours faithfully,

Sd/-
Dy. Director
Central Govt. Health Scheme
Lucknow

Copy to

Shri C.S. Srivastava, Accountant, Office of the A.G.(A&E) II, U.P., in reference of his letter dated 12.8.88 for information.

Sd/-
Dy. Director
Central Govt. Health Scheme Lucknow

//True copy//

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH),

Lucknow.

O.A. No. /1990

C.S. Srivastava .. Applicant

Versus

A.C.II(AGE), U.P., Allahabad & others .. Respondents.

Annexure 5.

Sri C.S. Srivastava
Accountant/F.2.

In connection of Appropriation account, Forest-1 Section will remain open on 22.7.89, Saturday. Being dealt with appropriation, sent you are directed to attend office on 22.7.89 and to assist appropriation work of Forest-2 Section.

Sd/-
Accounts Officer/F-2

///True copy//
Attested
R.S. Sinha
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH),

LUCKNOW.

***

O.A. No. / 1990

C.S. Srivastava .. Applicant

Versus

A.G.II(A&E), Allahabad & others .. Respondents.

Annexure-6.

OFFICE OF THE ACCOUNTANT GENERAL (A&E)-II, UTTAR PRADESH,

LUCKNOW.

No. Forest-II/189 Dated: 18.8.89.

To

Shri C.S. Srivastava,
Accountant (Local)

After careful consideration the Deputy Accountant General (Forest) has rejected his conveyance claim of Rs.28/- for attending the office on 22.7.89

Sd/-
18.8.89
(R.K. GANDHI)
Accounts Officer/Forest.

//True copy//

Attested
R.S. Smriti
Advocate

True copy
Attested
Rosmitra
Advocate

True copy –
Attested
Ressourtna
Advocate

True copy
Allsha
Representing
Advocate

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Annexure.10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH LUCKNOW

O.A. O. /1990

C.S. Srivastava -- -- --Petitioner

versus

U.O.I. (M.E.F.), Additional Secy. others ------- Opp.parties.

Annexure.10.

Copy of the Accounts Branch (H.Q.) H.P.F. Pay & AR Lucknow

Accounts I/Gr. Dated

To

The Conservator of Forests Lko.

.. .. ..

Subject: Pay & Allowance for the month of .....

Sir,

The monthly accounts for the month of ..... of your unit has not been received by the 10th of ..... which renders etc. exclusion from the control check of this Account as per Min. of Fin. Govt. of India.

Immediate steps may please be taken to send the figures of monthly accounts to this office to compute the exclusion from the state accounts of the subsequent month of the one year financial years, in case the accounts in question [illegible] copies of the monthly cash accounts etc. may be sent for record [illegible].

Yours faithfully,

Accounts Officer

No.Forest. I/Gr. of Fin.

Copy forwarded to information and necessary action.

1. The Director/Conservator of Forest....
2. Principal/Chief Conservator of Forest.. 17, [illegible] Lucknow.

Accounts Officer.

True Copy
Akshai
Rasomby
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH), LUCKNOW.

O.A. No. /1990

**

C.S. Srivastava .. Applicant

Versus

A.G.II(A&E), Allahabad & others .. Respondents.

Annexure No.11.

NOTE - 1

An order has been served that we should incorporate our group accounts in the sectional Consolidation upto 14th of the month. For the consolidation of group accounts timely, it is proposed that the accounts received upto 12th may be incorporated in the group accounts and compiled on 13th, so that they may be incorporated in the sectional consolidation on 14th.

The accounts received after 12th may be excluded and shown as "not accounted for due to late receipt".

Submitted for approval please.

Sd/-
(C.S. Srivastava)

Sd/- S.O./F.2

Sd/- A.O./F.2. (As proposed)

//True copy//

Advocate

True copy
Attested
R Sinha
Advocate

Annexure-13.

IN THE CENTRAL ADMINISTRAtive tribunal CIRCUIT BENCH
LUCKNOW.

**

O.A. No. /1990

**

C.S. Srivastava --- --- --- Applicant

Versus

A.G. A & E Allahabad and others ---- Respondents.

**

Annexure 13.

To

The Section Officer
FA 2 section

Sir,

It is to bring to your kind attention that the Account Compilation sheets for the month of April and May 1988 of Awadh Circle and Southern Circle are not traceable. I am, therefore, not able to do any work. It was stated that these sheets are in S.Os. Alimrah kindly give them to me to enable ~~the~~ me indoing the work.

Yours faithfully,

Sd. (CS Srivastava)
11.7.88

CS Srivastava, Accountant
09/22 3565 F A & L Sect

True copy

Recd.
11.7.

Attested
Rasmudy
Advocate

Annexure.14.

IN THE CHIEFS COMMISSIONER, PROVINCIAL CIVIL CIRCUIT
BENCH,

O.A. No. 1080

Shri [illegible] Srivastava ... Petitioner

Versus

A.G.A. & 5 II UP Allahabad and others ..... Opp.parties.

Confidential. Annx. 14.

Order of the Conservator of Forests (A.& B.) II PALI BAZAR
ALLAHABAD BENCH.

No. Forest II/78 Dated: 18.9.1980

To

Shri C.P. Srivastava (06/8555),
Accountant Forest-II Section (Local)

The following entries made in his CR for the period 1.4.1980 to 10.6.80 are quoted below for comment. Thus

Part- II (Remarks of the reporting officer

Attributes.	Observations.
1. Do you agree with the entries made in part-II	Habitual to left the accounts in secretariat for, which have already been handed over to him for compilation.
7. Promptness in disposal of work	Not present
8. Accessibility to the officer	Indisciplined.
9. Punctuality in attending office.	Punctual but not regular.
10. Relations with fellow colleagues.	Not only in his relationship but good bye.

He is hereby informed that he can submit his representation, if any, within one month from the date of receipt of this letter to the office in duplicate for onward submission to the higher authorities for necessary action.

Sd/- [illegible] 12.9.80
Accounts Officer/Forest-II

No. Forest. II/ [illegible]

Copy forwarded to Accounts Officer/Adm. Office of the Conservator of Forests (A.& B.), U.P. Allahabad for information and necessary action.

Sd/-

Attested
Advocate

OA No. [illegible] / 1992

C S Srivastava ---- Applicant

vs

A.G. II (A&E) Allahabad ---- Respondent
and others

Annexure [illegible]

(Chronological list of leave availed [illegible])

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
		Casual Leave		
1.	23 to 10.1.88	2		
4.	1 to 16.6.88	[illegible]	[illegible]	[illegible]
	Total	17		
		Sick Leave		
[illegible]	12.4.88 ([illegible])	1/2	[illegible]	
[illegible]	[illegible]	1	[illegible]	
	Total	1 1/2		
		Commuted Leave		
1	21 to 30.5.[illegible] (28 [illegible] 29 [illegible] holidays)	4	1 [illegible] 2 8 [illegible] 8	[illegible]
	Total	4		
		Commuted Leave		
1.	29.5.88 to 10.7.88 (11 [illegible] 10 [illegible] holidays)	10 days		
2.	20.7.88 to [illegible] (28 [illegible] 25 [illegible])	10		
3.	[illegible] to [illegible]	4		
4.	[illegible]	2 days		
	Total	27 days		

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Attested
Representing
Advocate

( ) [illegible] Leave availed [illegible] period of [illegible] days, [illegible]

[illegible]	[illegible]	[illegible]
1.	[illegible]	[illegible]
2.	28 to [illegible]	[illegible]
3.	[illegible]	[illegible]
4.	[illegible]	[illegible]

6 - 57

Annexure 16

To,

The Accounts Officer,
Forest Acctts-II,
O/o the Accountant General(A&E)-II, U.P.
Prem Bazar Nishatganj,
LUCKNOW

Subject: Communication of Adverse entries

Reference: Letter No. F-II/75 dated 12-9-88

Through : Proper Channel

Sir,

Kindly refer to your letter No. Forest-II/75 dt. 12-9-88, through which I came to know that my Character Roll for the period from 1-4-88 to 10-8-88 was not only written but was accepted by the reviewing Officer as well. It shows that the reporting Officer has ignored all the norms, procedure and orders on the subject while writing my character roll as is illustrated below from Para A to C.

Para (A): The para no. 6.2 of O.M. No. 51/1/90-Estts.(A) dated 31-10-61 issued by the Govt. of India, Ministry of Home affairs regarding the preparation and maintenance of character rolls, states as under:-

" No report should be written unless a reporting officer has atleast three months experience on which to base his report."

Similarly para no. (e) of O.M.No. 2011/1/77-Estts.-A dated 30-1-78 states the procedure to be followed in the case of an officer who has worked under the reporting officer only for a brief period or has been on long leave etc., it states that:-

"In all such cases the reporting officer should made an entry to the effect that he has not watched the officer's work for sufficient time to be able to make any definite comment. He should not record any adverse entry."

In my case, I have served under the reporting officer i.e. Shri Harish Chandra, Section Officer Forest Accounts -II for only 33½ working days as will be evident from the chart of various kind of leave availed by me and Shri Harish Chandra between the period 1-4-88 to 10-8-88. The chart is annexed as Annexure 'A'.

It will be also seen from the chart that I have not served under the reporting officer from 1-6-88 to 10-8-88. Thus, the experience of the reporting officer at the best can be said that of two months, (that, too, of 33½ working days) only and in view of the Govt. of India's orders mentioned ibid, my character roll should not have been written.

True copy
Attested
R S Sinha
Advocate

contd--2

Further, as per Para No.8.5 of the O.M.No.51/14/60/Ests-A- dated 31.10.61, the characterrolls are written as an objective assessment of the work and conduct of the reported officer and the reporting officer should be in position to substantiate adverse entry, if any, made by him. Before countersigning, the reviewing officer should statisfy himself about the correctness of the entries but also of the fact that the deficiencies adversely commented upon had been brought home to the official reported upon during the course of the year and officer was given adequate chance to improve himself.

However in my case, the reviewing officer, too, has neither seen whether the reporting officer has observed the rules nor he himself acted in the spirit of the rule quoted above.

Moreover, the entries communicated to me are nothing but a bundle of lies and some of them are meaningless, too, as is pointwise stated below:-

Point No.	Column No.	Nature	entries given
1	1	Do you agree with the statement in Part II.	Habitual to left the accounts inaccounted for, which have already been given.

Firstly, it is pointed out that no statement was there in the Part II of the proforma of the character roll, therefore, no entry should have been recorded in this column by the reporting officer.

Further, there is no such word as "inaccounted" therefore, the sentance is meaning less.

However, presuming the word "inaccounted" as unaccounted, I beg to procede for providing a pure factless entry.

Para No.201(1) of the Financial Hand Book, Vol.VII, containing Forest Accounts rules states that the monthly accounts should be dispatched to the Accountant General not laterthan 14th of each month.

True copy -
Attested
R Santos
Advocate

Contd.4.

Annexure.17.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH, LUCKNOW.

OA No. 1300

G.P.Srivastava ... Petitioner

Versus

AG A & E II UP Allahabad and others ..... Opp.parties.

Annexure. 17.

To

The Deputy Accountant General (Admn) Office of the A.G. A & E II, U.P. Allahabad.

Subject:- Communication of adverse.

Through proper channel.

Sir,

With due respect I beg to submit following facts for your kind consideration.

1. That I had served adverse entries vide the Accounts Officer/Admn Accounts-II, Office of the AG.A&E II, U.P.Lucknow letter No.A.II/75 dt. 12.9.1988.

2. That I had submitted my representation against it which was received by the Admn. Section on 28.9.1988.

3. That rule No. 5.4 of the G.I. Deptt. of Personnel Confidential O.M.No.51/3/72- Estt.(A) dt. 20.5.1972 enforced by the OA AG's vide order No. 122/Adm III/5/72- dt. 8.6.1972 states as follows: All representations against adverse entries should be decided expeditiously by the competent authority and in any case not later than six weeks from the date of submission of the representation.

4. That rule V of the confidential O.M.No.2011/1/77-Estt. dt. 30.1.78 of G.I Min.of Home Affairs, Deptt. of personnel and Administrative Reforms:-

"All representations against adverse remarks should be decided expeditiously by the competent authority and in any case, within three months from the date of submission of representation."

5. That in accordance with the time limit prescribed under the said rules, either the orders regarding the rejections of the representations or the orders regarding expunction of adverse entries should have been communicated to me not later than the December 1988.

6. That if the representation is not decided

True copy Attested Representing Advocate

[illegible].

7. [illegible] at 4.30 p. [illegible] [illegible] [illegible] verbally [illegible]

and sh. the Gaol Section officer was also present &

8. [illegible] ([illegible]) [illegible].

9. [illegible]

10. [illegible]

11. [illegible]

[illegible]

1. [illegible] copy of the [illegible].

2. [illegible]

3. [illegible]

[illegible]

1. [illegible] being [illegible]

2. [illegible] not [illegible]

3. [illegible] in [illegible], however, [illegible] persons [illegible] were [illegible] adverse [illegible]

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Attested
[illegible]
Advocate

[illegible] faithfully,

G. [illegible] Srivastava,
[illegible] Forest II.

[illegible]

Annexure-18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH
LUCKNOW.

O.A. No. /1990

**

C.S. Srivastava — — Applicant

Versus

A.G. II (A & E) II Allahabad and
others .. .. Respondents.

**

CONFIDENTIAL

OFFICE OF THE ACCOUNTANT GENERAL A & E II U.P. LUCKNOW

**

No. Estt/CR/113 Dated: 9.6.1989

**

To

Shri C.S. Srivastava,
Accountant/Clerk
Personal No. 04/3565 (Local)

Subject:- Entries in the C.R. for the period 1.4.88 to 10.8.88.

