

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT 310 of 2090

B. S. Verma.....Applicant(S)

Versus

versus
U.S. of Gen. Respondent(S)

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Certified that the file is complete in all respects.

Blockaded and destroyed. *[Signature]*

Signature of S.O. *Rajeev Kumar*

Signature of Deal. Hand

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

Original Application No. 310 of 1990

Bhagat Singh Verma.....

Applicant.

V E R S U S

Union of India &
Others

Respondents.

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

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

(By Hon'ble Mr. K. Obayya, Member(A))

The applicant, who joined U.P. State Civil Service (Executive Branch) in the year 1963 after selection as a direct recruit, was considered and included in the select list for the year 1988 for appointment to Indian Administrative Service (I.A.S.). There followed a letter dated 10.5.1989 asking for his option to be appointed to I.A.S. which he promptly conveyed the very next day i.e. 11.5.1989; notwithstanding this, no appointment order was issued, and it has been an endless wait since then; Aggrieved he has approached the Tribunal for a direction to the respondents to appoint him to I.A.S. cadre of 1988 batch.

2. The contention of the applicant is that though he was eligible for inclusion in the "select list" drawn up for the earlier years prior to 1988 his name was not considered, because of a "warning" issued to him in 1985. That warning entry however no more subsists, as the U.P. Public Services Tribunal by its order dated 4.12.1989, quashed the "warning - memo", while allowing his claim petition 458/F/IV/88/. The respondents have accepted the verdict of the Tribunal, as no appeal has been preferred by them, as such there remained no hurdle, to appoint the applicant to 1988 batch of I.A.S. with consequential benefits of seniority and other benefits.

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3. The respondents have opposed the case and in the Counter it is pointed out that the applicant has approached this Tribunal earlier in O.A. No 1350 of 1988 and also filed W.P. 1305 of 1988 in the High Court and claim petition no. 458-F-IV-88 in U.P. Public Service Tribunal for similar relief and also against the warning issued to him, as such this petition is not maintainable. It is stated that in compliance with the interim order granted by the U.P. Public Service Tribunal the applicant's case was considered and his name was included in the select list provisionally subject to the condition that he may be reverted incase his claim petition before the U.P. Public Service Tribunal is not allowed. A proposal to this effect was also sent to Govt. Of India ^{which} informed the U.P. State Government that he could be appointed to I.A.S. only if his name was included unconditionally in select list. However, the State Government has kept a vacancy reserved for the applicant. It is also pointed out that the applicant's case for inclusion in the select list of 1987 in accordance with the direction given in O.A. 1350/88 was considered by the Review Selection Committee which met on 6.6.91. The proceedings of the Selection Committee however, have not been communicated. It is further pointed out that according to Regulation 9(2) of I.A.S. (Appointment by promotion) Regulation 1955, the State Government is required to furnish a certificate to the effect that subsequent to the inclusion of the name of the officer in the select list there has been no deterioration in his work so as to render him unsuitable for appointment to service nor there is any lapse in his conduct or performance of his duties which has come to the notice of the State Government. The State Government could not furnish the above certificate as the conduct of the applicant was under enquiry for certain misdeeds relating to the period 1980-1982 when the applicant was posted as Project Administrator in Jan-Jati Vikas Pradhikaran, Dehradun and also during the year 1984 when he was working as Regional Food Controller at Meerut. The enquiry in the above cases was completed on 20.2.90 and a decision was taken by the State Government to initiate a disciplinary proceeding

against the applicant. Charge Sheet was served on the applicant and an enquiry officer was also appointed. The enquiry is in progress. The disciplinary proceedings has not yet been finalised. The U.P.S.C. and also the Govt. of India were informed of the disciplinary case on 20.2.90. The respondents admit that juniors to the applicant in the list of 1988 were all appointed and also even Select List of the year 1989 has also been cleared.

4. In the Rejoinder it is stated by the applicant that a decision to initiate disciplinary proceedings was taken on 12.10.90 and this can never be held against him as the selections were for the list of 1988 and also the entry of warning which was given to him was set aside by U.P. Public Service Tribunal.

5. The counsel of the parties were heard. The learned counsel for the applicant pointed out that the applicant is denied of his due appointment though he has the decisions of this Tribunal in his favour. As the "warning" issued to him was struck down there is no other hurdle in the way of appointment but the respondents are unnecessarily delaying the matter which amounts to harassment of the applicant.

6. The claim petition filed by the applicant before the U.P. Public Service Tribunal was allowed and vide order dated 4.12.89 "warning" issued to the applicant was quashed. Thereafter the applicant approached the Tribunal in O.A. No. 1350 of 1988 which was considered by a Bench of this Tribunal consisting one of us (Hon. Mr. K. Obayya). The application was allowed and vide order dated 16.1.1991 the respondents were directed to "convene a Review D.P.C. and consider the case of applicant for inclusion in the select list of 1987 for appointment of I.A.S. on merits as per Rules within four months from the date of the receipt of this order". Thereafter it would appear that Review Selection Committee was convened on 6.6.1991 but the proceedings there of have not been notified.

The respondents have not come up with any explanation as to why the matter is held up particularly when a time limit of four months was indicated for completion of formalities to the appointment of the applicant to I.A.S. in the select list of 1987. The counsel for the respondents stated that the delay was due to the fact that the matter had to be taken up with the U.P.S.C. and also Department of Personnel, Government of India.

7. It is noticed that the respondents have not taken a consistent stand in the matter, firstly following the decision of the U.P. Public Service Tribunal, the applicant was included provisionally in the Select List of 1987. Thereafter the matter was referred to Government of India for issue of necessary order, but they were informed, that since the inclusion of the applicant in the Select List is "Provisional" unless the matter is cleared by U.P. Public Service Tribunal further action cannot be taken. The U.P. Public Service Tribunal has subsequently decided the case on 9/12/89, allowing the claim petition with direction to the respondents to consider the case of the applicant ignoring "warning" issues. There being no other adverse factor against the applicant, appointment order should have been issued to him since the "conditionality" of his inclusion in the list no more subsisted. However, that was not done. From the respondents side there is no explanation whatsoever to this. Secondly; though a Review Selection Committee was convened in pursuance of directions of the Tribunal in O.A. No. 1350/88 its decision has not been notified. For the first time the respondents have come up with case that the conduct of the applicant was under enquiry which was completed only on 20.2.90, consequently certificate of fitness of the applicant for appointment to I.A.S. as required under Regulation 9(2) of I.A.S. (Appointment for promotion) Regulation, 1955 could not be issued. Curiously the respondents have not mentioned any thing about fact finding enquiry that was on, in their counter in earlier cases. In the final analysis, it trans-

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transpires that what is standing the way of applicants appointment is not the "warning" or want of merit or any other adverse factor but the disciplinary proceedings for which a charge-sheet has been issued.

8. The question that arises in these circumstances is whether the applicant be denied appointment after inclusion in the "Select List" because of a charge memo which was issued subsequently. Reference is made to the case of Union of India Vs. Janki Raman(A.I.R., 1991(s) (SC) page 2010). Wherein the Supreme Court held that it is only after issue of charge memo, the disciplinary proceedings is deemed to have ~~started~~ and sealed cover procedure has to be resorted to in such cases; and not in cases where there is only a preliminary enquiry or investigation. The Supreme Court further held that promotion cannot be denied, unless at the relevant time of consideration, charge memo has already been issued and the disciplinary case is pending. Admittedly when the Selection Committee met to consider the select list of 1987 or 1988 there was no charge memo issued to the applicant. May be his conduct was under inquiry or investigation. In this background of law as enunciated by the Supreme Court in the case referred ^{to} above, we have no hesitation whatsoever to hold that the applicant was not only entitled to be considered but also to be included in the list of consideration of merit. There was no legal bar operating against such consideration and inclusion. The respondents have obviously erred in not considering the case of the applicant and it would appear even the sealed cover procedure was not adopted even though that was also not warranted.

9. The other plea taken up by the respondents is that they could not furnish certificate of fitness of the applicant as required under Regulation 9(2) of I.A.S.(Appointment by Promotion) Regulation. This regulation refers to subsequent fitness in the work or conduct of a candidate already selected.

This is a Post Selection ~~Requirement~~ and is not

refers to subsequent deterioration in the work or conduct of a candidate already selected. This is a Post Selection Process, and cannot be made applicable to Pre-Selection conduct. There is no charge or enquiry against the applicant for any misdeed after his inclusion in the list of 1987 or 1988. Therefore it cannot be said that there has been deterioration in his work or conduct during 1989 or thereafter. The charges against the applicant relate to his conduct or misconduct during the period 1980 to 1984, and not to later years. There being no charge or enquiry for Post-Selection conduct of the applicant, the foundation of "Subsequent" misconduct falls withholding of fitness certificate, therefore is not on valid grounds,

10. The applicant has approached different forums for his cause. Though the decisions of Tribunals are in his favour, for some reasons, or the other, the respondents have withheld his appointment to I.A.S. First it was the "warning" and later it is the "Charge Memo" which according to the respondents stood in the way of applicant's consideration and appointment. As observed by us, earlier, warning 'ceased' to be of any adverse factor after it was set aside, and so far as the charge memo is concerned, that was issued on 12.10.90, and at the relevant time when the applicant was due for consideration, when his juniors and batchmates were considered for 1987 and 1988 Select List, the applicant was not facing any departmental proceedings, hence the charge memo which is a Post Selection development will not stand in the way of applicant's inclusion in the Select List and appointment to I.A.S. For the reasons discussed above, the application deserves to be allowed, and accordingly it is allowed. The learned counsel for respondents has informed us that the applicant has already been appointed to I.A.S. vide order dated 3.3.92. The appointment order was given in January 1992 but intimation order dated 15/10/91. It is not sure what order. The applicant has been appointed to I.A.S.

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was given in pursuance of our interim order dated 13.12.91. We have seen this order. The applicant has been appointed to I.A.S. on Probation with immediate effect and stands allotted to U.P. State Cadre. The above order has been issued subject the decision of the Tribunal in O.A. 928/88, 109/91 appeal 973-74/85 and also application no. 6-7/91, filed in Supreme Court. These cases were filed by others. We have not been informed as to how these cases are linked to the case of the applicant. Perhaps inter-se seniority is involved in these matters. We do not wish to say any thing regarding these pending cases. The respondents will take such action as is warranted by law. There is also a direction of the Tribunal in O.A. 1350/88 to consider the applicant for 1987 list. On this no final decision has been taken. It is for the applicant to agitate this matter with the respondents if he chooses.

11. So far as the instant case before us is concerned, we allow the application and direct the respondents to treat his promotion as promotion on regular basis from 1988 list, and his seniority be assigned as per his entitlement under law. Parties to bear their costs.


Member (A)


Vice Chairman

Lucknow, Dated 11th December, 1992

(Ab)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

M.P. No. 28 of 1992

In

O.A. No. 310 of 1990(L)

B.S. Verma

Applicant.

versus

Union of India & others

Respondents.

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

Hon. Mr. A.B.Gorthi, Adm. Member.

(Hon. Mr. A.B.Gorthi, Adm.Member)

We have heard the learned counsel for the applicant, on his request for modification of our order dated 13.12.91. In the operative portion of the order a direction was given to the State of U.P. to issue necessary orders within a period of two months. As rightly pointed out by the learned counsel for the applicant, that direction should have been addressed to respondents 1 and 3; Union of India and Union Public Service Commission. Our order dated 13.12.91 may be read as modified by this order.

A. K. Bhattacharya
Adv.
29/1/92

Recd (Con)
Shakeel
29/1/92

Jan 25
A.M.

✓
V.C.

Shakeel

Lucknow Dated: 27.1.92.

Central Administrative Tribunal

Lucknow Bench

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Cause Title 310 of 1990 (4)

Name of the Parties Bhagal Singh Verma Applicant

Versus
Union of India

Respondents

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CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 31c of 1989 90 (C)

APPLICANT(S) Shri Bhagat Singh Verma

RESPONDENT(S) V.C. 9

21/9/90
21/9/90
R
S
12/9

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

310/90 (1)

(13)

(1)

8.10.90

(2)

6.11.90

No sitting Adm to 6.11.90

Hon'ble Mr. M.N. Prakash, A.M.
" Mr. D.K. Agarwal, A.M.

Due to resolution of Bar Association
Case is adjourned to 28.11.90

(3)

28/11/90

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

(1)
B.G.C.

Due notice to respondents to
show cause why the petition may
not be admitted and list for
admission on 12/12/90 when the
case ^{may} be disposed of finally.

The learned counsel for the applicant
undertakes to serve respondents out
of Court. Copies of the notices meant
for respondents may be delivered by
the office to the applicant's counsel
within two days.

H. M. L.

OR

A.M.

OR
Date Notice issued
28.11.90. L
10/1

OR
Date notices were ~~received~~
on 30.11.90 by 4c for the applicant.
No acknowledgement has
been filed by the 4c for the
applicant.

No reply filed.
S.F.A. L
10/1

Received Date
Notice issued
Date served
Date filed
30.11.90

B/

A.M.

11
2-5-91

2

C.A 310/90.C.

No Siting adjourned 2-5-91
2.

OR

No CA filed

S.P.A

L
9/5

12
9/5/91

Hon. Mr. Justice V.C. Narayan, VC
from Mr. A.B. Goel, A.M.

The learned Counsel for the
applicant is present.

The learned Counsel for
the State Govt. & the
Central Govt. are also present.

13

Complaint may be filed
within three weeks & when the
applicant may file rejoinder
within one week thereafter.
List this case for final
hearing on 27/6/91.

In the meantime, it
is expected that the respondent
will give posting to the
applicant.

D
Am.

✓
VC.

OR

No CA filed

S.P.H.

L
24/6

27-6-91 Hon. Mr. Justice K. Nath, VC
from Mr. K. S. Jayya, A.M.

A rejoinder has been made by
Shri Kapil Deo, counsel for applicant.
Shri A.K. Bhatnagar filed
counter or behalf of OBC No. 2.
Rejoinder, if any may be filed
within within 2 weeks thereof hereof
List for final hearing
on 3-8-91

D
Am.

✓
VC

OR
No CA filed
S.P.H.
L
30/7/91

Central Administrative Tribunal
Circuit Bench
Lucknow

(AS)

11.12.1991
O. No. 310 of 1990

13.12.1991

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

Hon. Mr. A.B. Gorthi, Member (A)

This application is directed against the non-issuance of the order of appointment of the applicant in the Indian Administrative Service Cadre ~~in spite of~~ respect of the fact that he was found fit and was in the select list for the year 1988 batch. On the basis of select list of the applicant's service (Executive Officers) although he was issued the order of option and the applicant has already submitted his letter of option in time, It is stated by the applicant that other persons who were selected with the applicant in 1988 and even in 1989 batch and who are juniors to the applicant have been given appointment and promotions while the applicant has been denied ~~for~~ the same. By affecting the same, the applicant preferred a claim petition in the U.P. Public ~~Administrative~~ Service Tribunal and the interim order has been granted by the Public Service Tribunal to the applicant that the case of the applicant will be considered by the respondents for promotion or other purposes in both ways without taking into consideration the warning given to the applicant, and the applicant's selection in the I.A.S. cadre was done by the respondents in the interim order passed on 16.12.1988 by the Public Service Tribunal in favour of the applicant and when the applicant approached to the respondents, he was told about this fact this selection has been done without taking into consideration the warning and until and unless this warning is quashed, it will not be possible for them to allow the applicant to join the I.A.S. Cadre. Against this, a representation has been preferred by the applicant on 25.8.89 but nothing has been done.

On behalf of the applicant, it has been stated that the Union Public Service Commission has already approved the promotion of the applicant. If that be so, the State of U.P. shall issue the necessary order within a period of 2 months from the date of

Particulars to be ExaminedEndorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ? *only Main copy*

12. Are extra copies of the application with Annexures filed ? *yes*
 a) Identical with the Original ?
 b) Defective ? *yes*
 c) Wanting in Annexures -
 Nos. _____ pages Nos. _____ ?

13. Have the file size envelopes bearing full addresses of the respondents been filed ? *N.A.*

14. Are the given address the registered address ? *yes*

15. Do the names of the parties stated in the copies tally with those indicated in the application ? *yes*

16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? *N.A.*

17. Are the facts of the case mentioned in item no. 6 of the application ? *yes after No 5*
 a) Concise ? *yes*
 b) Under distinct heads ? *yes*
 c) Numbered consecutively ? *yes*
 d) Typed in double space on one side of the paper ? *yes*

18. Have the particulars for interim order prayed for indicated with reasons ? *yes*

19. Whether all the remedies have been exhausted. *yes*

dinesh*R
OSR**12-9-91*

*Register
Put up in
before Being
Handed over
on 8.10.91
in cases*

12-9-91

OA 310/90 C
CW
OA 372/90 C

4.8.92

(AP)

Attn: Mr. Justice B.C. Shrivastava
Attn: Mr. K. Chayya A.M

(AP)

On the request of Mr. S.C.
Modhwa learned Counsel for applicant.
Case referred to S.C.G.

R
A.M

LR
VR

5.8.92

Attn: Mr. Justice B.C. Shrivastava
Attn: Mr. K. Chayya A.M

Dr. A.K. Mhatre learned Counsel
for respondent Mr. Kapil Dev
learned Counsel for applicant.
Present.

Argued and decided.
JUDGMENT
A.M

LR
VR

11.12.92

Attn: Mr. Justice B.C. Shrivastava
Attn: Mr. K. Chayya A.M

Issue and pronounced today
in the open court

R
A.M

LR
VR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
(LUCKNOW BENCH)
LUCKNOW.

O.A. NO. 310/90 1990 (L)

~~T.A. NO~~

Date of Decision

Bhagat Singh Verma Petitioner,

Advocate for the
Petitioner(s)

VERSUS

Union of India & other Respondent.

Advocate for the
Respondents

C O R I A M

The Hon'ble Mr. Justice U.C. Srivastava, V.C.

The Hon'ble Mr. K. Obayya, A.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 to be circulated to other benches ?
4. Whether their Lordships wish to see the fair copy of the Judgment ?

File No. 11/92
VICE-CHAIRMAN/MEMBER

BEFORE THE ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow.

A13

.....
M.P. 28/92 (L)
O.A. No. 310 of 1990 (L)

B.S. Verma. - - - - - Applicant.

V/S

Union of India & Others. - - - Opp. Parties.

.....
Application for modification of the
Order dated 13-12-1991.

1- That the above noted application came up for hearing in this Hon'ble Tribunal on 13-12-91 on which date this Hon'ble Tribunal was pleased to pass a detailed order. ~~but some how~~

*Filed today
SJS
14/1/92*

2- That while dictating the order this Hon'ble Tribunal was pleased to order in paragraph-2 to the effect that if that be so, the respondents shall issue necessary orders within a period of 2 weeks from the date of the receipt of this order, but instead of transcribing the above order, it has been wrongly prescribed/ typed out as under :-

" If that be so, the State of U.P. shall

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issue necessary order within a period of 2 months from the date of the receipt of this order."

3- That, it is therefore, prayed that necessary correction / amendment may please be made by this Hon'ble Tribunal accordingly, or pass such other and further order which this Hon'ble Tribunal may deem fit and proper in the interest of justice.

Cemil DW

Lucknow: Dated:

ADVOCATE.

December 28, 1991. COUNSEL FOR THE APPLICANT.

TM/11/92

20-2-92

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL NO.

CIRCUIT BENCH, LUCKNOW.

B. S. Verma.

Applicant.

...

inre:
M. P. No. 29/92 (2),
O.A. No. 310 of 1990. (L)

B. S. Verma.

Applicant.

Versus.

Union of India and others.

...

Opp. Parties.

APPLICATION FOR SENDING THE MODIFICATION APPLICATION

FOR ORDER TO ALLAHABAD.

The applicant named above, most respectful

submits as under:-

2
Filed today
syw
14/1/92

1. That the applicant is the applicant himself in the above noted O.A.

2. That on 13.12.1991, a Division Bench of the Hon'ble Tribunal passed a detailed order of Interim Relief. In the order, their remained certain orders wrongly transcribed, for the correction of which the

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the application is being moved.

Since the order can only be modified by the bench, and bench is available only at Allahabad.

IT IS, THEREFORE, respectfully prayed, that the application alongwith records of O.A. may kindly be sent to the Allahabad for necessary action orders.

Lucknow; Dated
19.1.1992.


(KAPIL DEO)
Advocate,

Counsel for the Applicant.

Central Administration Tribunal

Circuit Bench

Linear

(A.S. Verma) — v/s — U.O.A.

Case No. 310 of 1990

13.12.1991

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

Hon. Mr. A.M. Gorhti, Member (H)

This application is directed against the non-
issuance of the order of appointment of the applicant
in the Indian Administrative Service Cadre in spite of
the fact that he was found fit and
was in the select list for the year 1988 batch.
On the basis of select list of the applicant's
service (Executive Officers) although he was
issued the order of option and the applicant has
already submitted his letter of option in time,
it is stated by the applicant that other persons
who were selected with the applicant in 1988 and
even in 1989 batch and who are juniors to the
applicant have been given appointment and promotions
while the applicant has been denied for the same.
By affecting the same, the applicant preferred a
claim petition in the U.P. Public Service Service
Tribunal and the interim order has been granted
by the Public Service Tribunal to the applicant
that the case of the applicant will be considered
by the respondents for promotion or other purposes
in both ways without taking into consideration the
warning given to the applicant, and the applicant's
selection in the I.A.S. cadre was done by the
respondents in the interim order passed on
16.12.1988 by the Public Service Tribunal in
favour of the applicant and when the applicant appro-
ached to the respondents, he was told about
this fact this selection has been done without
taking into consideration the warning and until
and unless this warning is quashed, it will not
be possible for them to allow the applicant to join
the I.A.S. Cadre. Against this, a representation
has been preferred by the applicant on 25.8.89 but
nothing has been done.
On behalf of the applicant, it has been stated that
the Union Public Service Commission has already
approved the promotion of the applicant. If that
be so, the State of U.P. shall issue the necessary
order within a period of 2 months from the date of

Contd. 2p/

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT LUCKNOW

C. A.
REF-CLAIM PETITION NO.....OF 1990

Bhagat Singh Verma . - - - - - Petitioner

Versus

Union of India and Others. - - - - - Opp. Parties

...

COMPILATION NO. I

1. Ref. Claim Petition ...	Page. 1 to 11
2. Annexure- Nil.	Page.... to.....

Lucknow: Dated: September //, 1990.

*Akshile
Kapil Dev*

(Kapil Dev)

Advocate,

Counsel for the Petitioner.

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Seal

#21

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH AT LUCKNOW.

OA
Registration Case No.....of 1990

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 12/9/90
Date of Receipt by Part.

Deputy Registrar(J)
S.R.
12/9

Particulars of Applicant

Sri Bhagat Singh Verma,
(I.A.S.) aged about 50 years,
S/O Sri Tedi Singh, presently-
posted as Vice Chairman, Moradabad
Development Authority, Moradabad.

.....Applicant/Petitioner

Versus

Particulars of Respondents:

- 1- Union of India through Secretary, Government of India, Ministry of Personnel, North Block, New Delhi.
- 2- State of U.P. Through the Chief-Secretary, Appointment Department, Government of U.P., Civil Secretariat, Lucknow.
- 3- Union Public Service Commission, New Delhi- through its Chairman.

.....Opposite Parties

..... 2

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- 2 -

(Signature)

Ref. Claim Petition Under Section 19 of the
Administrative Tribunal Act No.XIII of 1985.