With reference to his letter dt 27.9.1988 on the above subject I am to state that the Sr.Dy. Acctt. General (Admn.) has rejected his appeal and ordered that the adverse remarks in question for the period from 1.4.88 to 10.8.88 stands.

Sd. J.K.Srivastava.
8.6.89
A/cs Officer Estt.

Registered.
No.Estt/CR of date.

Copy forwarded to Shri A.K.Aich Accounts Officer, Admn. CR Cell, office of the Accountant General A & E I, U P Allahabad for information and necessary action.

Accounts Officer/Estt.

True copy
Attested
Ressomtog
Advocate

66

Annexure 10.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CENTRAL CIRCUIT LUCKNOW.

O.A. No. /1990

vs

C.S. Chakravarty -- -- --Petitioner

Versus

Govt. of India and others -- --- Opp.parties

To

The Union Public Service Commission,
U.P. Allahabad.

Subject: Certificate of service of writ.

Sir,

With the respect I have to submit as under;

1. That I had been served with adverse entries vide letter No. 1.8/70 dt.12.8.88 for the period 1.4.83 to 10.8.88 while I was posted in Harbat Ali Section without giving the full details of the character roll.

2. That during the aforesaid period Sri Harish Chandra was the section officer of the Harbat Ali Section.

3. That during the aforesaid period I had served under Sri Harish Chandra for 88 working days (details of leave etc. are annexed as Ann.No.2).

4. That the aforesaid character roll was written without giving me the opportunity to write the self appraisal.

5. That I had represented against the adverse entries on 28.9.88 (Ann.3).

6. That the above representation against adverse entries was rejected vide letter no. 3 tt/CR/19 dt. 3.3.89(Ann.4) without any reasons.

7. That a photo copy of the confidential O.M.No. 2011/1/77 Estt. A dated 30.1.78 of GI Ministry of Home Affairs Deptt. of Personnel and AR regarding preparation and maintenance of confidential report is annexed as Ann.5 for ready reference and kind perusal.

8. It will be seen from para no. 5 (c) that my confidential report should have been written as I have served under the reporting officer for a longer period due to being on leave.

9. That it will be also seen that by not giving me the chance to write self appraisal, the order on this subject were issued.

10. That the petition of CR were not considered as to me which were essential in terms of para 1(iii) of the aforesaid O.M.

11. That my representation was not considered within three months as per rules on similar subject the

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Attested
Resume
Advocate

report written, which was submitted in terms of para No. 1(v) He was rejected after 9 months.

12. That as is evident the other [illegible] were conducted by the Government vide the G.O. mentioned ibid, were ignored.

Prayer

It, therefore, prayed that the orders of the adverse remarks [illegible] which were given to me [illegible] the [illegible] which was in contravention of the [illegible] /issued vide G.O. as cited ibid.

It, therefore, [illegible] will be [illegible] to consider [illegible] the G.O. [illegible] enclosed and to reject the adverse which was recorded.

Yours faithfully,
[illegible]
[illegible]

True copy

Attested

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (CIRCUIT BENCH)

LUCKNOW.

O.A. No. /1990

C.S. Srivastava .. Applicant

Versus

Accountant General-II (A&E),
Allahabad & others . Opp. parties/
Respondents

Annexure No.20

CERTIFICATE

Certified that we have most cordial relations with Sri Chandra Shekhar Srivastava, Accountant (P.No. 04/3565) of our Section.

1. Sd/- (S.N. Gupta)
14.3.88
2. Sd/- 14.9.88
(Sri Shyam Ji Malviya)
3. Sd/- (Sri Ashok Choudhury)
4. Sd/- (Smt. Meena Srivastava)

//True copy//

Attested
Ressomtaw
Advocate

C. S. [illegible]

A.G. II (A&E) [illegible] ... Respondents

[illegible]

Post Box [illegible] 15
Tele [illegible]
Tel [illegible]-PRINCACCOUNT

Telephone No. 2625 to 2629
3351 to 3354
[illegible] 0540 204

Office of the ACCOUNTANT General (A & E)-I, U. P., Allahabad

[illegible]-II/[illegible] 3/3[illegible]

दिनांक Date 12.10.88

आदेश

श्री [illegible] लेखाकार 101/3500, कार्यालय महालेखाकार, [illegible] एवं ए०.-[illegible], [illegible] लेखाकार [illegible], [illegible], [illegible] श्री [illegible] [illegible] लेखाकार [illegible] [illegible], 1955 के नियम 15 के अन्तर्गत कार्यवाही प्रस्तावित है। दुराचरण या दुर्व्यवहार के आरोपों का विवरण निम्नांकित आधार पर कार्यवाही [illegible], संलग्न है।

2. श्री [illegible] को यह अवसर दिया जाता है कि वह [illegible] के लिए [illegible] कार्यवाही [illegible] हों।

3. यदि श्री [illegible] को [illegible] इस ज्ञापन के प्राप्त होने के 10 दिन के अन्दर अथवा अतिरिक्त समय [illegible] में लिया रहे हैं तो [illegible] अतिरिक्त समय [illegible] करना है तथा श्री [illegible] के विरुद्ध [illegible] प्रस्तुत किया जायेगा।

4. [illegible] श्री [illegible] को [illegible]।

Truecopy
Attested
Rasmtas
Advocate

[illegible]

[illegible]
[illegible]
[illegible]

[illegible] लेखाकार/[illegible]

श्री [illegible] श्रीवास्तव, [illegible] के [illegible] के अधीनस्थों का विवरण।

[illegible] श्री [illegible] श्रीवास्तव, [illegible], की 1988 के अगस्त 1988 की अवधि में कार्यालय [illegible] 11 [illegible] की [illegible] के द्वारा कार्यालय समय में अ-11 अनुभाग में कार्यरत थे। उक्त श्री श्रीवास्तव दिनांक 17.5.88 से 31.5.88 की अवधि में अपनी ओर से अनधिकृत कार्यालय [illegible] को वहीं [illegible] किया। वे अनुभाग में [illegible] थे। दिनांक 23.5.88 को अनधिकृत अनुभाग अधिकारी श्री हरिश्चन्द्र ने उनसे [illegible] श्रीवास्तव को अनुभाग में उपस्थित नहीं पाया। उनके इस प्रकार उपस्थित रहने से [illegible] श्री श्रीवास्तव ने [illegible] की [illegible] पर में भी उपस्थित नहीं [illegible]। अपनी ओर से अनधिकृत कार्य को पूरा न करने हेतु उन्हें पत्र सं० [illegible] दिनांक 22.6.88 द्वारा स्पष्टीकरण पूछा गया परन्तु उनके द्वारा [illegible] स्पष्टीकरण प्रस्तुत नहीं किया गया। दिनांक 24.5.88 को श्री श्रीवास्तव के [illegible], श्री आर.के. [illegible] ने [illegible] किया कि उनका [illegible] उनके अनुभाग में [illegible] किया गया [illegible] श्री हरिश्चन्द्र, अनुभाग अधिकारी के विरुद्ध में [illegible] स्पष्टीकरण [illegible] किया एवं यह कहा कि वे [illegible] कार्यालय के लिए मुक्त नहीं किये जाने तक [illegible] अवकाश पर रहेंगे। दिनांक 17.6.88 को श्री श्रीवास्तव कार्यालय [illegible] 10 [illegible] पर 1.6.88 से 10.6.88 तक का अर्जित अवकाश [illegible] के बाद [illegible] उपस्थित हुए एवं [illegible], श्री आर.के. [illegible] एवं अन्य [illegible], श्री [illegible] श्रीवास्तव के [illegible] यह कहा कि [illegible] से उन्हें अनुभाग में [illegible] नहीं किये जाने या [illegible] कार्यालय के लिए मुक्त नहीं कर लिये जाने तक [illegible] को [illegible] प्रकार अवकाश लेते रहेंगे। उन्होंने यह भी कहा कि दिनांक 20.6.88 के चिकित्सा के आधार पर अवकाश पर [illegible] कार्यों और अपने [illegible] के दिनांक 20.6.88 से ही चिकित्सा के आधार पर अवकाश पर [illegible] यह बात [illegible] है कि उनका 20.6.88 के चिकित्सा के आधार पर अवकाश पर जाना पूर्वनियोजित था। उस दिन पर उनके [illegible] सं० [illegible]-II/88 दिनांक 22.6.88 द्वारा स्पष्टीकरण मांगा गया तथा उनके द्वारा प्रस्तुत स्पष्टीकरण [illegible] नहीं पाया गया। केन्द्रीय सामान्य सेवायें [illegible] नियमावली, 1964 के नियम [illegible] एवं [illegible] के अनुसार प्रत्येक [illegible] का यह कर्तव्य है कि [illegible] अधिकारियों के प्रति पूरी निष्ठा रखे तथा कोई भी ऐसा कार्य न करें जो किसी सरकारी कर्मचारी से अपेक्षित नहीं है। उक्त श्री [illegible] श्रीवास्तव अपने द्वारा आचरण से केन्द्रीय सामान्य सेवायें [illegible] नियमावली, 1964 के नियम 3 [illegible] का उल्लंघन किया है तथा [illegible] कदाचार के लिए दोषी हैं।

True Copy
Attested
R S Srivastava
Advocate

गोपनीय

Annexure 22

सेवा में,

वरिष्ठ उपमहालेखाकार (प्रशासन),
कार्यालय महालेखाकार ~~द्वितीय~~ (ले0 एवं हकदारी), प्रथम
उ0 प्र0 लखनऊ ।

विषय:- दिनांक 12-10-88 का ज्ञापन ।

महोदय,

आपके पत्र सं0 प्र0 11/अनु-115/378 दिनांक 12-10-88 के संदर्भ में मैं यह निवेदन प्रस्तुत किए जाने की अनुमति चाहता हूँ :--

(1) कि उपरोक्त दोषारोपण सर्वथा मिथ्या हैं और व्यक्तिगत विद्वेष तथा निहित स्वार्थों की पूर्ति न होने के कारण लगाए गये हैं । उपरोक्त आरोपों को मिथ्या साबित करने से पूर्व मैं थोड़ा सा पृष्ठभूमि के बारे में बताना चाहता हूँ जिससे प्रेरित होकर उक्त दोषारोपण किया गया है ।

(2) कि मेरी नियुक्ति मार्च, 86 में निधि अनुभाग, क्न शाखा में हुई ।

(3) कि मेरे कार्य-काल में मैंने पुराना बकाया काम तुरंत निस्तारण कर दिया साथ ही जो दिन-प्रतिदिन पत्र आदि आते थे उनका भी उसी दिन निस्तारण करना प्रारम्भ कर दिया । परिणाम यह हुआ कि मेरे वर्ग से संबंधित कार्य के लिए किसी को कार्यालय आने की आवश्यकता नहीं रही केवल एक पत्र द्वारा ही ता0भ0नि0 अभिदाताओं के कार्यों का निष्पादन होने लगा । जिसकी पुष्टि अनुभाग की डायरियों द्वारा की जा सकती है ।

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(4) कि मुझसे मौखिक रूप से कार्यों को मन्थर गति से करने की सलाह दी गई, जब मैंने कार्यों को मन्थर गति से निस्तारण हेतु लिखित आदेश मांगे तो मुझे निधि अनुभाग से केवल 7 माह पश्चात ही ट्रांसफर कर दियागया तथा जी0ई0 की ट्रेनिंग हेतु इलाहाबाद भेज दिया गया । मेरे साथ मेरे एक साथी श्रीश्याम जी मालवीय को भी भेजा गया था ।

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(11) कि निहित स्वार्थों की पूर्ति न होने के कारण मेरा एल0टी0सी0 का बिल 11 माह पश्चात् तथा एल0टी0सी एडवान्स का भुगतान 3 माह पश्चात्, और वह भी जब मैंने महालेखाकार द्वितीय को इनके भुगतान हेतु तार द्वारा प्रार्थना की, तब किया गया। जबकि पी0सी0 अनुभाग में आवश्यकता से कहीं अधिक लेखाकार पोस्ट थे।

(12) कि तब से मैं लेखा वर्ग पर वन अनुभाग-2 में कार्यरत हूँ।

(13) कि दिनांक 17-5-88 को एक पत्र अनुभाग की डायरी द्वारा 12-30 बजे पर मुझे लेखों में समायोजन से संबंधित पुनरीक्षित ब्रा एकाउन्ट से संलग्न मिला। जब मैं दो बजे कलमभी उक्त पत्र का निस्तारण करने चला तो देखा कि मेरी कम्पाइलेशन सीट में समायोजन अनुभाग अधिकारी द्वारा स्वयं किया जा चुका है। वह भी तब जब कि पुनरीक्षित ब्रा एकाउन्ट मेरी ग्रप द्वार में ही बंद थे। (रू0 सं0 4)

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(14) कि जब मैंने समायोजन की बिना किसी अभिलेख द्वारा करने की जानकारी लेखाधिकारी श्री आर0के0 गांधी को दी तो उन्होंने मुझसे खामोश रहने को कहा और यह भी कहा कि इस प्रकरण में कुछ न करो।

(15) कि यद्यपि मैंने इस घटना की लिखित जानकारी उच्चाधिकारियों को नहीं भेजी फिर भी अनुभाग अधिकारी श्री हरीशचन्द्र मुझसे विद्वेषित हो गये और कहा कि मैं देख लूँगा कि तुम कैसे नौकरी कर सकते हो।