The Applicant most respectfully begs to submit as under :

1- Particulars of order against which claim Petition is preferred:

This petition is directed for not issuing the order of appointment of the petitioner in the Indian Administrative Service Cadre in respect of the fact that he was found fit and was in the select list for the Year 1988 batch. On the basis of select -list of the petitioner's Service Executive Officers , although he was issued the order of option and the petitioner already submitted his letter of option in time.

2. Jurisdiction of the Tribunal

The applicant declares that the subject-matter of dispute raised in the present claim petition for redressal of grievances is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The petitioner further declares that the present Reference Claim Petition is within the limitation prescribed under Section 21 of the Administrative Tribunal Act , 1985.

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4. Facts of the Case :

4.1 That the petitioner is a member of the Provincial Civil Services (Executive Branch) of U.P. Government and belongs to 1963 batch and his name in the seniority list of the P.C.S. Cadre (Executive Branch) is at Serial no. 79.

4.2 That the petitioner has been granted the scale of Rs. 2300-2700 which has been revised ~~as~~
~~as..... to.....~~

4.3. That the petitioner was awarded a warning in the year 1985 vide an order dated 9-9-85 against which the petitioner filed a claim petition before the U.P. Public Services Tribunal and a true/photo-state copy of the warning issued vide an order dated 9-9-85 is being filed herewith as Annexure-1.

4.4 That aggrieved by the above warning the petitioner preferred a claim petition in the U.P. Public Service Tribunal, Jawahar Bhawan, Lucknow.

4.5 That while admitting the claim petition the Tribunal was pleased to grant an interim stay but while granting the stay it was provided that the case of the petitioner will be considered by the opposite party for promotion or other purposes in ^{without} both ways taking into consideration the warning

given to the petitioner. A photostat copy of the order of stay dated 16-12-88.. is being filed herewith as Annexure No.2.

4.6 That thereafter the case of the petitioner was considered for selecting him in the higher cadre of the Indian Administrative Services by the selection committee constituted on 16-12-88.

4.7 That consequently an order was issued on 10th May, 1989 requiring the petitioner to furnish his option whether he would like to opt for his appointment in the Indian Administrative Services (I.A.S.) and a true/photostat copy of the D.O. letter dated 10th May, 1989 issued by the Secretary (Appointment) U.P. Govt. is being enclosed herewith as Annexure - 3.

4.8 That after obtaining the above order dated 10th May, 1989 the petitioner preferred to give his option accepting the offer for his appointment in the Indian Administrative Services (I.A.S.) vide his letter dated 11th May , 1989 and true/ photostat copy of the letter dated 11th May, 1989 is enclosed herewith as Annexure -4.

4.9 That after this option having been given by the petitioner/ applicant the opposite parties were approached by the petitioner as to why he is not being posted in the Indian Administrative

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- 6 -

Services Cadre inspite of the fact that he has
has already given his option for the same.

4.10 That from the perusal of Annexure-3 it
appears that the selection of the petitioner in the
I.A.S. Cadre was done under the interim order passed
on 16-12-38 by the Public Service Tribunal in the
favour of the petitioner and when the petitioner
appreached the opposite parties he was told about
this fact that his selection has been done without
taking into consideration the warning and until
and unless this warning is quashed it will not be
possible for them to allow the petitioner to join
the I.A.S. Cadre.

4.11 That the petitioner preferred representation
also on 25-3-39 clearly mentioning all the details
in the same but inspite of this, nothing has been
done so far as the petitioner has not been appoint-
ed in the Cadre of I.A.S. A true/photostat copy
of the representation is enclosed herewith as
Annexure-5.

4.12 That subsequently the matter of warning
came up for final hearing in the Public Service
Tribunal and vide an order dated 4-12-39 the warning
awarded to the petitioner was quashed by the Hon'ble
Tribunal. A true/photostat copy of the order and
Judgement of the Tribunal dated 4-12-39 is being
filed herewith as Annexure- 6.²

Enclosure

4.13 That inspite of the fact that the warning has been quashed by the Public Services Tribunal and it has been duly communicated to the opposite parties, the opposite parties did not issue any order for the appointment in the IAS Cadre although the warning was the only hurdle in issuing the order of appointment .

4.14 That it is also to be mentioned here that against this order of Hon'ble Tribunal quashing the warning no writ petition has been filed by the opposite parties nor any other remedy has been sought for against the same and therefore, the order dated 4-12-89 passed by the Tribunal has become final.

4.15 That thereafter no hurdle in granting and issuing the order to the petitioner in the IAS cadre remains but on account of malafide and colourable exercise of powers by the opposite parties he has been denied the same.

4.16 That it is also to be mentioned here that other persons who were selected with the petitioner in 1988 and even in 1989 batch and who are juniors to the petitioner have been given appointment while the petitioner has been denied the same . Thus this act of the opposite parties is clear cut violation of the Article 14 & 16 of the Constitution of India.

.....*

Deccan

4.17 That in the circumstances stated above the petitioner/ applicant is entitled to be given the appointment in the IAS cadre and be placed in the batch of 1988 and seniority be also fixed accordingly.

4.18 That not issuing the appointment order and posting order to the petitioner in the I.A.S. Cadre till now is malafide, illegal and arbitrary action of the opposite parties.

4.19 That it is also to be mentioned here that if the petitioner is not given any interim relief for placing him and appointing him in the I.A.S. Cadre in the batch of 1988 he will suffer irreparable loss and injury.

5 - GROUNDS

- 1- Because an order was issued on 10th May, 1989 requiring the petitioner to furnish his option whether he would like to opt for his appointment in the Indian Administrative Services (I.A.S.).
- 2- Because after obtaining the above order dated 10th May, 1989 the petitioner preferred to give his option accepting the offer for his appointment in the I.A.S. Cadre vide his letter dated 11th May, 1989.

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- 8 -

- 3- Because after this option having been given by the petitioner/ applicant the opposite parties were approached by the petitioner as to why he is not being posted in the I.A.S. Cadre inspite of the fact that he has already been given his option for the same and the option has been given after having been satisfied by the opposite parties.
- 4- Because the petitioner was found fit and was selected for placing him in the I.A.S. Cadre.
- 5- Because it appears that the selection of the petitioner in the I.A.S. Cadre was done under the interim order passed on 16-12-88 by the U.P. Public Services Tribunal in the favour of the petitioner and when the petitioner approached the opposite parties he was told about this fact that his selection has been done without taking into consideration the warning and until and unless this warning is quashed it will not be possible for them to allow the petitioner to join the I.A.S. Cadre.
- 6- Because the petitioner preferred representations also on 25-8-89 clearly given all details in the same but inspite of this,

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nothing has been done so far as the petitioner has not been appointed in the cadre of I.A.S.

7- Because by an order dated 4-12-89 the warning awarded to the petitioner was quashed by the Hon'ble U.P. Public Services Tribunal and the same was communicated to the opposite parties but still no action has been taken by the opp. parties to appoint / post the petitioner in the IAS cadre in 1988 batch.

8- Details of Remedies exhausted.

The petitioner has exhausted all the remedies available to him as has already been stated in para 4 under the heading ' Facts.'

7- Matter not pending with any other court.

The petitioner declares that the matter regarding which this reference claim petition has been preferred, is not pending before any other court of Law or any other authority or any other Bench of this Hon'ble Tribunal.

8- Relief Sought

In view of the facts mentioned in para-4 and grounds mentioned in para- 5 of the memo of Reference Claim petition the following reliefs are prayed :-

(a) This Hon'ble Tribunal may kindly be

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pleased to direct the opposite parties to appoint/ post the petitioner in the IAS Cadre -1988 year batch.

(b) This Hon'ble Tribunal may kindly be pleased to grant any other relief to the petition to which he is found entitled in the circumstances of the facts of the case.

9- Interim Relief

This Hon'ble Tribunal may kindly be pleased to issue an ad interim relief directing the opposite parties to appoint and post the petitioner provisionally in the IAS Cadre with immediate effect in the -1988 year batch, otherwise the applicant will suffer irreparable loss.

10- Particulars of the Postal order in respect of the application fee:

Indian Postal order No. 414798 dated 10-9-90 issued from G.P.O. Lucknow.

11- Documents relief on :

The entire documents annexed with Compilation NoI and Compilation No.II to this claim petition and the rules quoted in para-4 are relied upon.

12- List of documents enclosed

- ✓ The annexures to the compilation
- ✓ Now this is the claim petition is enclosed to the petition.

12- List of documents enclosed

The enclosures photostat copies as per index are attached with the Compilation-II to this petition.

Lucknow: Dated:

Deccan
Petitioner/Applicant.
... DERO

September 11, 1990.

Verification

I, Bhagat Singh Verma, aged about 50 years, S/O Sri Todi Singh, presently posted as Vice-Chairman, Moradabad Development Authority, Moradabas, do hereby verify that the contents from para 1 to 4.19 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow: Dated:

Deccan
Petitioner/ Applicant.

September 11, 1990.

Kapil Dev
(Kapil Dev)
Advocate.
Counsel for the petitioner/ applicant

To

The Registrar,
Central Administrative Tribunal,
U.P, (Bench, Lucknow.)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT LUCKNOW.

Q.A.
REF. CLAIM PETITION NO.....OF 1990

Bhagat Singh Verma. - - - - - Petitioner

Versus

Union of India and Others. - - - Opp. Parties.

.....

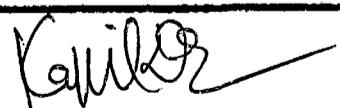
COMPILATION NO. II

Sl.No.	Description of documents	Page number
1-	<u>Annexure No.1</u> (Copy of D.O.dt.9-9-85)	1
2-	<u>Annexure No.2</u> (Copy of Court's order dt. 16-12-88)	2 to 3
3-	<u>Annexure No.3</u> (Copy of D.O.letter dt. 10-5-89)	4 to 5
4-	<u>Annexure No.4</u> (Copy of letter/representation dt. 25-8-89) 11-5-89)	6 to 9
5-	<u>Annexure No.5</u> (Copy of representation dt. 25-8-89)	10 to 14
6-	<u>Annexure No.6</u> (Copy of Judgement of Tribunal dt.4-12-89)	15 to 18
7-	Vakalatnama (In original)	19

Lucknow:Dated:

September 11, 1990.

Counsel for the Petitioner.


Kapil Dev

(Kapil Dev)
Advocate,

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

BENCH AT LUCKNOW

C. A.

REF. CLAIM PETITION NO. OF 1990

Bhagat Singh Verma. - - - - - Petitioner
Versus
Union of India & Others. - - - - - Opp. Parties.

ANNEXURE- 1....

गोपनीय/राजित्तड़

अधिकारी पत्र: 1504/टो-121-826/64

उत्तूर प्रदेश शासन

नियुक्ति 121 अनुभाग

दिनांक: 20.07.1983 द्वितीय, 1983

प्रिय महोदय,

मुझे यह रहने का निरेश हुआ है कि श्री भात निंह का, बी.0.ती.0.स.ल.0,
तत्कालीन अपर जिलापिकारी प्रशासन-नगर।, मेरठ। सम्बुद्धि तंयुक्त चिकात आयुक्त,
मेरठ गण्डल, मेरठ। के विरद्ध प्रकाश में आस तथों के तम्बद्ध में जांचोंपरान्त शासन
ने श्री बर्मा को निम्नलिखित घोटाली दिस जाने का भिरंध लिया है जो उनकी
चरित्र पैरी में रखी जाई गी : -

"श्री भात निंह जी जा. मेरठ जनपद।। अपर जिलापिकारी प्रशासन-
नगर। के बढ़ पर कार्रवाये तो वे अपने अन्य तारकारी कार्यों के अतिरिक्त
मनोरंजन कर, आबकारी व ज्ञान सम्बन्धी कार्य भी छेड़ रहे थे। दिनांक:
16-7-1983 को उन्होंने अपनी पुत्री/आरीजी के चिनाहे के बाहर पर मैल
के तगड़ा तिनेभा त्पागियों, शत्रु विक्रेताओं व आदकारों द्वेषात्मों को
आरोक्त किया जो अनुचित था। उनके इस अपराध के लिए शासन द्वारा
भिरंध में उन्हें रखेत रहने के लिए घोटाली ही जाती है।"

2. अनुरोध है कि लूप्या शासन के उपरोक्त भिरंध से श्री कर्मा लो. अल्हार
अवगत रहा तथा शासन को भी क्रें लूप्या जरे। लूप्या द्वारा पत्र ली अतिरिक्त
प्रति ज्ञान है।

भवदीय,

AJK

लालता प्रसाद।

श्री बी.0.ती. गोपनीय,
आयुक्त,
मेरठ गण्डल,
कर्मा।

Flat No. 83, Caw.
11/9/98

Deccan

Annexure 9

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YUNO 82-1001 1023.00

Bhagat Singh Verma aged about 49 years son of Sri Todi Singh at present posted as Vice Chairman, Moradabad Development Authority, Moradabad.

Letition ex-

Versus

State of U.P. and others

Opp. Parties.

Copy of order dated 16-12-1988

16-1-88 Sri Kapil deo Adv. for petitioner.
P.O.III, for O.P.
O.P. has filed objection to I./R. application.
The first objection is that a similar matter is pending in the Hon'ble High Court. But it is conceded that pending of the writ petition in Hon'ble High Court is no bar to entertainment of this claim petition in this Tribunal which has undoubtedly jurisdiction in the matter.

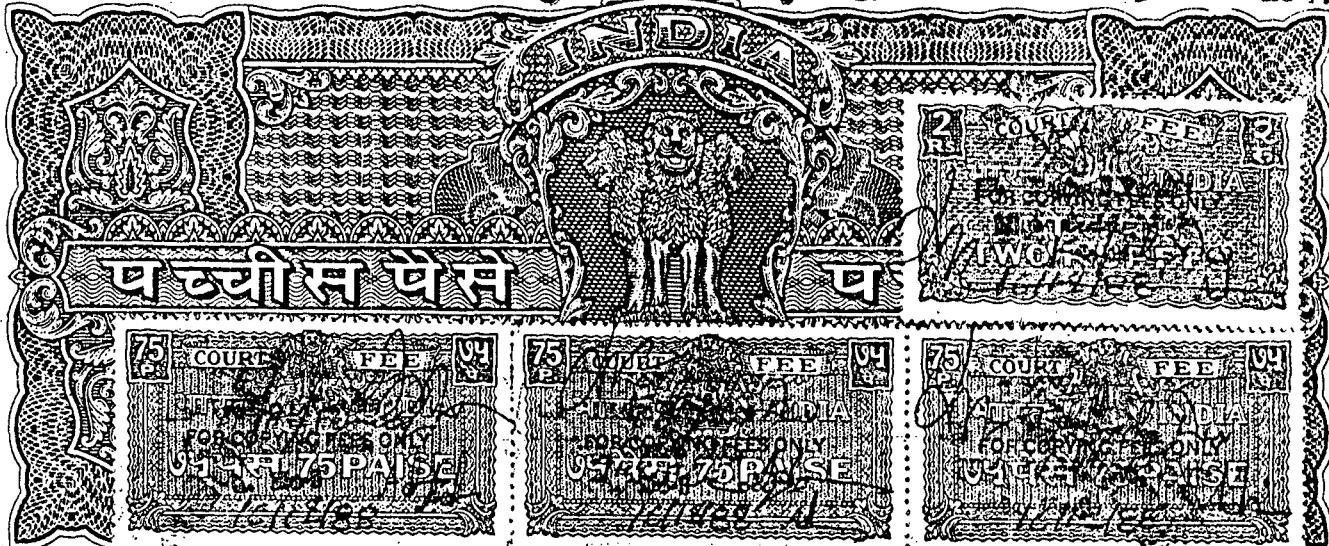
The second objection is that a person is selected ignoring the impugned warning included in character Roll. It would be impossible to revert him back. I do not see any such impossibility. If the occasion arrise for consideration for the Higher Pay scale by a D.L.C or for selection in IAS by Selection Committee the D.L.C./ Selection Committee may consider the petitioner both ways taking into account the impugned warning as well as ignoring the

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UTTAR PRADESH

FOR COPYING FEES ONLY

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केवल नकल की फीस के लिए

आवश्यक स्टाम्प सहित प्रार्थना पत्र देने की तारीख	नोटिस बोर्ड पर नकल तैयार होने की सूचना की तारीख	नकल वापिस दिया जाने की तारीख
Date on which application is made for copy accompanied by the requisite stamps.	Date of posting notice on notice board.	Date of delivery of copy.

lno 352
16/12/2008 16/12/2008 16/12/2008
Am 16/12/2008

said warning. If in either of the case he is found suitable for higher scale IAS he should be given the same. If upon consideration bothways he is found unsuitable then the matter ends there. If he is found suitable after ignoring the adverse entry (but unsuitable on the basis of that entry) and given higher pay/ IAS he may be reverted in case the result of this petition goes against the petitioner. O.Ps are directed accordingly.

Sd/- Barajan Das.

Judicial Member.

True copy.

Anil Kumar

Mansarim.

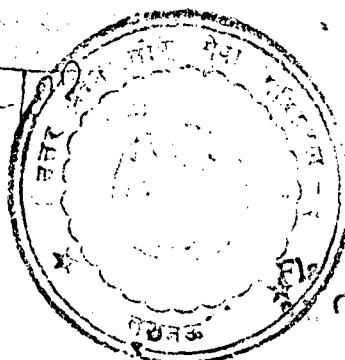
पुस्तक

प्राप्ति संग्रहालय

Typed by; Saj

Compared by; 2

Dated 16.12.08

A/T
Kabir

11/19/90

केन्द्रीय प्रशासनिक अधिकरण

याचिका संख्या

आफ

1990

(4)
(M)

भगत सिंह वर्मा

प्रिटीशनर

बनाम

यूनियन आफ इंडिया इण्ड अद्व

अपो० पार्टीज

अनेकजर नम्बर ३

सिंहार्थ बेहुरा

अर्ध प्रशासनिक पत्र स० 2476/दो-१-११/

सचिव

उत्तर प्रदेश शासन

नियुक्ति ११५ अनुभाग

लेखनजः दिनांक १० मई, १९८९

प्रिय महोदय,

मुझको यह कहने की अपेक्षा की गई है कि क्षेम प्रिटीशन संख्या ४००/एफ/१११८८-१- भगत सिंह वर्मा बनाम स्टेट आफ यूपी पी० आ० द मै मा० लोक सेवा अधिकरण के आदेश दिनांक १६.१२.८८ के अंतरिम आदेश के संदर्भ मैं आपकी भारतीय प्रशासनिक सेवा मैं अन्तरिम स्मरण नियुक्ति प्रस्ताव भारत सरकार को भेजे जाने पर विचार किया जा रहा है। अतः अनुरोध है कि आप कृपया ।

१। भारतीय प्रशासनिक सेवा मैं अंततः स्थायीकरण पर आपका वर्तमान सेवा से गहन समाप्त किये जाने मैं अनाप तथा

२। आपकी केवल एक जीवित पत्नी होने का घोषणा-पत्र संलग्न प्रपत्र-१-तथा २ मैं दो- दो प्रतियों मैं मुझे तुरन्त उपलब्ध कराने का कष्ट करें।

२- भारतीय प्रशासनिक सेवा मैं आपकी नियुक्ति सेवा के वरिष्ठ वेतनमान स० ३२००-४७०० मैं होगी तथा आपके वेतन का निर्धारण भारतीय प्रशासनिक सेवा वेतन नियमावली, १९५४ समय-समय पर यथा संशोधित १ के सुरंगत प्राविधानों तथा भारत सरकार के पत्रांक ११०३०/२ ८७-१० आई० एस० २५ दिनांक २१.१.१९८८ १ प्रति संलग्न १ के अनुसार होगा।

३. अतः आपसे अनुरोध है कि यदि आप तदनुसार भारतीय प्रशासनिक सेवा मैं नियुक्ति के इच्छुक हो तो कृपया अपना विकल्प मुझे विलम्बितम दिनांक १५ मई, १९८९ तक अवश्य उपलब्ध करा दें। उक्त तिथि तक आपका उत्तर प्राप्त

Deeew

न होने अथवा प्रतिबन्धात्मक विकल्प प्राप्त होने अथवा इस विषय में
अन्य कोई क्षेत्री किये जाने पर यह मानते हुए कि आप उक्त सेवा में
नियुक्ति के इच्छुक नहीं हैं, अग्रतर कार्यवाही की जायेगी ।

भवदीय,
हुम् अपठनीय
प्रेस्टार्ड बेहुरा

श्री भगत सिंह वर्मा
उपाध्यक्ष,
मुरादाबाद विकास प्राधिकरण,
मुरादाबाद ।

A/T

Kafil

Kafil Zia
Advocate (High Court)
Flat No. 5, Laxmi Bhawan
83, Canst. Road, Lucknow.

11/9/90

2000/-

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT LUCKNOW

REF. CLAIM PETITION NO. OF 1990

Bhagat Singh Verma. - - - - - Petitioner
Versus
Union of India & Others. - - - - - Opp. Parties.

ANNEXURE- 4...

भगत सिंह वर्मा
उपाध्यक्ष



अटंशासर्कीय पत्र संख्या: मेरो/एस.टी./८९
दार्यासय 27743 - 26598
निवास 27535 - 26547

मुरादाबाद विकास प्राधिकरण,
मुरादाबाद।

दिनांक: मई २०१९८९

प्रधान मंत्रीकार्यालय,

आपके अटंशासर्कीय पत्र संख्या 2476/दा-1-1/73/84 दिनांक 10-5-84
दिनांक 10-5-84 के सन्दर्भ में मैं भारतीय अमायर्कीय सेवा में नियुक्त का
इच्छुक हूँ तथा अपना विकल्प प्रस्तुत कर रहा हूँ। बौद्धन अनाधीन एवं घोपणा
पत्र प्रपत्र-1 तथा 2 संलग्नक प्रेषित कर रहा हूँ।

प्रधानमंत्री

श्री मिटार्ड बहादुर
मार्चिक,
उत्तर प्रदेश शासन,
नियुक्ति अनुभाग,
कामनड़

संलग्नक: यापेक्षन।

भगत सिंह वर्मा

Kapil Deo

Advocate (High Court)

Flat No. 2, Mayan Bhawan
93, Canteen Road, Lucknow

11/9/90

Deo

F O R M - I

(7) (M36)

I have no objection to the termination of my
lien from the U.P. Civil (Executive Branch) Service
with effect from the date of my confirmation in the
Indian Administrative Service.

Signature:

B.S. Verma 11.5.89
(B. S. Verma)
Vice Chairman
Moradabad Development Authority
MORADABAD.

Witness :

(1) अप्सरा (K.S.KANE)
मुरादाबाद विकास प्र विभाग
मुरादाबाद

(2) सहायक अधिकारी (C.S.K. Chandra)
मुरादाबाद विकास प्राधिकार
मुरादाबाद

F O R M - II

Certified that I do not have more than one wife
living.

Signature:

B.S. Verma 11.5.89
(B. S. Verma)
Vice Chairman
Moradabad Development Authority
MORADABAD.

Witness :

(1) अप्सरा (K.S.KANE)
मुरादाबाद विकास प्र विभाग
मुरादाबाद

(2) सहायक अधिकारी (C.S.K. Chandra)
मुरादाबाद विकास प्राधिकार
मुरादाबाद

A/T

19

11/9/90

.....

(8)

(AB5)

--2--

X d) Training/Fellowsip abroad:

Year	Particulars of Trg. / Institute/ (Subject)	Institute/ Country	Period of Trg. Weeks Months
N.L.			