(16) कि श्री हरीशचंद्र इतने ज्यादा विद्वेषित थे कि मुझसे बिना सेल्फ अप्रेजल लिखवाये ही मेरी चरित्र पंजिका लिखी एवं उसमें विपरीत प्रविष्टियाँ अंकित कर दीं।

(17) कि उक्त कारणों से ही मेरे विरुद्ध ऐसा दोषारोपण किया गया है। उक्त दोषारोपण कितना मिथ्या है। इस संदर्भ में मेरा बिन्दुवार निवेदन निम्न है :--

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दोषा. "उक्त श्री चन्द्रशेखर - - - - - - - - - - - -
- - - - - - - - - - - -संतोषजनक नहीं पाया गया ।"

प्रतिवेदन :- यहकि मैं अप्रैल, 87 से आज तक वन-II अनुभाग में कार्यरत हूँ । यह आरोप कि मैंने दि0 17-5-88 से 31-5-88 की अवधि में अपनी शीट का कोई कार्य नहीं किया, मेरे द्वारा उक्त अवधि में किये गये कार्यों से संबंधित रिकार्डस् देखने से स्वतः झूठा साबित हो जायेगा । इस अवधि में मैंने दिनांक 17-5-88 को माह अप्रैल, 88 के लेखे से सम्बन्धित शिड्यूल्स को बनाया समरी पोस्ट की तथा माह अप्रैल, 88 का एकाउन्ट क्लोज किया । इसके अतिरिक्त दि0 18-5-88 से 24-5-88 तक दक्षिण वृत्त के अप्रैल, 88 के विलम्ब से प्राप्त लेखों का मई, 88 के लेखे में लेखाबद्ध किया । इस अवधि में प्राप्त समस्त सामान्य डायरी एवं अर्जेन्ट डायरी द्वारा प्राप्त पत्रों का निस्तारण किया तथा मार्च (पूरक) के लेखों में समायोजन किया । दिनांक 25-5-88 से 30-5-88 तक मैं कम्पनसेटरी कैजुअल लीव पर रहा । दिनांक 31-5-88 को मैंने अपने वर्ग से संबंधित मार्च पूरक तक के लेखों का चार्ज अनुभाग-अधिकारी के आदेशानुसार श्री अशोक कुमार चौधरी को दिया । स्पष्ट है कि मैंने दिनांक 17-5-88 से 31-5-88 की अवधि में अपनी शीट से संबंधित सभी कार्य किये तथा समस्त आदेशों का अनुपालन किया । जहाँ तक यह आरोप कि मैं अनुभाग में बैठकर उपन्यास पढ़ता था, का प्रश्न है यह आरोप बिल्कुल निराधार एवं झूठा है । प्रथमतया: यह स्पष्ट नहीं है कि मैं किस दिनांक से किस दिनांक एवं किस समय से किस समय तक अनुभाग में उपन्यास पढ़ा था, और इस निराधार आरोप की पुष्टि के लिए अनुभाग अधिकारी के अलावा अनुभाग के या कार्यालय के अन्य कौन-कौन कर्मचारी या अधिकारी हैं जिन्होंने उक्त आरोप की पुष्टि में मुझे उपन्यास पढ़ते देखा था और इस संबंध में प्रत्यक्षदर्शी साक्ष्य हैं । श्री हरीश चंद्र अनुभाग अधिकारी का यह कथन कि उन्होंने मुझे दिनांक23-5-88 को यह कहा कि मुझे अनुभाग में उपन्यास नहीं पढ़ना चाहिए,

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Advocate

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उपन्यास पढ़ता था" वाले आरोप से परस्पर विरोधी हैं। क्योंकि पहले वाले आरोप से स्पष्ट होता है कि मैं अनुभाग में साधारणतया: रोज उपन्यास पढ़ता था जबकि दूसरे आरोप कि "दिनांक 23-5-88 को संबंधित अनुभाग अधिकारी श्री हरीश चंद्र ने उनसे कहा कि उन्हें अनुभाग में उपन्यास नहीं पढ़ना चाहिए, उनके इस प्रकार उपन्यास पढ़ने पर मना करते ही श्री श्रीवास्तव ने कहा आपको जो करना हो कर लें मैं उपन्यास पढ़ूंगा, से स्पष्ट होता है कि उपन्यास पढ़ने का आरोप केवल दिनांक 23-5-88 के संबंध में ही है। उपरोक्त से एवं मेरे द्वारा कृत्य कार्यों से स्वत: स्पष्ट है कि आरोप मनगढन्त एवं झूंठा है। इसके अतिरिक्त यदि मैं उपन्यास अनुभाग में बैठकर पढ़ता था तो अनुभाग अधिकारी इस कथित दृश्य को लेखाधिकारी को भी बड़ी आसानी से लिखवा सकते थे और मुझे स्वयं अपने द्वारा या लेखाधिकारी द्वारा कोई लिखित स्पष्टीकरण या चेतावनी आदि दे या दिलवा सकते थे। और यदि मैं अनुभाग में रोज उपन्यास पढ़ता था तो श्री हरीशचंद्र ने इसके पहले कभी ऐसा करने से क्यों नहीं मना किया, दिनांक 23-5-88 को ही ऐसी क्या बात थी कि जब उन्होंने मुझसे कहा कि अनुभाग में उपन्यास नहीं पढ़ना चाहिए और मेरे द्वारा उनके अनुसार यह कहने पर "आप को जो करना हो कर लें मैं उपन्यास पढ़ूंगा" तब उन्होंने मुझे स्वयं या लेखाधिकारी से ऐसा न करने की लिखित हिदायत या चेतावनी उस समय क्यों नहीं दी। यह चन्द प्रश्न ही इस आरोप को झूंठा साबित करने के लिए पर्याप्त से भी अधिक है। जैसाकि आरोप से स्वयं सिद्ध है कि न तो लेखाधिकारी ने मुझे कभी भी अनुभाग में उपन्यास पढ़ते स्वयं देखा है न ही अनुभाग के अन्य लेखाकारों अथवा कार्यालय के अन्य किसी कर्मचारी ने, केवल श्री हरीशचंद्र अनुभाग अधिकारी के ही एकतरफा एवं सरासर झूंठे आरोप को चार्जशीट का एक महत्वपूर्ण आरोप बना देना पूर्णतया: विधि एवं प्राकृत न्याय के सिद्धान्तों के विरुद्ध है।

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R S Srivastava
Advocate

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अवकाश स्वीकृत नहीं करना चाहिए था । न ही मुझे 31-5-88 को कार्यालय में ही आना चाहिए था ।

स्पष्ट है कि जब तक मैं कार्यालय में नियमित रूप से कार्यरत था तो व्यक्तिगत विद्वेष के बावजूद मेरे कार्य में कभी कोई कमी न तो अनुभाग अधिकारी न ही लेखाधिकारी निकाल सके, पर मेरे अस्वस्थ पड़ते ही मिथ्या आरोपों की बौछार दिनांक 22-6-88 को एक साथ तीन-तीन स्पष्टीकरण भेजकर कर दी । न तो उन्होंने साक्ष्य में कोई लिखित साक्ष्य प्रस्तुत किया न ही बचाव हेतु कोई लिखित साक्ष्य की नकल दिया । उल्लेखनीय है कि आज तक न तो मैं लेखा परीक्षा कार्यालय के लिए कार्यमुक्त हुआ हूँ न ही मेरी सीट पर कोई सेरियर ही शेष बचा है । मैं अपनी सीट से संबंधित समस्त कार्य संपन्न कर चुका हूँ एवं कर रहा हूँ ।

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इसके अतिरिक्त लेखाधिकारी को यह चाहिए भी था कि अगर मैंने उनसे कोई इस प्रकार की बात की थी तो उन्होंने मुझसे कोई स्पष्टीकरण क्यों नहीं मांगा अथवा चेतावनी इत्यादि क्यों नहीं दी । उनका ऐसा न करना स्वयं में इस बात का द्योतक है कि मेरी उनसे ऐसी कोई बात नहीं हुई थी ।

(5) यहकि यह आरोप कि मैंने लेखाधिकारियों के समक्ष पुनः यह कहा कि जब तक मैं इस अनुभाग से हटा नहीं दिया जाता तब तक किसी प्रकार अवकाश लेता रहूँगा तथा 20-6-88 से चिकित्सा के आधार पर अवकाश पर चला जाऊँगा, भी कपोल कल्पित है । यदि मेरी उनसे इस प्रकार की कोई बात हुई होती तो स्पष्टीकरण सं0 वन-2 दिनांक 22-6-88 में इसका जिक्र होता । उनके द्वारा ऐसा न करना स्वयं में इस बात का द्योतक है कि मेरी उनसे इस प्रकार की कोई बात नहीं हुई थी ।

इसके विपरीत कोई सरकारी सेवारत चिकित्सक जो कि सामान्यतः प्रथम वर्ग अथवा द्वितीय वर्ग का राजपत्रित अधिकारी भी होता है, से यह अपेक्षा नहीं की जा सकती है कि वह गलत चिकित्सीय प्रमाण-पत्र दे देगा । मेरे समस्त चिकित्सीय प्रमाण-पत्र केन्द्रीय स्वास्थ्य सेवा योजना/राज्य अस्पतालों के

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राजपत्रित अधिकारियों द्वारा प्रदत्त हैं । यदि मैं सुनियोजित ढंग से चिकित्सीय आधार पर अवकाश पर गया था, इस - सुनियोजन में केन्द्रीय सेवा के तीन प्रभारी चिकित्सा अधिकारी तथा एक प्रथम वर्ग का प्रान्तीय चिकित्सा अधिकारी भी सम्मिलित मानना पड़ेगा बिना उनके विपरीत बयानों के यह कहना कि मैं सुनियोजित ढंग से अवकाश पर गया था गलत एवं बेबुनियाद है ।

उल्लेखनीय है कि जब मुझे मुख्य चिकित्साधिकारी, केंद्रीय स्वास्थ्य सेवा योजना के पास राय लेने हेतु भेजा गया तो मैं वहाँ भी उपस्थित हुआ तथा आदेशों का पालन किया । यद्यपि किसी भी नियम के अन्तर्गत मुख्य चिकित्साधिकारी, केन्द्रीय स्वास्थ्य सेवा योजना के पास पुनः परीक्षण हेतु भेजे जाने का प्राविधान नहीं है एवं आदेश सर्वथा अनियमित था । इस - अनियमित आदेश के फलस्वरूप कन्वेंस पर व्यर्थ ही जन-धन का अपव्यय हुआ । न तो कोई व्यक्ति अस्वस्थता पूर्वनियोजित कर सकता है न ही कोई आथराइज्ड मैडिकल अटेन्डेन्ट इतना अल्प बुद्धि, की गलत प्रमाण-पत्र निर्गत कर अपनी सेवाओं से खिलवाड़ करे । जहाँ तक स्पष्टीकरण के प्रत्युत्तर को संतोषजनक नहीं पाने का प्रश्न है कि जब यह माना जा सकता है कि सरकारी सेवारत चिकित्सक गलत प्रमाण-पत्र निर्गत कर सकते हैं वहाँ स्पष्टीकरण के उत्तर से संतोषजनक पाये जाने का कोई प्रश्न ही नहीं है ।

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Advocate

लेखाधिकारी मुझसे इतने अधिक विद्वेषित थे कि एक ओर तो मैं अस्वस्थ था तथा चारपाई से उठ भी नहीं सकता था दूसरी तरफ मेरी अस्वस्थता अवकाश का वेतन भी रोक दिया गया, ताकि मैं अपना उपचार सुचारू ढंग से न करा सकूँ । जब दो माह तक का वेतन नहीं मिला और मैं तथा मेरे परिवार के सदस्य भूखे मरने लगे तो मजबूरन मुझे महालेखाकार द्वितीय से अवकाश वेतन दिलाये जाने की प्रार्थना तार द्वारा करनी पड़ी । जब वरिष्ठ उप-महालेखाकार (प्रशासन) ने कृपा करके मुझे अवकाश वेतन के भुगतान हेतु आदेश दिये तभी मेरे अवकाश वेतन

यदि लेखाधिकारी यह समझ रहे थे कि मैं अस्वस्थ नहीं हूँ और फर्जी चिकित्सीय प्रमाण-पत्र प्रस्तुत कर रहा हूँ तो उन्हें प्रमाण-पत्र देने वाले चिकित्सक से पूछना चाहिए था या स्वयं मेरे निवास पर आकर प्रामाणिकता के नाते ही। देखना चाहिए था न कि सीधे सेल्फ अप्रेजल लिखवाये ही एकतर्फा इन्क्वी निर्गत करना ।

यह इस [illegible] प्रतीत है कि मेरी अस्वस्थता का लाभ उठाकर [illegible] पूर्ण भावना से प्रेरित होकर उक्त तथ्यहीन एवं मिथ्या [illegible] आरोपण किया गया है तथा विपरीत प्रविष्टियाँ भी दी गई [illegible]

प्रार्थना

[illegible] निवेदन है कि आप कृपा करके मुझे इन दोषारोपों से मुक्त करें । यदि इस प्रत्यावेदन से आप न संतुष्ट हों तो उपरोक्त जवाब मात्र [illegible] एवं अंतरिम मानते हुए निम्नलिखित अभिलेखों को हेतु निरीक्षण की अनुमति प्रदान करें, ताकि मैं अपना पूर्ण एवं अंतिम उत्तर दे सकूँ ।