C. EXPERIENCE (IN CHRONOLOGICAL ORDER)

i) Post held (Designation/ Dept./Stat- tion)	Level (State/Centre/ Pub. Sector Undertaking at State/Centre)	Period From To	Experience (Brief)
1. I.T. Officer	Executive - City	July 78 to April 85	17 years
2. A.D.M. (E) Subdivision	Project Director, T.S.A. Devarakund	August 85 to August 82	
3. Joint Director, Industrial Facility.		Sept. 82 to Oct. 82	

ii) Details of Foreign Assignment (if any)

iii) Field of specialisation (Acquired), if any

NOTE: Officers encadred to IAS from the modes of SCS/Selection/IC may please furnish their details of period 10 years prior to being encadred in the IAS, served under the State Government to date.

1. A.D.M (Executive - City) Meant ****	Oct 82 January 83
2. R.F.C. Meant	March 84 to July 85
3. J.D.C. Meant	July 85 to August 82
2. Vice-Chairman, Moradabad Development Authority Moradabad	August 88 to till

A/T

Kohli

S. D. Kohli

(9) (AS)

PROFIL A III

FORM TO BE FILLED BY SCS/NOCS OFFICERS RECOMMENDED FOR
APPOINTMENT TO IAS FOR THEIR EXECUTIVE RECRUITMENT

A. SOCIAL BIO-DATA:

a) Name in full (in block letters); BHAGAT SINGH VERMA
b) Date of Birth 1.12.1938
c) Marital Status: Single/Married/Widow/Widower
i) If married, number of children, if any
Married — Six children
d) State of Domicile U. P.
e) Community to which you belong: Vedic Hindu
f) Whether belong to SC/ST: No.
g) Caste (Secto) to which allocated: U. P.

B. EDUCATIONAL BIO-DATA:

Degree/Diploma Classification Subject

a) i) Graduate
ii) Post-graduate M. A. II Economics
iii) Doctorate —
iv) Diploma/Certificate —

b) Language known
Hindi a) (Mother Tongue)
English b)
c)
d)
e)
f)
g)

c) Training/Fellowships in India

Year	Particulars of Trg. (Subject)	Institute	Period of Trg. Weeks Months
1985	Rural Development	N.I.R.D. Hyderabad	Two weeks in Oct.

...21-A/T

Kapil Dua
Kapil Dua

Advocate (B.A., LL.B.)
Flat No. 2, Jaydev Bhawan
93, Canaff. Road, Lucknow

11/9/90

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
BRANCH AT LUCKNOW

REF. CLAIM PETITION NO. OF 1990

Bhagat Singh Verma. - - - - - Petitioner
Versus
Union of India & Others, - - - - - Opp. Parties.

ANNEXURE- 5...

Annexure - 5

ग्रेड,

भरत सर्व देशी,
राष्ट्रपति,
सराइबर विकास प्रोग्राम,
सराइबर।

सेव में

सेवा,
नियुक्ति देशी; नियुक्ति-1 अनुभाग,
उपर्युक्ति सेवा,
सराइबर।

प्रारंभ मित्रों मुख्य प्रारंभ

दिनांक 25-8-63

विषय:-

प्रार्थी से आईपोएस० में नियुक्ति हेतु किसी पत्र प्राप्त करने के फलाने उसको उक्त सेवा में नियुक्ति हेतु अर्थेतर कार्यवाही को अवैधत्य करने के विरुद्ध

महोदय,

प्रार्थी शासन के समक्ष उपर्युक्त विषय पर निम्नान्वित तथ्य एवं तर्क इस अनुरोध के साथ प्रस्तुत कर रहा है कि इन द्वारा गम्भीरतापूर्वक विचार करने के उपरान्त न्यायोंचतुर एवं उचित जाक्षण प्रशंसन करने की कृपा की जाए :-

- 1- यह कि प्रार्थी उन्ना प्रेसो नौकर सेवा आयोग द्वारा की गयी संवृत्ति के आधार पर १०प्र० रिंगिन सेवा; कार्यकारी शासन; में दिनांक २८-१-६४ को नियुक्ति दुक्ता। इस सेवा में सेवा के प्रयोगमें एवं गल्य सरकार द्वारा प्रार्थी को कार्य १९६३ आवंटित किया गया।
- 2- यह कि १०प्र० रिंगिन सेवा में २ कर्म की परिवेशा अवैध व्यफलापूर्वक पूर्ण करने के फलाने प्रार्थी को शासन द्वारा उक्त सेवा में दिनांक २८-१-६६ को स्थायी कर दिया गया।
- 3- यह कि परिवेशा अवैध के फलाने ही प्रार्थी का कार्य एवं आचरण औन उन्नम पाया गया जियदे आधार पर गल्य सरकार ने उसको दिनांक १०-११-७३ से १०प्र० रिंगिन सेवा के ज्येष्ठ वेतनमान के पद पर प्रेस्वनन कर दिया।
- 4- यह कि १०प्र० रिंगिन सेवा के ज्येष्ठ वेतनमान के पद पर भी प्रार्थी का कार्य एवं आचरण प्रांसनीय एवं उच्च कोटि का जीका गया जिसके आधार पर शासन ने उसको दिनांक ७-२-८९ से उक्त ज्येष्ठ वेतनमान के पद पर स्थायी कर दिया।
- 5- यह कि उक्त सेवा में प्रेस्वनन करने के दिनांक से ही प्रार्थी अपने शासकीय दायित्वे एवं कर्तव्यों का अत्यन्त नायन, पारंपराग, निष्ठा एवं कर्तव्यपरायणता से निभाता रहा है जिसके आधार पर उसके उत्त्वाधिकारी उसके कार्य तथा आचरण से सेवा स्मृति के तथा उसकी चीरत पंजका में उच्च कोटि एवं उत्कृष्ट प्राकृति की प्राविष्ट्यों जीकत की।
- 6- यह कि उक्त सेवा में ज्येष्ठ वेतनमान के पद के उपर ज्योष वेतन के 123 पद विकृत हैं जिनका वेतनमान सम्बन्ध २०५०-२५०० है। ज्योष वेतनमान के पदों पर नियुक्ति हेतु चयन विभाग के आधार एवं उच्च स्तरीय चयन समिति द्वारा किया जाता है।

यह कि प्रार्थी की चीरत पंजी में अति उत्तम एवं उत्कृष्ट श्रेणी की प्राविष्ट्यों क्षियमान होने के आधार पर उक्त उच्च स्तरीय चयन समिति द्वारा विभाग के अनुसार किये गये चयन के आधार पर प्रार्थी को ज्योष वेतनमान के पद पर प्रेस्वनन देने राज्यपाल गगा। राज्य जगत् पर्यावरण की

8- यह कि विशेष केतनमान के पद पर भी प्रर्थी का कार्य तथा आचरण प्रांसनीय रहा । जिसके आधार पर शासन ने उसको दिनांक 20-12-84 से विशेष केतनमान के पद पर स्थायी कर दिया ।

9- यह कि शासन ने 10प्र० मिन्क्स में संक्षे पद उच्चतर केतनमान रु 2300-2700 में स्वीकृत किया है । इन पदों पर नियुक्ति हेतु चयन कठोर श्रेष्ठता के आधार पर एक उच्च स्तरीय चयन पर चयन समिति द्वारा किया जाता है । प्रर्थी की चौरत्र पंजी में अंकित जीति उत्तम स्व उत्कृष्ट प्रविष्टयों के आधार की संरक्षिति के आधार पर शासन ने प्रर्थी को उच्चतर केतनमान के पद पर अपने रेहियांगाम संस्था-1670/दे/2/1989 दिनांक 17-3-89 में नियुक्त किया, जब वह उपच्छष्ट, मुरादबाद विद्यास प्राधिकरण के पद पर तैनात था ।

10- यह कि कर्व 1982 में मेरठ नगर में सम्प्रदायिक दंगों के कारण शान्ति व्यवस्था छिन भिन्न हो गयी थी तथा स्थिति जीत गम्भीर स्व अनियंत्रित हो गयी थी । उक्त गम्भीर स्थिति को मूर्ख स्व से नियंत्रण में लाने के उद्देश्य से प्रर्थी को शासन ने अपर जितायिकारी प्रशासन (नगर) मेरठ के पद पर तैनात किया । प्रर्थी अपने अधिक परिव्रम, प्रशासनिक क्षमता, जागरूकता स्व सूझबूझ के कान से मेरठ नगर में व्यापृत सम्प्रदायिक दंगों को खने तथा पूर्णरूप नियंत्रण में लाने में सफल रहा । कर्व 1983-84 में प्रर्थी अपर जिला मॉरिस्ट्रेट (नगर) मेरठ के पद पर तैनात था । उस अवधि में श्री ई० जार्ज जोसफ, जितायिकारी मेरठ के पद पर कार्यरत थे । उस अवधि में प्रर्थी ने मेरठ नगर जैसे सम्प्रदायिक नगर में शान्ति व्यवस्था बनाये रखने हेतु कठिन परिव्रम तथा कर्तव्य का परिचय दिया तथा अपने कर्तव्यों के प्रति इस सीमा तक जागरूक हो कि मेरठ में शान्ति व्यवस्था सामान्य बनी रही । श्री जोसफ तथा प्रर्थी के बीच शान्ति व्यवस्था कायम रखने के क्षिय में कुछ किन्दमों पर मतभेद उत्पन्न हो गया परन्तु अंततः प्रर्थी का सुझाव ही अधिक तर्क संगत पाया गया और उसी के अनुसार कार्यवही की गयी जिसके कारण स्थिति नियंत्रण में रही । इस पटना के कारण ही श्री जोसफ अपने को अपमानित मानते हुए प्रर्थी से अग्रसन हो गये तथा उससे देष करने लगे । यद्यपि श्री जोसफ प्रर्थी के प्रति फूर्वग्रहीत थे तथा उससे देष खत्ते हो परन्तु उन्होंने एक ओर से उत्तम अवधि की वर्षिक प्रविष्ट के अधिकांश भाग में प्रर्थी की नियुक्ति इसी तोर प्रर्थी के प्रति देष भावना से प्रेरित होकर उसके हितों को गम्भीर क्षति पहुंचाने के उन्होंने उत्तम वर्षिक प्रविष्ट के अंतिम भाग में प्रतिकूल टिप्पणी अंकित की तथा सत्यानिष्ठा प्रमाणित नहीं की । इस प्रविष्ट से प्रर्थी को शासन से प्राप्त उनके पत्र दिनांक 26-3-85 में अदान कराया गया ।

11- यह कि प्रर्थी ने उक्त कर्व 1983-84 की प्रतिकूल प्रविष्ट के बिरुद शासन को कई प्रश्नावेदन प्रेषित किये जिनमें उक्त प्रविष्ट को क्षिप्त करने हेतु पुष्ट सक्षयों स्व आधारों का उल्लेख किया गया था परन्तु शासन ने उनको अस्वीकृत कर दिया । उक्त में प्रर्थी द्वारा उस प्रतिकूल प्रविष्ट के बिरुद प्रस्तुत किये गये मेयरीयत के आधार पर शासन ने उस प्रतिकूल प्रविष्ट को प्रर्थी की चौरत्र पंजी से किंवित कर दिया और उसकी सत्यानिष्ठा प्रमाणित कर दी । इस आशय की सूचना श्री जार्ज जोसफ, तत्कालीन संयुक्त सचिव, नियुक्ति 2, अनुभाग के अर्दशासकीय पत्र संस्था-1981/11-१२१-८७-८२६/८४ दिनांक 27-6-1987 में प्रर्थी को प्राप्त हुई ।

12- यह कि प्रर्थी से बिना कोई स्पष्टीकरण मार्गे ही अचानक श्री जार्ज जोसफ, तत्कालीन संयुक्त सचिव, नियुक्ति 2, अनुभाग के अध्यक्ष पत्र सं० 1504/दे-१२१-८५-८२६/६४ दिनांक 9-9-85 में यह सूचना प्राप्त हुई कि उत्त पत्र में इसी गयी चेतावनी प्रर्थी को शामन द्वारा ही गयी है तथा उसको

उसकी चारत्र पंजका में रखी जायेगी। इनाहाबद उच्च न्यायालय द्वारा यह व्यक्त्य दी गयी है। सेलेक्टेड प्रिवेट डिसीसन 1969 पृ० 137- स्टेट आफ य०पी० बनाम राजेन्द्र कुमार श्रीवर्मनद ; जो चेतावनी जो चारत्र पंजका में रखी जायेगी, विविध द्रृष्टि से उह स्वयं दी गयी समझी जायेगी। उह चेतावनी देने के पूर्व शासन द्वारा प्रार्थी को उन तर्जों से अवगत कराना चाहिए था जिसके आधार उह प्रश्नगत् चेतावनी दी गई है ताकि वह अपने को निर्देश प्रिवेट करने हेतु उसको अवगत प्रार्थी जायें। इसी द्वारा में विविध द्रृष्टि से प्रश्नगत् चेतावनी अंका एवं निष्प्रभावी मानी जायेगी।

13- यह कि ; जैसन, 1963 से 6 जनवरी 1984 की अवधि की प्रविंस्ट प्रार्थी को प्री ट्रॉन जोसफ चैन्सलीन जिलाधिकारी मरेट द्वारा दी गयी थी। उहन प्रविंस्ट का कृष्ण अंश प्रांतकूल था तथा उह अवधि हेतु प्रार्थी की सत्यानिष्ठा भी रोकी गयी थी परन्तु उसमें किसी ऐसे तथ्यों या दृष्टितों का उल्लेख नहीं था जिसके आधार पर सत्यानिष्ठा प्रमाणित नहीं की गयी थी। प्रार्थी की भतीजी की शादी दिनों 16-7-63 को मेरठ नगर में सम्पन्न हुई थी तथा इसी सम्बन्ध में श्री जोसफ द्वारा की गयी जो तथा उनकी जाव्या दिनों 13-3-85 उनकी व्यस्तिगत प्रैक्षण ; परसनल आवारेमन ; के आधार पर प्रार्थी को प्रश्नगत् चेतावनी दी गयी थी। की प्रसंग श्री जोसफ के मन में रहा होगा जिसके आधार पर उन्होंने प्रार्थी को प्रश्नगत् प्रांतकूल प्रविंस्ट दी थी तथा उसकी सत्यानिष्ठा प्रमाणित नहीं की थी। जब शासन ने स्वयं प्रविंस्ट का प्रांतकूल अंश जिस आधार पर कियुप्त कर दिया है, उसी आधार पर उह चेतावनी को प्रार्थी की चारत्र पंजी में विद्यमान रहना पूर्णस्य से अनुचित, अवैध, एवं अन्यायपूर्ण होने के कारण निरस्त करने योग्य है। क चेतावनी इस आधार पर भी अवैध एवं निष्प्रभावी है क्योंकि इस चेतावनी को प्रार्थी की चारत्र पंजी में रखे जाने के कारण यह उह की संज्ञा में आती है। अतः इस चेतावनी को प्रदान करने से पूर्व प्रार्थी को अपने को निर्देश प्रिवेट करने हेतु अवसर देना आवश्यक था।

14- यह कि प्रश्नगत् चेतावनी के विवर प्रार्थी द्वारा शासन को प्रेमोरियल एवं कई प्रत्यावेदन प्रत्युत्त किये गये परन्तु शासन ने उसमें दर्शाये गये साल्हों, तथ्यों एवं तर्कों पर बिना पूर्णस्य से विचार किये और उन्हें अन्वयाने देंग से अस्वीकृत कर दिया है।

15- यह कि वर्ष 1983-84 की प्रतिकूल प्रविंस्ट माह जून, 1987 में शासन ने कियुप्त कर दिया फ्री भी माह दिनांक, 1987 में तैयार की गयी आई०प०एस० की सेलेक्टेड लिस्ट में प्रार्थी का नाम सम्मिलित नहीं किया गया तथा सेव में उससे कीनिष्ट अधिकारियों को केतनमान 2300-2700 के पद पर एवं आई०प०एस० में नियुक्त कर दिया गया। परन्तु प्रार्थी को स० 2300-2700 के केतनमान के पद पर मार्च, 1989 में नियुक्त किया तथा वर्ष 1989 में तैयार की गयी आई०प०एस० की सेलेक्टेड लिस्ट में उसका नाम सम्मिलित किये जाने पर उसका कियुप्त प्राप्त करने के उपरान्त भी उसके आई०प०एस० में नियुक्त करनेवेले जग्येर कार्यवही शासन में स्थगित कर दिया है जिसके कारण प्रार्थी के हितों को नियन्त्रा भारी क्षति पहुँच रही है। प्रार्थी ने शासन के उपर्युक्त अनुचित एवं अवैध कार्यवही से क्षुब्ध होकर उ०प्र० लोक सेव अधिकरण नं० ३ लखनऊ के समक्ष याचिका सं० -४८८६४८८-३-८८ द्वारा की जिसमें प्रश्नगत् चेतावनी को चुनौती दी गयी है। माननीय अधिकरण उक्त याचिका में दर्शाये गये साल्हों, तथ्यों एवं तर्कों से पूर्णस्य हो गये कि विविध द्रृष्टि से प्रश्नगत् चेतावनी का प्रार्थी की चारत्र पंजिका में विद्यमान रहने का प्रथम दृष्टा कोई औचित्य नहीं है। इसी आधार पर माननीय अधिकरण द्वारा दिनों 16-1-88 को प्रार्थी के पक्ष में अंतर्राष्ट्रीय आदेत प्रतिरिद्ध किया गया जिसका संगत अंश सुगम संर्व देतु उदारित है:-

16-1-86. If the occasion arises for consideration for the higher pay scale by a DPC or for selection in IAS by Select Committee the DPC/ Selection Committee may consider the

petitioner both ways i.e. taking into account the impounded warning as well as ignoring the said warning. If in either of the case he is found suitable for higher scale/ IAS he should be given the same. If upon consideration both ways, he is found unsuitable then the matter ends there. If he is found suitable after ignoring the adverse entry (but unsuitable on the basis of that entry) and given higher pay/ IAS he may be reverted in case the result of this petition goes against petitioner. O.Ps directed accordingly.

sd/- Narayan Das

Judicial Member.

16- यह कि प्रर्थी का नाम पूर्व कर्म की तरह क्य 1989 में निर्मित आई0ए0एस0 सेलेक्ट लिस्ट में भी सम्मिलित किया गया है। उसके आधार पर प्रर्थी से आई0ए0एस0 में नियुक्ति हेतु शासन दारा उसका किल्टप माँग लिया था। प्रर्थी ने आई0ए0एस0 में नियुक्ति हेतु अपना किल्टप शासन को अपने पत्र दिनोंक 11-5-1989 में प्रस्तुत कर दिया है परन्तु प्रर्थी को अब यह सूचना मिली है कि प्रस्तुत चेतावनी उसकी चारित्र फंजी में दबे छले के कारण आई0ए0एस0 में उसकी नियुक्ति क्षियक अग्रेतर कार्यवही शासन ने रोक दी है परन्तु पी0सी0एस0 में उनसे कनिष्ठ अधिकारियों की नियुक्ति आई0ए0एस0 में कर दी गयी है तथा प्रर्थी के हितों को भारी क्षति पहुँच रही है।

37-३ यह कि माननीय लोक सेव अधिकारण दारा प्रारित किये गये दिनांक 16-1-88 के प्रचारात् प्रार्थी आई०प०प्स० तथा पी०सी०प्स० के उच्चतर केतनमान स० 2300-2700 में नियुक्त हेतु उपयुक्त पाया गया। प्रार्थी को पी०सी०प्स० के उच्चतर केतनमान के पद पर राज्य शासन ने नियुक्त कर दिया है परन्तु उन्हेंने प्रार्थी को आई०प०प्स० में नियुक्त करने के क्रिय में अग्रेतर कार्यवही प्रबन्धात् चेतावनी के असकी चरित्र फंजी में बने रहने के कारण स्थगित कर दिया है। शासन दारा प्रार्थी को आई०प०प्स० में नियुक्त हेतु अग्रेतर कार्यवही को स्थगित करना लोक सेव अधिकारण के उपर्युक्त अंतरिम आदेशों के क्षिरीत है तथा राज्य शासन की यह कार्यवही माननीय लोक सेव अधिकारण का स्पष्ट अपमान है जिसके आधार पर क्षिरीयों को कृष्टपृष्ठ आफ कोर्ट पर, 1971 की धारा -12 के अन्तर्गत दण्डित करने हेतु उनके स्लैट अपमान कार्यवही भी जारी की जा सकती है।

१८- यह कि प्रेन्नति हेतु चयनित कार्यक्रों को प्रेन्नति केवल उन्हीं परिस्थितियों में स्थगित की जा सकती है जिनका उल्लोङ्घन आसनादेश संस्था - १५/८५/१९८३-कार्यक्र-१ दिनांक ३०-११-८३ के प्रत्यरूप-२ में किया गया है। उबत आदेश राज्य के समस्त सेवाओं तथा आई०ए०प्स० में प्रेन्नति के आधार पर नियुक्तियों के सम्बन्ध में भी लागू माने जाते हैं। ऐसी द्वारा मैं प्रधार्णी को पी०सी०प्स० के उच्चतर देनामान में प्रेन्नति करना तथा उन्हीं परिस्थितियों में उसको आई०ए०प्स० में नियुक्त करने द्विषयक अग्रेतर कार्यवद्धी को स्थगित स्वना अनुचित एवं अवैध है।

19- यह कि प्रार्थी प्रसन्नगत चेतावनी को जैव घोषित करने वेळे लोक सेव अधिकरण के समक्ष क्व 1988 में द्वयर की गयी है अतः उसके निकट भविष्य में अस्तित्व रूप से निर्धारित होने की कोई सम्भावना नहीं है व्यांकिक अर्थी 1982 में द्वयर की गयी याचिकाओं पर निर्णय होना व्यवहार है । इसका यह परिणाम होगा कि अनिवार्यत कल्प तक प्रार्थी के हितों को क्षति पहुँचती रहेगी ।

(14) Aui

20- यह कि इस प्रसंग में यह श्री उत्तेलनौय है कि शासन के कार्यक्रम अनुभाग-2 द्वारा जारी किये गये कार्यात्मक ब्राप संस्करण - 36/9/1976-कार्यक्रम-2 दिनांक 29-7-1989 में इस आशय के आदेश प्रसारित किये गये हैं कि अनुशासनात्मक कार्यवही करने के फलस्वरूप यदि किसी अधिकारी को निवाद प्रविष्ट किये जाने का निर्णय लिया जायेगा तो उसी दस्ता में ऐसी निवाद का उत्तेल उसकी चारित्र फंसी में किया जायेगा । शासन के गोपनीय अर्द्धशासकीय पत्र सं ० - 1504/वे-१२८-८५-८२६/६४ दिनांक ९-९-१९८५ द्वारा दी गयी चेतावनी को प्रार्थी की चारित्र फंसी में रखने हेतु शासन का आदेश उबल शासनादेश दिनांक २९-७-८९ में प्रसारित किये गये जादेशों के विवरित है क्योंकि प्रस्तावनगत् चेतावनी प्रार्थी के बिल किसी भी प्रकार की अनुशासनिक कार्यवही करने के फलस्वरूप उसको देखी पाये जाने पर नहीं दी गयी थी और न ही उससे इस विवर में कोई स्पष्टीकृत मांगा गया था । ऐसी दस्ता में उर्प्पुवा शासनादेश एवं प्रश्नावेदन के प्रस्तर-12 में उत्तिवित इताहावद उच्च न्यायालय द्वारा दी गयी व्यक्त्यों के प्रकरण में प्रस्तावनगत् चेतावनी को प्रार्थी की चारित्र फंसी में रखना पूर्णतयः अनुचित पंच अवैध है ।