1- श्री हरीशचन्द्र, अनुभाग अधिकारी द्वारा भेजी आख्या ।
2- श्री आर०के० गांधी, लेखाधिकारी द्वारा प्रेषित आख्या ।
3- श्री ए०के० श्रीवास्तव, लेखाधिकारी द्वारा प्रेषित आख्या ।
4- इन आख्याओं के प्रेषण के दिनांक ।
5- माह अप्रैल, 88 के अवकाश तथा दक्षिण वृत्त के कम्पाइलेशन शीट्स ।

अतः आपसे प्रार्थना है कि सी०सी०एस० (सी०सी०ए०) रूल 16 केनीचे जी०आई०ओ० संख्या 1 व 2 के तहत उपरोक्त अभिलेखों का निरीक्षण का अवसर प्रदान करें तथा आरोपों के सम्बन्ध में सी०सी०एस० (सी०सी०ए०) रूल 14 के सब-रूल (3) से (23) के अनुसार इन्क्वायरी जिसमें कि मुझे संबंधित गवाहों से क्रास इक्जामिनेशन करने की सुविधा उपलब्ध हो, कराने की कृपा करें ।

अति कृपा होगी ।

भवदीय,

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Rasmitas
Advocate

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Resontrus
Advocate

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Ressourtung
Advocate

Annexure 24

सेवा में,

महालेखाकार,
लेखा एवं हकदारी,द्वितीय,
उत्तर प्रदेश , इलाहाबाद ।

विषय: सेंसर

महोदय,

मैं अपके सम्मुख निम्न तथ्य एवं निवेदन आपके विचारार्थ एवं उचित न्याय हेतु प्रस्तुत करने की अनुमति चाहता हूँ ।

1: कि मैं माह मई 88 में वन अनुभाग 2, कार्याय महालेखाकार द्वितीय :लेखा एवं हकदारी कार्यालय प्रेम बाजार निशात गंज में कार्यरत था ।

2: कि मेरे प्रभार में बन विभाग के दक्षिणी वृत एवं अवध वृत के लेखों को लेखाबद्ध करने से सम्बन्धित कार्य था ।

3: कि माह मई में मुझे अप्रेल 88 तथा मार्च पूरक 88 के लेखो को लेखाबद्ध करना तथा वर्ष 1987-88 के लेखों का वार्षिक मिलान करना था । यह कार्य हर लेखे की सीट पर माह मई में होता है ।

4: कि मैंने माह मई में समय से अप्रैल का लेखा लेखाबद्ध किया था एवं इससे सम्बन्धित अभिलेखों पर तत्कालीन अनुभाग अधिकारी एवं लेखाधिकारी ने हस्ताक्षर किए थे ।

5: कि दिनांक 25-5-88 से 30-5-88 तक मैं पूरक आकस्मिक अवकाश पर रहा तथा दिनांक 31-5-88 को तत्कालीन अनुभाग अधिकारी ने मुझे मार्चपूरक 88 से सम्बन्धित लेखो का प्रभार श्री अशोक चौधरी लेखाकार को हस्तांतरित करने के आदेश दिये एवं उसके अनुपालन में मैंने अपना प्रभार उसी दिन श्री अशोक चौधरी को दे दिया ।

6: कि मुझे घरेलू कार्यवश कानपुर, इलाहाबाद, वाराणसी तथा अपने निवास स्थान बलिया जाना था , अतः मैंने 10 दिन के उपार्जित अवकाश 1-6-88 से 10-6-88 तक का प्रार्थना पत्र दिया था उक्त अवकाश 31-5-88 को ही स्वीकृत कर दिया गया था ।

7: कि ना तो मुझे कोई ज्ञापन, मेरे किसी भी कार्य की त्रुटी का अपना कार्य करने अथवा विलम्ब से करने अथवा कार्य करने से मना करने का 31-5-88 तक नहीं दिया था ।

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8: कि मुझे माह मई 88 के वेतन का भुगतान भी 31-5-88 को किया गया था । यह स्वतः ही द्योतक है कि मेरे कार्यकलापों से तत्तकालीन अनुभाग अधिकारी एवं लेखाधिकारी पूर्णतः सन्तुष्ट थे ।

9: कि घरेलू कार्यवश मैंने समय से एक प्रार्थना पत्र अवकाश बढाने का [13-6-88 से 4-7-88 तक का] कार्यालय को डाक द्वारा प्रेषित कर दिया था ।

10: कि मुझे तार द्वारा जनहित में कार्यालय आने के आदेश दिये गये । इसके अनुपालन में मैंने कार्यालय 17-6-88 के अपरान्ह में कार्यभार ग्रहण कर लिया था ।

11: कि दिनांक 20-6-88 को मेरी तबियत अचानक खराब हो गई तथा चिकित्सकों की राय पर मैंने सिविल अस्पताल जोकि प्रान्तीय सरकार का अस्पताल है, से दिखाया

12: कि उन्होंने आराम करने की सलाह दी । उक्त राय को ध्यान में रखते हुये कमुटेड अवकाश का प्रार्थना पत्र कार्यालय को तत्काल ही डाक द्वारा प्रेषित कर दिया था ।

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Akshay
Advocate

13: कि दिनांक 22-6-88 को ज्ञापन संख्या वन-2/66 ,वन-2 /67 तथा वन-2/68 संख्यांकित तीन ज्ञापन पंजीकृत डाक द्वारा मेरे निवास स्थान पर भेजें गये ।

14: कि ज्ञापन संख्या 67 एवं 68 में चूकि कार्यालय कार्य से संम्बन्धित कोई बात नही थी इसलिये उनका उत्तर मैंने तत्काल ही दे दिया था , पर चूंकि ज्ञापन संख्या 66 में कार्यालय के कार्य से सम्बन्धित था जिसका उत्तर दिनांक कार्यालय अभिलेख देखे नहीं दिया जा सकता था इस लिए मैंने अभिलेखों की प्रति देने की प्रार्थना की ताकि मैं समुचित उत्तर दे सकूँ ।

15: कि मैं अस्वस्थ्य था कार्यालय आने में असमर्थ था, का चिकित्सीय प्रमाण पत्र प्रारम्भ में ही प्रेषित कर चुका था ।

16: कि एक अस्वस्थ्य व्यक्ति से सहानुभूति पूर्वक व्यावहार करना चाहिये था जैसे कि इस प्रकार के मामलों में उच्चतम न्यायलय एवं उच्च न्यायालय द्वारा निर्णय दिये जा चुके हैं इसको दृष्टिगत रखते हुये जिस प्रकार ज्ञापन मेरे निवास स्थान पर भेजे गये थे उसी प्रकार अभिलेखों की प्रतियाँ भी मेरे निवास स्थान पर भेज दी जानी चाहिये थी , पर ऐसा नहीहुआ ।

17: कि मेरे सभी चिकित्सीय प्रमाण पत्र केन्द्रीय स्वास्थ्य सेवा योजना के अथवा प्रान्तीय सरकारों के चिकित्सकों द्वारा दिये गये थे ।

18: कि जब मैंने स्वस्थ्य होकर कार्यालय में कार्यभार ग्रहण किया तो पाया कि माह अप्रैल 88 एवं मई 88 से सम्बन्धित अभिलेख मेरी सीट पर नही हैं । उक्त को मैंने लेखाधिकारी से दिनांक 11-7-88 को देने की प्रार्थना की ताकि मैं अगला कार्य कर सकूँ एवं ज्ञापन का उत्तर दे सकूँ।

पर मुझे आज तक वह अभिलेख नही दिये गये । Reminder 12-10-88

19: पत्र संख्या [illegible]/[illegible]-115/318 के द्वारा मुझे एक चार्जशीट निर्गत की गयी जिसमें मेरे ऊपर निम्न आरोप लगाये गये -

क: मैंने अपनी सीट से सम्बन्धित कार्यो का सम्पादन नही किया ।

ख: कि मैंने तत्कालीन अनुभाग अधिकारी के नियंत्रण में कार्य करने से मना कर दिया था । यह बात मैंने लेखाधिकारी से दिनांक 24-5-88 एवं 17-6-88 को कही ।

ग: कि दिनांक 17-5-88 से 31-5-88 तक मैं अनुभाग में उपन्यास पढता रहा तथा अनुभाग अधिकारी ने मुझे 23-5-88 को मुझे उपन्यास पढने से

किया । इस पर मैंने कहा कि मैं उपन्यास पढ़ूँगा आपको जो करना हो कर लें

घः कि मैंने चिकित्सी अवकाश पूर्व नियोजित लिया ।

20: कि उक्त अरोप पत्र का उत्तर मैंने दिनांक 25-10-88 को वरिष्ठ उप महालेखाकार प्रशासन को प्रेषित कर दिया था।

12: कि उक्त उत्तर के दिये, जब आठ महीने से ऊपर व्यतीत हो गये और मेरे दक्षतारोक जो 1-12-88 को अपेक्षित थी , भी लम्बित कर दी गयी तब मैं दिनांक 08/89 को उक्त मामले की शीघ्र कार्यवाही करने की कृपा करने हेतु, वरिष्ठ उप महालेखाकार प्रशासन से मिला ।

22: कि उनसे मैंने यह भी निवेदन किया कि मौखिक साक्ष्यों को प्रति परीक्षण करने का अवशर तथा अनुभाग एवं लेखाधिकारी के बयानों की प्रतियाँ देने तथा अन्य अभिलेखों के निरीक्षण करने का अवशर दिया जाय ।

23 कि उन्होंने मुझसे यह कहा कि वे मेरे उत्तरों से पूर्णतया सन्तुष्ट हैं तथा अन्य अभिलेखों के निरीक्षण की अथवा जॉच की कोई आवश्यकता नही हैं तथा मैं वापिस लखनऊ जाऊँ ।

24: कि मुझे दिनांक 23-8-89 के एक आदेश व्दारा सेंसर का दण्ड दिया गया । उक्त आदेश मुझे दिनांक 1-9-89 को प्राप्ति कराया गया ।

25: कि उक्त फैसले में उन्होंने चिकित्सीय अवकाश पूर्व नियोजित लेने के बारे में कोई जिक्र नही किया तथा यहभी मैंने कौन सा कार्य समय से नही किया इसका भी जिक्र नही किया ।

26: कि अपने फैसले में ज्ञापन संख्या 66 के उत्तर हेतु मेरे व्दारा अभिलेखों की प्रतियाँ मॉगना असंगत एवं निस्सार बताया । साथ ही इसका अर्थ यह भी लगाया कि मैं ज्ञापन का उत्तर नहीं देना चाहता था ।

27: कि उन्होंने यह भी निष्कर्ष निकाला कि मैंने कार्यालय कार्यो को नहीं किया, एवं अधिक्षण अधिकारियों के आदेशों का अनुपालन नहीं किया । ऐसा निष्कर्ष निकालने की वजह उन्होंने किसी साक्ष्य के फलस्वरुप न देकर यह दी कि अनुभाग अधिकारी अथवा लेखाधिकारी के बयानों पर अविश्वास करने का कोई कारण उनकी समझ में नहीं आया ।

28 कि उक्त निष्कर्ष उन्होंने उन बयानों से निकाले हैं जिन्हें मुझे निरीक्षण करने का अवशर भी नही दिया गया ।

True copy
Attested
R Srivastava
Advocate

29: स्पष्ट है कि पूरे प्रकरण में बचाव का अवसर न देकर, केवल बचाव का अवसर देने की खाना पूरी भर की गयी ,क्योंकि कोई भी व्यक्ति उन कृत्य कार्यो के विवरण अपने घर पर बैठे बैठे नहीं बता सकता है जो उसने एक माह पूर्व कार्यालय में किये थे । इसके लिए सम्बन्धित अभिलेखों का निरीक्षण अनुभाग अर्हता हैं और इस अर्हता को मेरे साथ पूरा नहीं किया गया ।

30: इस आदेश में यह भी कहा सिध्द पाया गया हैं कि मैं दिनांक 17-5-88 से 31-5-88 तक सीट सम्बन्धित कार्य न करके उपन्यास पढता रहा एवं साथ ही अनुभाग अधिकारी के आदेशों के पालन करने से मना किया । इस सम्बन्ध में अभिलेखों से पुष्टि करने के बजाय बिना प्रमाण के ही मुझे दोषी ठहराया गया ।

31 जबकि वास्तव में अनुभाग में उपन्यास पढता रहा था तो अनुभाग अधिकारी के अतिरिक्त अन्य साक्ष्य भी होनें चाहिये थे । उक्त साक्ष्यों की आवश्यकता उक्त निर्णय देते समय नहीं समझी गयी । केवल एक तरफा बयान पर विश्वास किया गया ।

32: यदि मैं वास्तव में अनुभाग में बैठकर उपन्यास पढता रहा था तो अनुभाग अधिकारी व्दारा मुझे तुरन्त स्पष्टीकरण माँगा जाना चाहिये था जबकि ऐसा मेरे मामले में नहीं किया गया । तुरन्त की तो बात ही क्या, जब कि एक माह पश्चात दिनांक 22'6-88 को मेरे निवास स्थान पर तीन मेमों भेजे गये उनमें भी उपन्यास पढने कोई जिक्र नही किया गया था ।

स्पष्ट हैं कि जब यह पाया गया कि उक्त स्पष्टीकरणें व्दारा मुझे फँसाना संभव नहीं हैं तो बगैर मुझे सफाई का मौका दिये उक्त कथोपकथन कल्पित कर वरिष्ठ उप महालेखाकार प्रशासन के पास भेज दिया गया तथा उन्हों ने भी सत्यता की जाँच किये बगैर दोषी मान लिया ।

33: यदि वास्तव में मैं 17-5-88 से 31-5-88 तक कोई कार्य न करके उपन्यास ही पढता रहा था तो मई माह का वेतन रोक दिया जाना चाहिये था, ओ0पी0एस, के प्राविधानों के अन्तर्गत । ऐसा न करना स्वयं में ही इस बात का द्योतक है कि उक्त घटना कपोल कल्पित है तथा इसका उद्देश्य येनकेन प्रकारेण मुझे दण्डित करना ही था ।

34 इसी प्रकार लेखाधिकारी से जिस कथोपकथन के लिये मुझे दोषी ठहराया गया हैं उक्त कथोपकथन की पुष्टि के लिये लेखाधिकारियों के बयानों की प्रतियाँ न देना स्वयं इस बाता का द्योतक है कि मुझे बचाव का अवसर देना ही नहीं था । स्पष्टी करण के उत्तर देने के 9 माह के अन्दर न तो मेरे व्दारा माँग किये जाने के बावजूद जाँच बैठालना, न ही साक्ष्यों की प्रतियाँ देना, न ही कोई कार्यवाही करना स्वयं इस बात का द्योतक है कि किसी न किसी बहाने से मेरा मामला लम्बित करना था ताकि मेरी दक्षता रोक जो 1-12-88 को देय थी लम्बित रहे ।

35: और जब मैं इस सिलसिले में शीघ्र कार्यवाही करने हेतु मिला तो उसे सुनवाई मानलिया गया । न तो उक्त सुनवाई के कोई मिनिट्स बनाये गये न ही मुझे साक्ष्यों से प्रति परीक्षण का मौका दिया गया न ही सम्बन्धित कोई अभिलेख ही दिखाया गया फिर भी यह किस प्रकार से 'सुनवाई' माना गया, मेरे समझ से परे हैं ।

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Attested
Representing
Advocate

36: उर्पयुक्त बातों से यह स्पष्ट होगा कि कुल कार्यवाही कपोल कल्पित बयानों पर आधारित हैं तथा उनकी पुष्टि तथ्यों से न करके , बचाव का अवसर न प्रदान करके निर्धारित न्याय प्रतिक्रिया का अनुपालन नही किया गया आपितु निर्णय विव्देशित है।

अतःआप महोदय से यह करबध्द प्रार्थना हैं कि उक्त विव्देशित दन्ड को निरस्त करने के आदेश शीघ्र पारित करने की कृपा करें ।

प्रार्थी

चन्द्रशेखर श्रीवास्तव 17/10

True copy
Attested
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(CIRCUIT BENCH), LUCKNOW.

C.A. No. (L)/1990

C.S. Srivastava .. Applicant

Versus

Accountant General (A&E)-Allahabad
and others . . Respondents

Annexure - 25.

C/o A.G.(A&E)-II, U.P., Lucknow.

No.Estt./PC/EB/ Dt. 3.2.89

To

Shri C.S. Srivastava,
Acctt.
F-II Section, Lucknow.

Please refer your letter dated 3.1.89 regarding crossing of efficiency bar. It is to inform that your case has been deferred by the D.P.C.

Sd/-
Accounts Officer/Estt.

//True copy//

Attested
R S Sonntaey
Advocate

In the Central Administrative Tribunal
Circuit Bench, Lucknow

बअदालत श्रीमान O.A. NO. ..... /90(L) **महोदय**

वादी (मुद्दई) / मुद्दई (मुद्दालेह) का **वकालतनामा**

C.S. Srivastava ..... Applicant
Versus
A.G. II (A&E) U.P.
Allahabad & others ..... Respondents

बनाम प्रतिवादी (रेस्पान्डेन्ट)

मा सन पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री R.S. Srivastava, Advocate 4/553 Vikasnagar Kursi Road Lucknow वकील एडवोकेट महोदय

ो अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो छ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज खिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और या वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व गरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें ोर तस्दीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या ारी या विपक्ष (फरीकसानी) का दाखिल किया रुपया अपने या ारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें ील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है र होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम परवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

Accepted
R.S. Srivastava
Advocate.

Srivastava
हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १९ ई०

26/4

A85

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

Misc. Application No. M.P. No. 144/91(L) of 1990

on behalf Respondents.

In

Case No. O.A. No. 295 of 1990

C. S. Sundara .... Applicant.

Versus.

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.

D. Chandra

Lucknow :

Dated :

(Dr. Dinesh Chandra)
Counsel for the Respondents.

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

COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENT No.1 TO 3.

IN

O.A.No. 295 of 1990

C.S. Srivastava.....Applicant

Versus

Accountant General (A&E) II & Others.....Opp.Parties

******

I, K.C. Agrawal, aged about 57...years, son of Shri R.R. Agrawal.....Dy. Accountant General (ADMN), Office of the Principal Accountant General (A&E)-I, U.P., Allahabad do hereby solemnly affirm and State as under:

1. That the deponent has read the application filed by Shri C.S. Srivastava and has understood the contents thereof.

2. That the deponent is well conversant with the facts of the case deposed hereinafter.

3. That the contents of paras 1 to 3 of the application need no comments except that the application is not maintainable under section 20 of the Administrative Tribunal's Act, 1985 as the applicant has not exhausted the statutory remedy of Revision under 29 of the CCS(CCA) Rules, 1965.

4. That the contents of para 4.1 are admitted.

5. That the contents of para 4.2 appear to be based on conjucture and surmises as the ACRs are confidential document and its contents are not made available to the person concerned. Only adverse remarks of ACRs are communicated to him. As such it is for the applicant to explain as to how

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K. Agrawal.

he came to know that he had earned excellant entries in his ACRs.

6. That the contents of Para 4.3 are admitted.

7. That in reply to para 4.4 it is stated that at the time of restructuring of cadres in I.A.&A.D., the employees were required to give their options for Audit or Accounts wing. Those who opted for Audit were allocated and transferred to Audit wing subject to availability of vacancies. The remaining audit optees were kept in a waiting list for their transfer to Audit Office subject to availability of vacancies in future. The applicant opted for Audit side but his name was accordingly kept in the waiting list. He was transferred to Audit on August, 1989.

8. That the contents of para 4.5 are admitted.

9. That the contents of para 4.6 are denied as the applicant has not mentioned the specific verifiable case on account of which Shri J.K, Srivastava, Accounts Officer started bearing any ill-will against the applicant.

10. That the contents of para 4.7 are denied. It is, however, submitted that the matter referred to in the answering paragraph was discussed with the Accountant/Section Officer on 28.5.87 before Shri J.K. Srivastava ordered Shri P.K. Srivastava to go on inspection. If an officer does not agree with the office note, it does not mean that he starts bearing ill-will against the official who has given the note.

11. That the contents of para 4.8 are denied. It is, however, stated that when the Section Officer had made necessary

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adjustment in the Accounts of his section, there was nothing to be reported to the Accounts Officer or to any higher authorities. It is not understood how this solitory incident can be a cause of ill-will and malice against the applicant.

12. That the contents of para 4.9 are denied. The Applicant has not filed any document in support of his allegations against Shri Rathore. Hence no further comments can be made in this regard.

13. That in reply to para 4.10 it is stated that the allegations made against Shri R.K. Gandhi, Accounts Officer and Shri H.C. Rathore are imaginary and false. The applicant has not filed any document to substantiate his charge. It is, however, submitted that ACR of an official reflects his work and conduct as assessed by his superior officers. The applicant worked under Shri Rathore from 1.4.88 to 10.8.88 i.e. for a period of about 4 monts & 10 days and he was entitled to write his ACR for the said period as it exceeded 90 days. Since Shri Rathore was transferred to Audit Office on 10.8.88, he was required to write the ACRs of the persons who had worked under him before he could be relieved for Audit. The disciplinary proceedings were initiated against him for non-performance of duty and violation of conduct Rules.

14. That the contents of para 4.11 are denied. Allegations are false and baseless.

15. That in reply to para 4.12 xxx it is stated that the applicant applied to avail of L.T.C. from Lucknow to Jagannath puri but he broke his journey at Bodh Gaya without obtaining

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L. Chowal.

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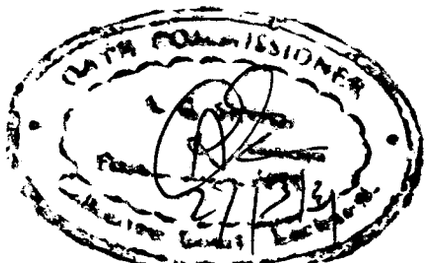
prior approval. Change in destination of L.T.C. must be approved by the controlling Officer prior to commencement of journey. The Applicant submitted his L.T.C. claim in January, 1987. While scrutnising his L.T.C. bill it was revealed that the applicant had broken journey at Bodh Gaya. He was therefore, asked to apply for change of destination. his request for change of destination dt. 28.4.87 was forwarded to the Dy. Accountant General (Admn.), Allahabad who was the competent authority in this regard to accord necessary approval. The change of destination was approved and communicated on 19.8.87 and the bill was drawn on 20.8.87 and sent to the Pay Accounts Officer for issuing the cheque. The Pay Accounts Officer returned the bill with some objections which was re-submitted after rectifying the same. Thus there was no delay as alleged by the applicant.

16. That the contents of para 4.13 are denied. The applicant remained on leave from 20.6.88 to 10.7.88, 13.7.88 to 22.7.88 and from 1.8.88 to 4.8.88. These spells of leave were not got sanctioned by the applicant prior to prodeeding on leave. The leave salary could be paid to the applicant only after the sanction of the leave by the competent authority which was done in his case at the earliest i.e. on 5.8.88 when he returned from leave. Thus there was no delay in payment of leave salary to him.

17. That in reply to para 4.14 it is stated that in view of frequent leave taken by the applicant on medical grounds recommended by the Medical Officer of the Central Government Health Scheme(CGHS), Lucknow it was considered necessary in



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the interest of administration to refer his case to the Chief Medical Officer of C.G.H.S., Lucknow for second opinion. On advice from the C.G.H.S. the applicant was referred to Chief Medical Officer, Lucknow for second opinion.

18. That in reply to para 4.15 it is stated that the applicant attended the office on 22.7.89 which was a holiday and submitted the bill for Rs 28/-as conveyance allowance. The Dy. Accountant General rejected the claim but the applicant was given compensatory casual leave on 25.8.89 for his attendence on 22.7.89 by Shri R.K. Gandhi.

19. That in reply to para 4.16 it is stated that the instructions referred to in the answering paragraph prescrive the maximum period for which an official may ordinarily be allowed to continue on a seat but in the interest of work he can be shifted from one seat to another irrespective of the period of time he has worked on a particular seat. It is for the supervisory Officer to utilise his services on any seat he considers appropriate. If the applicant had any grievance on account of his frequent shifting, he could have brought the matter to the notice of higher authorities.

20. That in reply to para 4.17 it is stated that the letters referred to in the answering paragraph, were written to the applicant for seeking certain clarification. Calling of explanation from the officials on seeking clarification is a part of official procedure.

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21. That in reply to para 4.18 it is stated that the accounts of any unit which are not received by the 10th of the following month are entered in the compilation sheet of the next month as and when they are received and are accounted for the account of the next month but the applicant did not make any entry in the compilation sheet for the month of May, 1988 - with regard to the accounts for the month of April which were received late from 16.5.88 to 31.5.88.

22. That the contents of para 4.19 are admitted.

23. That the contents of para 4.20 are denied. It is, however, stated that entries in the ACR of the applicant were made on the basis of his work and conduct and there was no malice behind it.

24. That in reply to the contents of para 4.21 it is stated that the applicant remained posted under the reporting officer Shri Rathore from 1.4.88 to 10.8.88. As such Shri Rathore was competent to write his ACR for the period of 4 months & 10 days from 1.4.88 to 10.8.88 which exceeded 90 days. It has also been alleged by the applicant that the adverse remarks were recorded in his ACR because of his refusal to do menial work requested by respondent No.4. But

the applicant has not spelled out the type of menial work he was asked to do and has not filed any document to substantiate his charge.

25. That in reply to para 4.22 it is stated that the entries given in the ACR of the applicant were based on his work and conduct as assessed by the Reporting Officer and Reviewing Officer.

26. That in reply to para 4.23 it is stated that it was for the petitioner to submit a resume of his work. It was no part of the duty of the reporting officer or reviewing officer to call upon the petitioner to submit a resume of his work in Part.II.

27. That in reply to para 4.24. it is stated that overall assessment of the work and conduct of the official reported upon is made on the basis of his performance on the job assigned to him.

28. That in reply to para 4.25 it is stated that the applicant was issued a Memo on 22.4.88 for non-performance of his duties properly. In addition time and again the applicant was instructed by his Section Officer to improve his work

L. Chowal

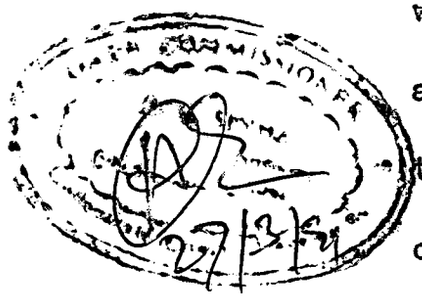
and conduct. In the present case, the reporting officer, when he made the remarks must have been satisfied about the need for making such entry by observing the conduct of the petitioner during the period he worked under him and it would not have been on the basis of a particular instance on a stray incident.