यह कि अनुकर्ता प्रत्यारोपि में लाये यहे तथ्यों पंच तर्कों से यह स्पष्ट है कि उ०प्र० तोक सेव अधिकारण के स्पष्ट अन्तरिम आदेश दिनांक १६-१-८९ में दिये गये निर्देशों का शासन द्वारा जक्केतना व जा रही है क्योंकि प्रार्थी को आई०प०प्स० में नियुक्त करने हेतु कार्यवही एक दी गयी है । विपक्ष द्वारा प्रत्येकों से प्रस्तावनगत् चेतावनी को प्रार्थी की चारित्र फंसी में बनाये रखना पूर्णतयः अनुचित पंच अवैध है ।

प्रार्थना

कीर्ति परिस्थितियों में प्रार्थी का नम निवेदन है कि शासन इस प्रश्नावेदन पर गठनता पूर्वक विचार करने के फलात् प्रार्थी को दी गयी चेतावनी को निरस्त करने की कृपा करे तथा संघ लोक सेव आयोग को भी इस मामले के सभी तथ्यों से अवगत कराते हुए यदि आवश्यक हो तो उनकी अनुमति प्राप्त कर ती जाये और प्रार्थी को आई०प०प्स० में नियुक्त करने हेतु भारत सरकार व अपनी संसदुति शीघ्र भेजने की कृपा करे । जिसके लिए प्रार्थी शासन का सदैव अभ्यारी रहेगा ।

मर्वदीय,

महात्मा सिंह चर्मा ।

उपाध्यक्ष,
मुरादाबाद विकास प्राधिकरणमुरादाबाद
दिनांक : अगस्त 25, 1989

प्रतिलिपि सचिव, संघ लोक सेव आयोग, नई दिल्ली को इस निवेदन के साथ कि कह प्रार्थी को तत्काल न्याय दिलाने हेतु जपने स्तर से शासन को निर्देश देने की कृपा करे ।

महात्मा सिंह चर्मा
उपाध्यक्ष,
मुरादाबाद विकास प्राधिकरण
मुरादाबाद ।

A/T

Kapil Dev
Advocate (High Court)
Flat No. 3, Liyam Bhawan
93, Gantt Road, Lucknow
11/9/90

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT LUCKNOW

REF. CLAIM PETITION NO. OF 1990

Bhagat Singh Verma. - - - - - Petitioner
Versus
Union of India & Others. - - - - - Opp. Parties.

ANNEXURE- 6...

Annexure- 6
U.P. PUBLIC SERVICES TRIBUNAL-4,
LUCKNOW

Claim No. 458/T/IV/89

Bhagat Singh Verma. Petitioner
Versus

1. State of U.P. through Chief Secretary, Govt. of U.P.
2. Secretary, Appointment Deptt., Govt. of U.P., Lko.

..... O.P.s.

JUDGEMENT

This claim petition has been filed u/s 4 of the U.P. Public Services (Tribunals) Act, 1976 with the prayer that the warning contained in Annexure-1 be treated to be non-existing and the same be quashed alongwith Annexure-7 with a further declaration that any uncommunicated material prior to 1979 and any open vigilance enquiry against the petitioner be not taken into consideration against him.

The facts of the case in brief are that the petitioner was posted as ADM(E) in district Meerut in the year 1983-84. It has been alleged that for some reason the District Magistrate, Meerut ~~had been~~ annoyed with him and so he issued a warning dt. 9/9/85 (Annex.1). This warning was to be treated as an adverse entry. Prior to this the D.M., Meerut had recorded an adverse entry in his character roll for the year 1983-84 and the same was communicated to him by the State. Both these entries are connected with each other. On a memorial to the Governor, the adverse entry recorded in the character roll of the petitioner for the year 1983-84 was expunged under Annex. 4. The contention of the petitioner is that when the adverse entry for the year 1983-84 has been expunged, the adverse entry dt. 9/9/85 should also be treated to be non-existing as this entry is based on the same allegations. The O.P.s. are still considering the warning/adverse entry dt. 9/9/85 as adverse material and the same is a hurdle in his promotion. It has further been alleged that the warning contains vague facts which do not make a case of misconduct. Except ~~there~~ this warning no adverse material was ever communicated to the petitioner and he was given special grade 'T' the year 1987.

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prior to 1979 cannot be considered adversely against him. It has further been contended that the open Vigilance enquiry, if any, against the petitioner cannot be taken into consideration against him under Govt. orders dt. 12/6/78 and 30/11/83. (Axxs. 5&6.

It has also been contended that due to ~~the above warning at 3/4/1983 was not given nor was it~~ superseded and has not been given the higher grade while it has been given to his juniors. Hence this petition with the prayer mentioned above.

In the CA/WS it has been contended on behalf of the O.Ps. that the adverse remarks of the year 1983-84 cover the period of 1.4.1983 to 6.1.84 while the impugned warning has been given on account of a complaint enquired into by the then D.M. Recruit against a particular incident which took place on 16-7-1983. It is the petitioner's own presumption that the adverse material prior to 1979, if any, stands wiped off after he was given special grade of Rs. 2050-2500 in 1979. The Vigilance enquiry conducted against the petitioner has not been taken into consideration. The petitioner has now been promoted to the higher scale of Rs. 2300-2700 on 16/3/89. Other allegations ~~made~~ made by the petitioner have also been denied, and it has been contended that none of the grounds taken by the petitioner are tenable in the eye of law and the petition deserves to be dismissed.

Heard the arguments.

Learned counsel for the petitioner submitted that "warning" comes under the category of minor punishment, and a procedure has been laid for conducting enquiry for minor punishments, which has not been done in this case. He also submitted that any punishment order must contain reasons for the award of the punishment. This has also not been done in this case. He cited several judgments in which the Hon'ble Supreme Court has held that if an order has not been passed specifying reasons, the order becomes defective. Apart from this, the learned counsel for the petitioner also drew my attention that the warning has been awarded for the offence of misconduct. According to him, specifying has nowhere been indicated as an offence of misconduct.

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invited is innocent. During a social gathering, if any person is invited, it is not misconduct. In a social function like marriage persons who are known are invited to rejoice the occasion. Nowhere it has been stated that any of the persons who ~~were~~ were invited received "favour" of the petitioner. Hence inviting persons in the marriage ceremony does not constitute misconduct. Thus the issue of the impugned warning to the petitioner was totally uncalled for.

The learned counsel for the petitioner also submitted that the adverse entry contained in Annex. 2 and the warning contained in Annexure-1 relate to one and the same matter and since adverse entry has been deleted the warning should automatically go. He also drew the attention to the CA/WS where O.P.No. 1 has already submitted that Vigilance enquiry has been concluded and no adverse view is now being taken against the petitioner suggesting that the Vigilance enquiry found the petitioner not guilty.

The learned Presenting Officer raised a preliminary objection of maintainability of the petition on the ground of limitation. According to him no appeal is provided in the CCA Rules against the order of the Government. Memorial to the Governor does not fall within the ambit of appeal. The Claim Petition should have been filed within a year of the issue of the warning dt. 9/9/1985. Since the memorial to the Governor is not covered under the Departmental remedies, the claim petition is time barred.

The learned Presenting Officer also objected to raising the issue of not following the procedure or lack of indicating reasons for punishment at the stage of arguments and said that in the claim petition nowhere it was submitted.

He said that adverse remarks and warning are two different things and cannot be related to each other.

After considering the arguments I find that in proviso to Section 4 of the Tribunal Act, it has been stated as under:-

"Provided that no reference shall ordinarily

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ordinarily be entertained by the Tribunal until the Claimant has exhausted his departmental remedies under the rules applicable to him.

Explanation- For the purpose of this proviso, it shall not be necessary to require the Claimant (in the case of a Govt. servant) to avail also of the remedy of memorial to the Governor before referring his claim to the Tribunal."

This according to me opens two distinct possibilities. One the word "originarily" entitles the Tribunal to intervene in any extraordinary circumstances even earlier ~~before~~ ^{than} exhausting the departmental remedy and the word "not be necessary" in the subsection authorises a Claimant to use the departmental remedy if he so wishes and hopes that he can get relief without entering into litigation. The Govt. rejected the memorandum on 30/6/1988 and hence I hold that the claim petition is not time barred.

Coming to the merits of the case my attention was drawn to writ petition no. 1831 of 1982 Mahendra Singh Yadava IAS vs. Union of India etc. wherein the Hon'ble High Court of Allahabad (Lucknow Bench) held that vulgar, impudent and bawlingless remarks should not be permitted to be retained. I find that the petitioner has committed no offence, he has not violated any provisions of the Conduct Rules. Nowhere it has been stated that the petitioner accepted any gifts and misused his official position. A vague reference has been made to invitation of some people with whom the petitioner came in contact. Where is this act prohibited? For effective and smooth functioning of the district administration some restrained ~~honesty~~ sociality may be essential. In view of this I find that the warning issued vide Annexure-1 is untenable.

ORDER

The Claim Petition is allowed & the warning contained in Annexure-1 is quashed.

No orders as to costs.

~~Smt. Isha Devi : 115
(Chairman, Child Edu
(Dharmendra Doss) IAS
Chairman.~~

Kapil Dev

Advocate (High Court)

**Flat No. 3, Shyam Bhawan
33, Cantt. Road, Lucknow.**

ब अदालत श्रीमान

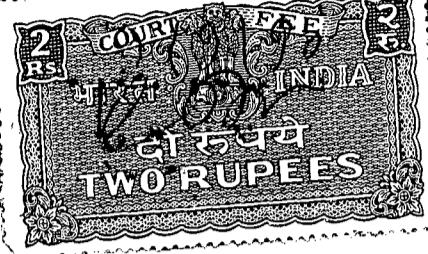
(A16) (15)

Before CAT Lucknow Benaras

महोदय

[वादी] अपीलान्ट

प्रतिवादी [रेस्पान्ट]



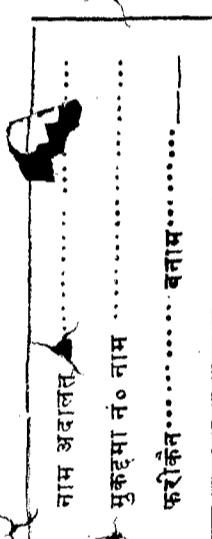
मुकदमा नं०

सन्

पेशी की ता०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

*B. S. Verma
Union of India, 38/other
Kalyan Deo, Adv/High
Court
A. K. Shukla, Advocates*



को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रूपवा जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अंगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना ता० १६ ई०

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

* * * * *

O.A. NO: 310 of 1990 (L)

COUNTER AFFIDAVIT ON BEHALF OF O.P. NO: 2



Bhagat Singh Verma

... Petitioner

Vs.

The union of India and others

... Opp. Parties.

COUNTER AFFIDAVIT OF SRI NIRMAL CHANDRA, AGED ABOUT 56 years, S/o: Shri (Late) Mul Raj, Special Secretary, to Government of U.P. Appointment Department, U.P. Secretariat, Lucknow.

Deponent

DEPONENT

I, the deponent above named do hereby solemnly affirm and state on oath as under:-



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1. That the deponent is Special Secretary to Government U.P. dealing with the aforesaid case and, as such, is well conversant with the facts deposed to below.
2. That the deponent has read and understood the contents of the application filed by Sri Bhagat Singh Verma and has understood the same. He has also been authorised to file this counter affidavit on behalf of State Government.
3. That before giving a parawise reply to the application, it is necessary to bring the following facts before the Hon'ble Tribunal.
 - a) That the applicant before filing this application had filed another application bearing O.A. No. 1350/88 - Bhagat Singh Verma Vs. Union of India and others, before the Central Administrative Tribunal at Allahabad. A copy of the application is annexed as ANNEXURE NO. 1 to this Counter - Affidavit.