29. That in para 4.26 the applicant has stated that "the reporting officer was obsessed with a queer, irresistable habit of recording adverse entries in the character rolls and in the past he had given adverse entries to S/Shri Lalta Prasad, N.N.Singh, Akhilesh Kumar and R.C. Arya which had to be expunged later by the administration. From this statement it transpires that the adverse entries given by the reporting officer cannot be attributed to an element of malice or malafide on the part of the reporting officer. But it may be noted that in cases of the other persons referred to above the adverse entries were expunged while in the case of the applicant, the adverse entries were allowed to stand against him.

30. That in reply to para 4.27 of the application it is submitted that filing of certificates from four persons of

his office to testify his relationship with his fellow employee can not wipe out the adverse entry in this regard The adverse remarks relate to his relationship with all the fellow employees working with him including his subordinates and superior officers.

31. That the contents of para 4.28 are admitted to the extent that the acid test for a valid ACR is objectivity in reporting. Rest of the contents are not relevent and are denied. In this connection it is submitted that "confidential reports are made on the subjective satisfaction of the officer concerned, though normally one is expected to come to that satisfaction on an objective assessment of the work of the subordinate." Even so, the Court cannot sit in judgement over the remarks of the officer, as a subject satisfaction is not open to objective tests by the Courts." It is also respectfully pointed out that more allegation of malice and bias on the part of the reporting officer without solid documentary evidence does not vitiate the assessment of the reporting officer. It has been held th the Tribunal cannot sit as a further appellate authority over the decision of the authority which has acted as the appellate authority in the matter. "It is not possible for the Tribunal to re-appraise and assess the applicant



L. Agrawal

work and conduct during the relevent period and see whether the assessment made by the immediate competent authority and reviewing authority was appropriate or not." The decision in the case of S.R. Julika V/s Union of India is not relevent to the present case.

32. That the contents of paras 4.29 and 4.30 need no comments.

33. That in reply to para 4.31 it is stated that the reply of the Charge-sheet submitted by the applicant was duly considered by the Disciplinary Authority and since the charge-sheet was for a minor penalty it was not considered necessary to hold an open inquiry. The applicant had requested for personal hearing which was granted to him.

34. That the contents of para 4.32 are denied. In reply it is stated that after giving him an opportunity for personal hearing and examining the records connected with the case, the disciplinary authority passed speaking order imposing upon the applicant the penalty of "Censure". The said orders does not suffer from any legal infirmity.

35. That in reply to para 4.33 it is stated that the disciplinary authority passed the order of "Censure" after

contd...11/-

examination of the defence representation submitted by the applicant and the relevent records of the case. The applicant was also given an opportunity for personal hearing to present his defence.

36. That the contents of para 4.34 need no comments. It is, however, submitted that the disciplinary authority had carefully considered the representation made by the applicant against the Memo of charges and after detailed discussion came to the conclusion that the charges stood established and imposed upon the applicant the penalty of "Censure". The provisions of Rule 16 of CCS (CCA) Rules 1965 had been fully complied with.

37. That in reply to para 4.35 it is stated that the Disciplinary Authority gave a personal hearing to the applicant and after examining the representation of the applicant against the memo of charges along with relevent records of the case came to the conclusion that no enquiry was necessary and passed final orders of "Censure".

38. That in reply to para 4.36 it is stated that the permission to inspect the records was required to be given to enable the delinquent official to submit his defence. But

Contd...12/-

in the present case the applicant had already submitted his defence representation against the Memo of charges. Thus it was not necessary to produce the relevent records for his inspection. The reasons for not holding as open enquiry have been discussed in the order of punishment dt.23.8.89.

39. That in reply to para 4.37 it is stated that Appellate Authority examined the appeal preferred by the applicant with reference to Memo of Charges and the relevent records of the case and came to the conclusion that there was no ground for intervention in the order passed by the disciplinary authority. The penalty of "Censure" was upheld.

40. That in reply to para 4.38 submissions made in para 39 above are re-iterated. As a result of personal hearing and examination of all the relevent records of the case it was not considered necessary to hold an enquiry.

41. That in reply to para 4.39 it is stated that the applicant was under cloud on the day his case was considered for crossing the E.B. by the D.P.C.

42. That the contents of para 4.40 are denied as the same are false and baseless. Alegation of bias and prejudice on

Contd....13/-

the part of Shri J.K. Srivastava & Shri R.K.Gandhi and Shri Rathore are required to be substantiated which the applicant has failed to do.

43. That in reply to para 4.41 it is stated that the decision of the D.P.C. regarding his E.B. was communicated to the Lucknow Office by the Allahabad headquarters vide letter dt. 13.1.89 which was communicated to the applicant on 3.2.89.

44. That in reply to para 4.42 it is stated in the normal course, the confidential reports from 1.4.87 to 31.3.88 which were available on record were to be taken into account by the D.P.C. but in the applicants case, the ACR for the period from 1.4.88 to 10.8.88 was available on record and the report for this period could not be ignored by the D.P.C. while considering his case for crossing the E.B.

45. That the contents of para 4.43 need no comments.

46. That the contents of para 5 indicating the various grounds for redressal of his grievances have been adequately commented upon in the above paragraphs.

47. In reply to para-6, it is submitted that application is not maintainable as the applicant has not exhausted the statutory remedy of revision under Rule 29 of the CCS(CCA) Rules, 1965.

48. That the contents of para 7 need no comments.

49. That in view of the submissions made in the above paragraphs the reliefs sought for in para 8 and interim

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relief prayed for in para 9 are not admissible, the application lacks merit and liable to be dismissed with costs.

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

(DEPONENT)

-: VERIFICATION :-

I, the above named deponent do hereby verify that the contents of paras 1 and 2 of this affidavit are true to my personal knowledge and those of paras 3 to 50 are believed by me to be true based on records. That nothing material fact has been concealed and no part of it is false verified this the day of 1990 at Lucknow.

Lucknow.

Dated:

(DEPONENT)

(ADVOCATE)

A/104

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

O.A. No.295 of 1990(L)

C.S. Srivastava .. Applicant

Versus

Accountant General-II, (A&E), U.P., Allahabad and others .. Respondents.

Fixed for 26/4/91

REJOINDER STATEMENT OF THE APPLICANT IN REPLY TO COUNTER-AFFIDAVIT FILED ON BEHALF OF RESPONDENTS 1 to 3.

The Applicant, named above, most respectfully begs to state as under :

1. That the Applicant has read and understood the contents of the counter-affidavit, filed on behalf of Respondents 1 to 3 and is well acquinted with the facts and circumstances of the case and replies given hereinafter.

2. That the contents of para 1 and 2 of the counter affidavit need no comments.

Filed today 26/4/91

3. That in reply to contents of para 3 of the counter-affidavit it is stated that the revision under rule 29 of the C.C.S.(CCA) Rules, 1965 is a power and not a right and hence it is not necessary to exhaust it as a statutory remedy before coming to the Hon'ble Tribunal. It is wrong to state that application is not maintainable.

4. That the contents of para 4 of the counter affidavit need no comments.

5. That in reply to contents of para 5 it is submitted that since the Applicant has been working with

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devotion and consciousness and devoted his heart and soul to his work and also contributed many important paras for Audit Report, it was obvious that he should have earned excellent entries in his A.C.Rs.

6. That the contents of para 6 of the counter affidavit need no comments.

7. That the contents of paras 7 and 8 of the counter affidavit also need no comments.

8. That in reply to para 9 of the counter affidavit it is stated that the leave case pertained to one Gazetted Officer whose leave title was to be furnished. The copy of the office note dated 28.11.86 put up by the Applicant is being annexed as Annexure RA-1. This may be got verified from office records. The leave title was despatched on 4.12.1986. It is not always necessary to quote specific verifiable case to prove ill-will. It is to be seen from the facts on record.

9. That in reply to para 10 of the counter affidavit it is stated that since the applicant had pointed out that staff sent on inspection did not submit the details and if submitted they contained discrepancies. It was pointed out in para 7 of the ~~xxxxxx~~ original application that the persons who used to go on inspection were favourites of the Accounts Officer, Shri J.K. Srivastava and adverse note against them pointing out the irregularities committed by them - naturally annoyed Shri J.K. Srivastava, A.O.

10. That in reply to para 11 of the counter

Srivastava

affidavit it is submitted that the Section Officer is entrusted with the supervisory work and when the applicant was present on that day in the office, he ought not to have done the adjustment particularly when the revised cash account was kept with the applicant. How the adjustment was done by S.O. without looking into the revised cash account kept with the Applicant ? Since the applicant had verbally apprised the Accounts Officer about the said matter, it was natural that Shri Rathore, Section Officer, got annoyed with the Applicant and uttered the words mentioned in para 4.8 of O.A. This ~~gixxx~~ goes to prove that Shri Rathore had started harbouring ill-will and malice against the Applicant.

11. That in reply to para 12 of the counter it is stated that the Applicant shall produce the documents before the Hon'ble Tribunal if so desired.

12. That in reply to para 13 of the counter-affidavit it is submitted that the applicant, though was posted with Shri Rathore from 1.4.88 to 10.8.88, but Shri Rathore had not the opportunity of watching the work of the Applicant at least for 3 months which is considered the period essential to write ACR by the Reporting Cfficer. Since the Applicant had worked for less than 3 months under Shri Rathore, he was not authorised to write the ACR of the applicant. The applicant had worked for less than three months under Shri Rathore, as shown in Annexure-15 of the O.A.. The column 8 of the ACR is as under :-

Period of absence from duty (on leave, training, etc.)

The Applicant has firm belief that this column was not

filled up by Reporting Officer/ Administration Section Had this been filled, the period of reporting would be less than 3 months. The ACR may be summoned by the Hon'ble Tribunal to verify the truth. Shri Rathore knew that the E.B. of the Applicant was due and thus, out of malice and ill-will, he wrote the ACR of the applicant to harm his career, though the action of Shri Rathore was contrary to Government of India orders. The disciplinary proceedings too were started against the Applicant on baseless and frivolous grounds.

13. That in reply to para 14 of the counter affidavit it is stated that both Shri Gandhi, A.O. and Shri Rathore, S.O. were prejudiced against the applicant and bore ill will with him as will be seen from the replies given in para 41 of the rejoinder-statement.

14. That in reply to contents of para 15 of the counter affidavit it is stated that the grounds, mentioned by Respondents 1 to 3 for making payment of LTC claim after 11 months are not justified. It should not have taken more than 3 months to complete formalities cited. The claim was knowingly delayed to harass the Applicant. The Respondents have not mentioned any reasons for delay in payment of HTC claim as the allegations made were for LTC and HTC claims.

15. That the replies of para 16 of the counter affidavit are misconceived and are denied. Sanction of leave could not be obtained because the Applicant was on medical leave and nobody can forsee his illness. The orders were passed for payment after intervention of Accountant General-II. A copy of letter dated 5.8.1988

of the Accounts Officer (Estt.) is being annexed as Annexure RA-2, which would indicate that the leave salary was released only after having talk with D.A.G.(F). The payment of leave salary was deliberately delayed to harass the Applicant.

16. That the replies to paras 17 of the counter affidavit are misconceived and are denied. It was an empty exercise to send the applicant for second medical opinion ~~xxxxx~~ to Chief Medical Officer, CGHS when there was no provision in Medical Attendance Rules. This was done simply to harass the applicant for no fault of his.

17. That in reply to para 18 of the counter affidavit it is stated that compensatory C.L. was given on 25.8.89 i.e., after claim of applicant for conveyance allowance was got rejected on 18.8.1989. The rejection of the valid claim of conveyance allowance was done because Shri R.K. Gandhi, A.O. was biased against the applicant.

18. That in reply to para 19 of the counter affidavit it is submitted that frequent transfers were not done in the interest of work, but with malice and ill-will. Supervisory Officers have to act fairly and not with bias. The matter was brought to the notice of A.G.(A&E)-II, Allahabad on 2.4.1987, a copy of the letter dated 2.4.1987 is being attached as Annexure RA-3 herewith. The applicant, however, received a letter dated 15.4.1987 (a copy of which is being attached as Annexure RA-4) under the signatures of Shri J.K. Srivastava, Accounts Officer, that the change of seat was done adminisratively . The representation, addressed to A.G.(A&E)-II, should have been rejected by A.G.(A&E)-II but since Shri J.K. Srivastava

Accounts Officer, was biased and prejudiced against the applicant, he rejected the representation of his own signatures and did not bring the matter to the notice of A.G.(A&E)-II.

19. That in reply to para 20 of the counter affidavit it is stated that the replies are misconceived. The contents of para 4.17 of O.A. are correct and are reiterated.

20. That in reply to para 21 of the counter affidavit it is stated that compilation sheets for the month of April 1988 and May 1988 may be summoned by the Hon'ble Tribunal with a view to verify the facts mentioned in para 4.18 of O.A. and also the replies of Respondents 1 to 3. The compilation sheet, ~~mentioned mention~~ in question is the basis of adverse remarks given in ACR and also for issue of charge sheet. Hence the Hon'ble Tribunal should summon this vital record from Respondents 1 to 3.

21. That the contents of para 22 of the counter affidavit need no comments.

22. That in reply to para ~~XX~~ 23 of the counter affidavit it is stated that the replies given are misconceived and are not admitted. The contents of para 4.20 of the OA are correct and are reiterated.

23. That in reply to contents of para 24 it is stated that Shri Rathore was not competent to write the C.R. of the applicant. The respondents have stated that applicant was posted under Shri Rathore from 1.4.88 to 10.8.88 which exceeded 90 days. The rules as quoted in para 21 of the O.A. clearly indicate that reporting

officer had to write the C.R. only when he has seen the work of the officer reported upon for a period not less than 3 months. It is crystal clear from Annexure-15 of O.A. that the applicant worked under Shri Rathore for less than 3 months. Since Shri Rathore did not see the work of the applicant at least for 3 months or 90 days, he was not authorised to write the C.R. of the Applicant. The C.R. of the Applicant was written by Shri Rathore out of ill will and malafide intention to harm and damage the service career of the applicant. Since the entries were written unauthorisedly by Shri Rathore, the same are likely to be declared non est. The case of Ranjit Singh Grewal cited in O.A. is relevant on this point. The Respondents do not seem to have applied their mind while replying this para. The para 7 of the case of Shri K.L. Sharma was incorporated in C.A. and the matter of doing the menial work is a part and parcel of this para 7. Particulars of the menial job can not be mentioned as there is no allegation about it in O.A.

24. That the contents of para 25 of the counter affidavit are misconceived and misleading. The contents of para 4.22 of O.A. are correct and are reasserted.

25. That in reply to contents of para 26 of the counter affidavit it may be mentioned that C.R. form was never given to the applicant either by Administration or by the Reporting Officer. How could the applicant know that Shri H.C. Rathorewill be writing the C.R? Hence it is entirely wrong to state that it was duty of the Officer reported upon to submit the appraisal report. The report could be submitted by applicant only when the form was given to him.

26. That in reply to para 27 of the counter affidavit it is submitted that the Reporting Officer was under duty necessarily to maintain the memo.of services of applicant and it was to be consulted while writing CR.

27. That in reply to the contents of para 28 of the counter affidavit it is stated that the applicant has no knowledge about any memo dated 22.4.1988 was ever issued to him and this is simply an after thought. In case this memo was issued the mention must have been made in Part III (item 11) of ACR. It is further mentioned that the applicant was never instructed by Section Officer to improve his work as mentioned in para 28 of the counter affidavit. The reporting Officer has not cared to follow the Government of India Instructions in toto contained in O.M. No.21011/1/81-Estt.A dated 5.6.81. The relevant ACR and memo dated 22.4.88 may be summoned by the Hon'ble Tribunal to verify the truth of issue of memo dated 22.4.1988 to the applicant and the receipt of applicant in token of having received the memo dated 22.4.1988.

28. That in reply to the contents of para 29 of the counter affidavit itis stated that the replies given by the Respondents 1 to 3 are incomplete. It was stressed by the Applicant that the rejection of representation vide letter dated 9.6.1989 was done by a non-speaking order. In this connection case of Shri N.K. Narayankar was also cited. The Respondents 1 to 3 have not given any replies regarding the rejection letter of representation being a non-speaking order.

29. That in reply to contents of para 30 of

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the counter affidavit it is stated that certificates given by four persons would indicate that the relations of the applicant with fellow employees were good and cordial and the remarks given were not at all fair but made with illwill and bias. It is further stated that there were only ~~XX~~ four fellow workers in the Section and they all have certified that their relations with the applicant were ordial. The word 'fellow employee' does not include superiors and subordinates.

30. That in reply to contents of para 31 of counter affidavit it is stated that the Respondents 1 to 3 have accepted the principle that acid test for a valid ACR is objectvity in reporting. In K. Radhakrishna Memon Versus Collector of Central Excise (1989) 10 ~~ACT~~ ATC 203, it has been held by the Hon'ble Tribunal that adverse remarks based on subjective impression can not be legally upheld. The adverse remarks which are malice-ridden can always be challenged before the Hon'ble Tribunal and in the case of applicant, the same have been challenged.

31. That the contents of para 32 of the counter affidavit need no comments.

32. That in reply to contents of para 33 of the counter affidavit it is stated that even imposition of minor penalty without enquiry has been held as invalid in case of Mansa Ram Versus General Manager, Tel. J & K Circle if the Disqplinary Authority has not mentioned that enquiry was unnecessary and it will cause no material prejudice to the employee. The above case has been cited in para 4.35 of O.A. The applicant had never requested for any personal hearing and hence stating that the

applicant had requested for personal hearing which was granted to the applicant, is utterly false.

33. That the contents of para 34 of the counter affidavit are not admitted and are emphatically denied. The applicant was never given any opportunity of personal hearing nor any records were got examined by him. The averments made in para 32 of the O.A. are correct and are reiterated.

34. That the contents of para 35 of the counter affidavit are not admitted and denied. The averments of para 4.33 of O.A. are correct and are reiterated.

35. That the contents of para 36 are misconceived and denied. The contents of para 4.34 of O.A. are correct and are reiterated.

36. That in reply to contents of para 37 of the counter affidavit it is stated that the Disciplinary Authority never gave any personal hearing to the applicant. The replies given by the applicant were only interim and the Disciplinary Authority should have mentioned that the non-holding of the enquiry was not prejudiced to the interest of the applicant which he never mentioned. Punishment of 'censure' was thus given without observing the principle of natural justice.

37. That in reply to para 38 it is stated that the Respondents should have given the punishment only after opportunity to inspect the records was given to applicant and the applicant was allowed to put up his defence on the basis of inspection of records. Awarding punishment of censure on interim representation was wholly unjustified, arbitrary and in complete transgression of principle of natural justice. The replies given

by Respondents 1 to 3 in this para are self-contraductory vis-a-vis replies given in para 34 of counter affidavit.

38. That in reply to para 39 of the counter affidavit it is submitted that the Appellate Authority was under the statutory duty to have passed a specific speaking order and he failed in discharging this duty. The contents of para 4.37 of O.A. are correct and are reiterated.

39. That in reply to para 40 of the counter affidavit it is stated that no personal hearing was ever given to the applicant. Case of Shri T.C. Ojha, cited in para 4.38 of O.A., is very relevant .

40. That in reply to para 41 of the counter affidavit it is stated that the Respondents 1 to 3 have not mentioned the exact date of D.P.C. which met for consideration of EB cases. The Hon'ble Tribunal should call for the records of DPC and ferify the truth. The exact date on which the D.P.C. met is very relevant on the issue.

41. That in reply to para 42 of the counter affidavit it is stated that the cases of bias, prejudice and illwill by Shri J.K. Srivastava, A.O., Shri R.K. Gandhi, A.O. and Shri H.C. Rathore, S.O. have been cited in paragraphs 4.6, 4.7, 4.8, 4.9, 4.10, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17 and 4.18 of the O.A. Relevant replies have been given in this rejoinder against the replies of counter-affidavit of Respondents 1 to 3 for above mentioned paras. It is also observed that it is not always possible to give documentary proof of every case of bias, illwill and prejudice but the same can be proved by facts and actions of persons against whom allegations of bias, illwill and prejudice are made. The following

case of Shri Toby Nainan Versus Union of India and others ATR 1990(1) CAT 197 Principal Bench, is cited in which it has been held that :

"From the facts narrated in the application it would appear that the relationship between the applicant and Shri Naidu has been strained. There is however no direct evidence that Shri Naidu was actuated by bias towards the applicant. In a case of this kind what has to be seen is whether there is a reasonable ground for believing that a person is likely to have been biased."

That it is also submitted that the applicant was on XXXX C.L. on 9.4.1987. His almirah was got opened by Shri J.K. Srivastava, A.O. and his personal papers were made to disappear, which have still not been handed over to the applicant. It is to be pointed out here that in case there was some urgency of work, a massenger should have been sent to home address of the applicant to obtain the keys of the almirah, when the applicant was ill, three Office Memos were served on the applicant at his residence. It goes to prove that the A.O., Shri J.K. Srivastava was wholly biased and prejudiced against the applicant. Otherwise he would have sent the massenger on 9.4.1987 as well to get the keys of the almirah of the applicant. Bias and ill-will is further proved by the fact that most valuable and important personal papers of the applicant were not handed over to him (which were kept in almirah) even after protracted correspondence. The applicant further states that he had proceeded on E.L. from 1.6.1988 to 12.6.1988 duly sanctioned by competent authority and had gone to his native place, Ballia. He had verbally told the A.O. and S.O. that it is likely that a few days XXX E.L. may be extended by him. This leave

was actually extended as the work which the applicant had to do at Ballia could not be completed by 12.6.88. While proceeding on leave the applicant had already handed over charge to Shri Ashok Chaudhry, Accountant. In spite of the fact that the applicant had informed the A.O. and S.O. about the extension of leave (E.L.) even then a telegram dated 13.6.1988 (a copy being Annexed herewith as Annexure RA-5) was sent to the applicant to join immediately. Since the applicant had already handed over his charge before proceeding on E.L., there was no justification in sending the telegramto recall him ~~before~~ from leave. This was deliberately done out of bias, malice and illwill to harass the applicant because no urgency of any work was either mentioned in telegram or in post copy of the telegram. Others were sanctioned leave before and after 13.6.1988. Recalling the applicant from Ballia, by sending the telegram, to join immediately was done merely out of illwill and prejudice and to harass and take vengence from the applicant more so when before 13.6.1988 and after leave was sanctioned to S.O. and Accountant of the Section. A copy of the telegram dated 13.6.1988 is being annexed herewith as Annexure RA-5.

42. That in reply to para 43 of the counter affidavit it is stated that the provisions of FR 25 were not complied with by Respondents, even so the applicant has not yet been intimated about his case regarding DPCs for the years 1989 and 1990.

43. That in reply to para 44 of the counter affidavit it is submitted that it was wholly unjustified to have taken into consideration by D.P.C. the C.R. for broken period from 1.4.88 to 10.8.88 particularly when the representation against the same was pending.

44. That the contents of paras 45 and 46 of the counter affidavit need no comments.

45. That as regards contents of paras 47 of the counter affidavit it is stated that revision is a power and not a right and hence it can not be said that the departmental remedies have not been exhausted.

46. That the contents of para 48 of the counter affidavit need no comments.

47. That in reply to the contents of para 49 of the counter affidavit it is stated that all reliefs sought by the applicant are based on merits and established laws and the reliefs sought are admissible and the application is likely to succeed with costs.

48. That the contents of para 50 of the counter affidavit need no comments.

49. That in support of rejoinder statement the following legal cases are also cited :

(1) Shri Tejinder Singh Versus Union of India (1988) 6 ATC 666 (Principal Bench). They have taken the view that in cases of adverse remarks which pose a serious impediment and cast slur on the character and conduct of the officer, principles of natural justice necessitates furnishing of essential materials to the affected parties.

(2) V. Sreekumar Versus Union of India & another (1990) 14 ATC 123 (Ernakulam Branch) - Confidential report is recognised as the main criterion for deciding the cases of promotion, confirmation, crossing of E.B. etc. for a

public servant. It should necessarily be prepared scrupulously and carefully after following the prescribed procedure and personally assessing the performance of such a public servant. The annual confidential report must be based on an objective assessment of the work and quality of the officers. It should also indicate the efforts on the part of the reporting officer such as watchfulness, periodical inspection, timely instructions guidance and required assistance to the concerned officer.

(3) D. Padmanabhan Versus Director of Postal Services Coimbatore and others (1990) 12 ATC 302 Madras Bench.

In the present case a perusal of the adverse remarks - 'not disciplined', 'discourteous to superiors', 'careless' need to be 'backed up by some instances. Unless the applicant is informed of such instances he would not be in a position to make an effective representation to the concerned authority against adverse remarks.

For the aforesaid reasons the application is allowed with a direction to the Respondent to furnish specific instances based on which the adverse remarks had been recorded in the applicant's annual confidential report for the period ending March 31, 1988.

(4) A Palaniswamy Versus Union of India and others ATR 1989 (2) CAT 205 Madras Branch.

Held - when a representation is made against memo charge it should be considered by the disciplinary authority and the order passed should indicate that the disciplinary authority becomes aware of the points rai in the representation and answer these points. In the

present case the disciplinary authority has merely said that after careful consideration he has come to the conclusion that the charges stood established. This is not a proper compliance with the provisions of Rule 16 of the C.C.S. (CCA) Rules. Therefore, the order has necessarily to be set aside.

(5) Rita Malhotra Mrs. Versus Union of India & others 1990 (2) ATJ 145 (Chandigarh Branch)

Specific instances to be furnished for effective representation against the adverse entries concerned.

Lucknow:
Date: April 26, 1991.

Applicant.
Through Sri R.S.Srivastava,
Advocate,
Counsel for the Applicant,
4/553, Vikas Nagar,
Kursi Road, Lucknow.

R.S. Srivastava

VERIFICATION.

I, C.S. Srivastava, son of late Shri Girdhar Gopal, aged about 37 years, resident of 559 (Kha) Srinagar, Alambagh, Lucknow, at present working as Auditor in the Office of the A.G.(Audit)-II, U.P., Sahkarita Bhawan, Lucknow, do hereby verify that the contents of paras 1, 2, 4 to 22, 24 to 29, 31, 33 to 40, 42 to 44, 46 to 48 are true to my personal knowledge and belief and those of par 3, 23, 30, 32, 41, 45 and 49 are believed to be true on legal advice and that I have not suppressed any material facts.

Lucknow:
Date: April 26, 1991.

Applicant
through Sri R.S.Srivastava,
Advocate,
Counsel for the Applicant,
4/553, Vikasnagar,
Kursi Road, Lucknow.

R.S. Srivastava

In the Central Admn Tribunal Lucknow Bench Lucknow

OA No 295 of 1990 (L)

C.S. Srivastava ... Applicant

vs

AG-II A&E Allahabad & Others ... Respondents

Answers RA 1

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Orders on P.U.C. II (P/DOC) may kindly be seen.

~~Asp~~ In this connection compliance to above orders is put up for 14.2.94.

However it is pointed out that as per S&AD manual Para A(ii) of Capter IV title to leave of the Gazetted officer whose entitlement rests with this office, is to be furnished by this office. Only on receipt of a regular leave application in proper form, through proper channel. "This fact may be pointed out to the officer where necessary."

Pay slip will be issued after receipt of 70 form

and thus the PUC II was put up sub. in reply to the PUC.

Compliance Submitted please.

SO/ASH 28/2/12

AO/ASH. 31/1/06

28/11/06

True copy

Advocate

Leave title

dispatched through SCT of 4/12/06

In the Central Adm Tribunal Lucknow Bench Lucknow

OA NO: 295/1990 (L)

C.S. Srivastava .... Applicant

VS

A.G. II (A&E) Alld. & others .. Respondents

Annexure RA2

Sri C.S. Srivastava
Accountant/Forest-2 Section (Local)

His leave salary for 6/88 and 7/88 has been released as per telephonic talk with DAG/F. He may take his L.S from Cashier after taking authorisation letter from Establishment Section.

Accounts Officer
S/8

Attested
True copy
R.S. Srivastava
Advocate

In the Central Admn. Tribunal Lucknow Bench Lucknow
OA No: 295 of 1990 (L)
C.S. Srivastava ... Applicant Annexure RA 3
vs
AG II (A&E) Alld & others ... Respondents

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To
The Accountant General, (A&E)-II
Allahabad.

THROUGH PROPER CHANNEL

Sub. : Frequent Transfer of Sri C. S. Srivastava, Acctt.

Sir,

Kindly refer to the enclosed O.O. No. Estt./Admn.& Posting/13 dt.1.4.87 regarding my transfer from Estt. Sec. to Forest A/C. II vide Sri S. C. Kureel (Copy enclosed).

In this connection I beg to submit as under.

1. that I came to Lucknow & Joined this office on 7-3-86 after my mutual transfer from Report A/Cs Sec. Allahabad vide Sri J. A. Siddique.

2. I was posted in Fund section and there I worked till october, 1986 and my work was praised by the then Section Officer & Accounts Officer as well.

3. However only after 6 months in Fund section, I was transfered to Estt. Sec. and sent for specialised training of G. E. work for 10 days at Allahabad.

4. After completion of training I was posted in G. E.-I and started working from Nov.-87.

5. Thereafter, I was again sent twice to Allahabad for consultation with G. E. work.

6. that neither a memo nor any warning has been issued so far which suggests that my work and conduct was good & satifactory.

7. the said order dt.1.4.87 has been served effecting transfer from the G. E.-I Sec., with ~~malevolent~~ malevolent intentions and ulterior motives because I repudiated to genuflect before the ~~evil~~ designs and demands of illegal gratification of the section officer concerned, If required I can put up a good deal of cases in support of this allegations. The ~~pr~~ frequent transfers from one section section to another within a short time not only leaves and adverse effect on my efficiency and morale but also does not serve paramount public interests. Although it is not my ~~in~~ intention to get the transfer cancel yet at the same time I want to ~~bring~~ to your kind notice the real motive behind the transfer and with the request to do the justice.

Yours faithfully,

Dated : 2.4.87

(C. S. SRIVASTAVA)
Actt. P.No.04/3565
O/O A.G.(A&E) II U.P.,
Lucknow.

Encl. As above.

Alshd
True Copy
Advocate

In the Central Admn Tribunal Lucknow Bench Lucknow

O.A. No: 295 of 1990(L)

C.S. Srivastava ... Applicant

Vs.

A.G. II (A&E) ... Respondents

Annexure RA 4

Alld & others

123

OFFICE OF THE ACCOUNTANT GENERAL(A&E) II U.P.
LUCKNOW.

No. Estt./Admn./Posting/24 Dated :15.4.1987

To

Sri C. S. Srivastava,
Accountant,
Forest A/c II Section,
Lucknow.

With reference to his representation dt.2.4.87 he is here by informed that his seat change has been made administrativaly and not as measure of punishment.

This issues with the orders of DAG(A).

15/4/87

ACCOUNTS OFFICER/ESTT.
~~ACCOUNTANT~~XXXXXXX

Attested
True Copy
Representation
Advocate

STATE TELEGRAM ORDINARY

SHRI C.S. SRIVASTAVA
VILLAGE & POST- GONHIA CHAPRA
BALLIA

Annexure RA 5 124

JOIN IMMEDIATELY

ACCOUNTS

In the Central Admn Tribunal
Lucknow Bench Lucknow
OA NO: 295 (L)
C.S. ... Applicant
Vs
... Respondents

Not to be telegraphed

AG II
AAE
Head Collies

Sd/=
Accounts officer

No. Forest II/65 dt. 13/6/88
Copy of the above telegram is forwarded to Sri C.S. Srivastava, Accountant resident of 559 (A)/163, Sri Nagar, Singar Nagar, Lucknow with the remarks that he should join immediately in the interest of office work otherwise he will be treated unauthorise absence from his duties and action will be taken accordingly.

13/6/88

Attested True copy
Advocate

Accounts officer
Forest II

A125

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH LUCKNOW

M. P. NO. 514/91 (L)

APPLICATION FOR FILING SUPPLEMENTARY AFFIDAVIT

BY RESPONDENTS

In

O.A. No. 295 of 1990

C S Srivastava.....Applicant

Versus

Union of India and Others.....Respondents

~~EXXXXXXXXXXXX~~

To,

The Hon'ble Vice Chairman and his companion Members of the aforesaid Tribunal.

The respondents above named most respectfully beg to submit as unders:-

1. That the Rejoinder filed by the applicant contains certain averments which need clarification in the interest of justice.

2. That in the accompanying affidavit the respondents have clarified the points raised in the Rejoinder Affidavit and ~~the~~ it will be in the interest of justice if the same is taken on records.

filed today
30/8/91

PRAYER

WHEREFORE it is respectfully prayed that it is in the interest of justice that the accompanying affidavit may be taken on records for which the respondents shall remain grateful as in duty bound.

Dated: 30-8-91

(Dr Dinesh Chandra)
Counsel for Respondents

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH LUCKNOW

SUPPLEMENTARY COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENTS 1 TO 3

IN

O.A. NO. 295 OF 1990

C S Srivastava.....Applicant

Versus

Accountant General (A & E) II & Others.....Opp. Parties

1991
AFFIDAVIT
52 M
DISTT. COURT
U. P.

****

I, K.C. Agrawal, aged about ....57....years, Son of....Late.. ..Shri..R.R..Agrawal...Dy. Accountant General (ADMN), Office of the Principal Accountant General (A&E)-I, U.P., Allahabad do hereby solemnly affirm and state as under :-

1. That the deponent has read the Rejoinder Affidavit filed by the applicant and has understood the contents thereof. He is well conversant with the facts of the case deposed thereinafter and is filing this counter-affidavit on behalf of Respondents.

2. That certain points raised in the Rejoinder Affidavit by the applicant need clarification. It is, therefore, in the interest of justice that the same ~~may be~~ are clarified hereunder.

3. That in reply to para 3 of the Rejoinder Affidavit that after an appeal is rejected by the appellate authority, the next statutory remedy available to a government servant is to file a revision under Rule 29 of the CCS(CC&A) Rules, 1965. Hence, it is not correct to say that it was not necessary to exhaust it as a statutory remedy before filing an application in the Tribunal.

K. Agrawal

.....2

4. That in reply to para 5 & 8 of the rejoinder affidavit it is stated that the contents of Annexure RA-1 do not reveal ~~in~~ any fact to substantiate alleged ill-will against the applicant by the Accounts Officer concerned.

5. That in reply to para 15 of the rejoinder affidavit it is clarified that the payment of leave salary can only be made to an employee when he returns from leave or when he authorises on his behalf any other employee of the office to collect the same from the cashier. In the instant case there is no indication to suggest that authorisation was made in favour of any person to receive the payment. Therefore, payment of leave salary was made to the applicant when he returned from leave and joined his duty.

6. That the contents of para 17 are denied. It is, however, submitted that the claim of conveyance allowance was rejected by the Dy. Accountant General and not by the Accounts Officer. As such, there is no ground to allege that this was done because Shri RK Gandhi, Accounts Officer was biased against the applicant.

7. That the contents of para 23 are misconceived and are based on mis-interpretation of the rules on the subject. The applicant was posted under Shri Rathore for more than ~~60~~ 90 days and as such he was competent to write ACR of the applicant.

8. That date indicated in para 28 of the counter-affidavit may be read as 22.06.88.

Contd.....3

Lakhowal

9. That in reply to para 32 it is clarified that it has already been mentioned in the orders passed by the disciplinary authority that the inquiry was not necessary. The applicant visited the office of the Accountant General in August '89 and had met the disciplinary authority who had given him a patient hearing on his request. This fact was mentioned in the orders passed by the disciplinary authority.

10. That the contents of para 33 are not true and hence denied. The applicant was given opportunity of personal hearing and the records related to the case were got examined by him. Had this fact not been true the applicant should have mentioned it in the appeal preferred by him to the appellate authority against the orders of disciplinary authority. But this was not done which shows that it is an after thought to manipulate the facts of the case.

11. That in reply to para 41 it is stated that it is always necessary to give proof of bias, ill-will or prejudice. Mere oral statement of applicant can-not be construed as their basis. There is no reasonable ground to believe that the applicant has been biased by the officers mentioned by him. The actions were in cases of normal discharge of duty and not due to any ill-will or bias.

12. That in the above circumstances, O.A. filed by the applicant lacks merit and is liable to be dismissed.

x L. Chowal

Lucknow (Deponent)

Dated: 28 Aug '91

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs.....1 and 2.....of this supplementary counter affidavit are true to my personal knowledge and those of paras.....3 to 12.....are believed by me to be true based on records and as per legal advise of my counsel. That nothing material fact has been concealed and no part of it is false, so help me God.

Signed and verified this the .....28th.....day of August, 1991 at Lucknow.

K. Agrawal

(Deponent)

Lucknow

Dated : 28 Aug 91

28/8/91

I identify the deponent who has signed before me.

D. Chandra 28/8/91

Advocate

11-45 AM K. C. Agrawal
D. Chandra
Advo

28/8/91

In the Central Administrative Tribunal A130

Circuit Bench, Lucknow.

Original Application No. 205 of 1990 (L)

[Fixed for F.H. 28.X.91]

C.S. Srivastava .....Applicant.

Accountant General Versus
II (A & E),
U.P. Allahabad and Others ..... Respondents.

Supplementary Rejoinder to Supplementary
Counter Affidavit filed on behalf of
Respondents 1 to 3

The applicant, above named most respectfully

begs to state as under :-

1. That the applicant has read and understood the contents of counter affidavit filed on behalf of Respondents 1 to 3 and is well acquainted with the facts of the case as well as circumstances and replies given hereinafter.

filed today
17/9/91

2. That contents of para 1 & 2 of the supplementary counter affidavit need no comments.

3. That the contents of para 3 of supplementary C.A. are not admitted. The assertions made in para 3 of rejoinder are admitted. The case

Contd...

of M.K. Rama Vs. Div. Elec. Engineer Southern Railway Bangalore and Others 1989 (9) A.T.C. 710 (Para 6) is relevant in this issue in which it has been held that a vision is a power and not a right and hence it is not necessary to embrace it as a statutory duty by bringing to the notice of the public tribunal.

4. That the contents of para 4 of the supplementary C.A. are admitted as stated. It is submitted that the case of Shri [illegible] of India and Others cited in the rejoinder is irrelevant and misleading.

5. That the contents of para 5 of the supplementary C.A. are misconceived and misleading and are denied. The averments made in para 15 of rejoinder are reiterated.

6. That the contents of para 6 of the supplementary C.A. are not admitted. In which of [illegible] Allowance could have been sanctioned only by the Accts. General only when Shri R.K.Gupta the Accounts Officer should have made remarks to

Sinuster

that extent and not otherwise.

7. That the contents of para 7 of the supplementary C.A. are denied. The assertions made in para 23 are correct and are reiterated.

8. That the contents of para 8 of the supplementary C.A. are denied. Changing date after filing C.A. is an after thought. The receipt of the applicant in token of the acknowledgement of Memo dated 22.6.1983 should have been attached with the supplementary Counter Affidavit.

9. That the contents of para 9 of the supplementary C.A. are denied. The assertions made in para 32 of Rejoinder are correct and are reiterated.

10. That the contents of para 10 of the supplementary C.A. are misconceived and denied. Paras 21 to 23 & 35 of the Appeal are relevant and should have been gone through by Respondents before making allegations as mentioned in para under reply.

11. That in reply to the contents of para 11 of supplementary C.A., it is stated that para 41 of the Rejoinder is explicit and wholly clear about this etc. It could be ascertained from facts and no further evidence is necessary.

12. That on the basis of submissions made in above

Sinnstale

( )

paragraphs , the application has not merit and will succeed with cost.

Lucknow:

September. 17th 91.

(C.S. Srivastava)
Applicant.

Through :-

(R.S. Srivastava)
Advocate
Counsel for the applicant.

V E R I F I C A T I O N

I, C.S. Srivastava, s/o Late Sri Girdhar Gopal, aged about 37 years, resident of 109 (Old) Srinagar, Alambagh, Lucknow, at present working as in the Office of A.G. Audit II U.P. Sikritariat Lucknow do hereby verify that the contents of para 1 to 12 of the supplementary Rejoinder are true to my personal knowledge and belief and those of paras ----x---- are believed to be true on legal advice and that I have not suppressed any material facts.

Lucknow

September, 17th., 91.

(Applicant)

through :-

(R.S. Srivastava)
Advocate
Counsel for the applicant.