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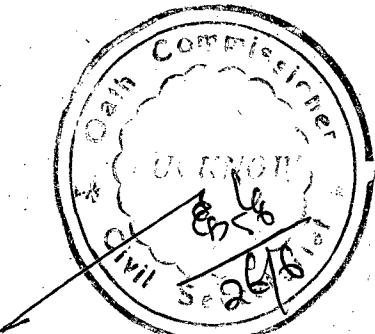
(b) That it is necessary to mention here that ~~the~~ before filing above application no. 1350/88 the applicant had filed a writ petition before Hon'ble High Court at Lucknow bearing no. 1305/88 as mentioned at page 11 of the application no. 1350/88.

(c) That the applicant in his aforesaid application no. 1350/88, at page 12 had given an undertaking that the writ petition shall be withdrawn and in view of this undertaking given by the applicant the Hon'ble Tribunal at Allahabad heard the case of the applicant.

(d) That it may be mentioned here that reliefs claimed by the applicant in writ petition and in application were similar except about the warning.

(e) That relief no. 3 in the application No. 1350/88 was wrongly claimed by the applicant as against the same

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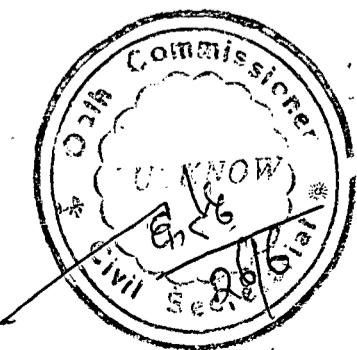
warning the applicant had filed a claim petition no. 448/F/III/88 before the U.P. Public Services Tribunal III which was later on transferred to Tribunal No. 4 and obtained the registration no. 458/T/IV/89.

f) That it will not be out of place to mention here that the writ petition no. 1305/88 is still pending before Hon'ble High Court, Lucknow.

g) That the application no. 1350/88 was contested by the State of U.P. who was arrayed as opposite Party no. III and IV in the application.

h) That a detailed reply was filed by the State of U.P. in the said application, a copy of which is annexured as ANNEXURE NO. CA-II to this counter affidavit.

i) That the applicant came to Lucknow and filed present application on 30.11.1990, bearing no. 310/90(L) before this Hon'ble Tribunal claiming almost similar reliefs as were prayed in application no. 1350/88 at Allahabad.



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j) That application no. 1350/88 was heard on 21st December, 1990 by Hon'ble Tribunal at Allahabad and on 16th January, 1991, judgement was pronounced. A copy of the judgement is annexed as ANNEXURE NO: CA-III to the counter affidavit.

k) That it will not be out of place to mention here that the applicant was posted as Regional Food Controller, Meerut in the year 1984 and as Project Administrator, Jan Jati Vikas Pradhikaran, Dehradun during 1980-82 and his conduct during these postings were enquired into and on 20.2.1990, Government took a decision to institute disciplinary proceedings against the applicant and by order dated 12.10.1990 an enquiry Officer has been appointed and a charge sheet has been issued.

4. That the contents of para 4.1 to 4.5 of the application need no comments.



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5. That as regards the contents of para 4.6 of the petition, it is stated that the selection committee constituted under Regulation 3 of IAS (Appointment by promotion) Regulations, 1955 met at Lucknow on March 14-16, 1989 (and not on 16.12.1988, as mentioned by the petitioner) and considered the case of the petitioner according to the interim order dated 16.12.1988 in claim petition no. 448/F/III/88 of the U.P. Public Service Tribunal, Lucknow. The selection committee included the name of the petitioner in the select list provisionally for promotion to I.A.S. Subject to the clearance by the U.P. Public Service Tribunal.

6. That the contents of para 4.7 of the petition are not disputed.

7. That the contents of paras 4.8 are admitted.

8. That the contents of paras 4.9 of the petition are not disputed. The circumstances in which the petitioner could not be appointed to the I.A.S. are being given in the following paragraphs.

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9. As regards the contents of paras 4.10 and 4.11, it is stated that the name of the petitioner was considered for inclusion in the I.A.S. select list according to the interim orders of the U.P. Public Service Tribunal dated 16.12.1988 and he was provisionally selected. A proposal to appoint Sri Verma to I.A.S. provisionally, subject to the condition that he might be reverted in case the result of the petition no. 448/F/III/88 ~~were~~ was against Shri Verma, was sent to Government of India, Department of personnel and Training vide State Govt. letter no. 2715-II-1-11/3/89 dated 21.6.89. A copy of the same is enclosed as ANNEXURE No. 4 to this C.A. The Government of India informed the state Government that as the petitioner's name was included provisionally in the I.A.S. select list for promotion to I.A.S. he could be appointed to I.A.S. only when his name was finally made unconditional in the select list by the Union Public Service Commission after the clearance of the result of the petitioner. However, a vacancy was kept reserved for applicant.

10. That the contents of para 4.12 of the writ petition are not disputed.



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11. That as regards the contents of para 4.13 of the petition, it is stated that the result of the claim petition 448/F/III/88 ~~dated 9.12.1989~~ (later transferred as claim petition 458/T/IV/89) was received by State Government on 8.1.1990 with petitioner's letter dated 7.1.1990. Before, however, the name of the petitioner could be recommended to the Government of India for appointment to IAS, certain enquiries, as mentioned above, ~~were~~ pending against the petitioner, relating to the period he was posted as Regional Food Controller, Meerut in 1984 and as Project Administrator, Janjati Vikas Pradhikaran, Dehradun during 1980-82, were finalised and on 20.2.90 a decision was taken by the State Government to start disciplinary proceedings against the petitioner. In the circumstances it was, therefore, not possible for the State Government to recommend the petitioner's name for appointment to the I.A.S. because for doing so, according to Regulation 9 (2) of the IAS (Appointment by Promotion) Regulations 1955, the State Government has to give a certificate that subsequent to the inclusion of the name of the officer concerned in the select list there has neither been any deterioration in his work so as to render him unsuitable for

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appointment to the service nor has any lapse in his conduct or performance of duties in his part ~~has~~ come to the notice of the State Government. The Union Public Service Commission and the Government of India were informed accordingly on 20.2.1990 and 28.2.1990.

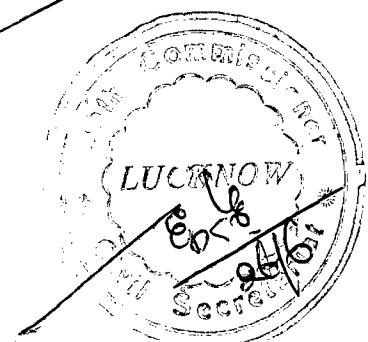
12. That the contents of para 4.14 are not disputed.

13. That as regards the contents of para 4.15, the position has been explained above in reply to para 4.13.

14. That in reply to the contents of para 4.16 of the petition, it is stated that the name of petitioner was included in the select list for promotion to I.A.S. provisionally. The detailed position has been explained above in reply to para 4.13 of the petition. The government of India appointed other persons according to merit list, in I.A.S. after keeping a vacancy reserved for the petitioner.

15. That in reply to paras 4.17, ~~and~~ 4.18 and 4.19 of the application, it is stated that petition has already been explained above in reply to para 4.13 of the petition.

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It is further stated that no selection committee meeting was held in 1988.

Instead, the meeting was held on March 14-16, 1989 in which petitioner's name was considered and included in Select List provisionally, subject to clearance by the U.P. Public Services Tribunal.

In view of the judgement dated 9.12.1989, passed by the Tribunal, ~~✓~~ ~~✓~~ proposal for appointment of the petitioner to I.A.S. after making his name unconditional, has already been sent to the Government of India by the State Government on 27.3.91 and their [✓] [✓] [✓] [✓] decision awaited. Further, in compliance with the directions of the Hon'ble Central Administrative Tribunal, Allahabad Bench dated 16.1.1991 in O.A. No. 1350/88 - Bhagat Singh Verma Vs. Union of India and others - the petitioner's case for appointment to I.A.S. on the basis of Select List 1987 [✓] [✓] ^{also} has been reconsidered by Review Selection Committee on 6th June, 1991. The proceedings of the meeting are awaited.

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VERIFICATION

I, Nirmal Chandra, aged about 56 years,
 S/o: Shri Mul Raj, Special Secretary to Government,
 U.P. Appointment Department, U.P. Secretariat, Lucknow
 do hereby verify that the contents of paras 1 and 2
 are based on ~~xxx~~ personal knowledge and paras
 3 to 15 are based on record rest paras
 are based on legal advice, [✓] which I believe to be
 true and that no part of it is false and nothing
 material has been suppressed in it. So help me God.

Lucknow: Dated,

June 26, 1991.

Nirmal

DEPONENT

I identify the deponent personally who ~~has~~ signed before me.

(कृष्ण कुमार जग्जी) Smashad
 अनु सचिव, (K.K. JAGGI)
 नियुक्ति विभाग, Under Secretary.

प्रो. एस. सचिवालय, लखनऊ

The deponent has read the affidavit
and understands the contents thereof

Dated June 26, 1991

Oath Commissioner
& Section Officer,
Judicial (Civil Litigation) Section

Serial No. 273/36273
 Sworn (or affirmed) by Sri Nirmal Chandra,
Special Secy, App. Deptt, U.P. Govt, Lucknow
 (who was identified by Sri K.K. Jaggi,
Under Secy, App. Deptt, U.P. Secy's Office)
 on the June 26, 1991
 at 4.50 P.M. in case No. C.A. No. 310/1990
 of in the C.A.T. Circuit
Bench, Lucknow
 Received a Fee of Rs. 12/- (Twelve)

Judicial (Civil Litigation) Section

Oath Commissioner
& Section Officer

(धीरेन्द्र कुमार)
 अनुभाग अधिकारी,
 व्याय अनुभाग-4 दीवानी वाह
 उत्तर प्रदेश शासन



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW

COUNTER AFFIDAVIT ON BEHALF OF O.I. NO.2

IN O.A. NO. 310 of 1990(L)

Bhagat Singh Verma *ASD*
Petitioner
Versus.

The Union of India and others. Opp. Parties.

ANEXURE NO. I

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD.

REGISTRATION NO. of 1988
(Under Section 19 of the Central Administrative Tribunals Act, 1985)

DISTRICT : MORADABAD

Bhagat Singh Verma ...Applicant
AND
Union of India and Others ...Respondents.

DETAILS OF APPLICATION

1. Particulars of the applicant :

- i. Name of Applicant) Bhagat Singh Verma
- ii. Name of father) Son of Todi Singh
- iii. Designation and office) Vice Chairman
in which employed.)
- iv. Office address) Moradabad Development
- v. Address for service) Authority, Moradabad.
of all notices.)

2. Particulars of the respondents :

- i. Name and/or designations of the respondents.
- ii. Office address of the respondents.
- iii. Address for service of all notices.

Proposed
I. Union of India
through Ministry of Personnel,
Public Grievances and Pension,
New Delhi.

II. Union Public Service Commission,
New Delhi through its Secretary.

III. State of Uttar Pradesh
through Chief Secretary,
Government of U.P.,
Lucknow.

IV. Secretary,
Appointment Department,
Government of U.P.,
Lucknow.



3. particulars of the orders/actions against which the application is made :

The instant application is being made for :

(i) Issue of writ of mandamus declaring the non-selection/appointment of the petitioner by the respondent No.1 and 2 to the I.A.S. Cadre as illegal and void,

(ii) Issue of writ of mandamus directing the respondents No.1 and 2 to promote the petitioner in the Indian Administrative Service Cadre from the date his juniors were promoted in the said cadre ignoring the warning issued to the petitioner on 9.9.1985 which was placed in the character-roll of the petitioner for the year 1983-84.

(iii) Issue of writ order or direction in the nature of mandamus declaring the warning placed on the character-roll of the petitioner vide letter dated 9.9.1985 as also the order rejecting the representation of the petitioner against the same and the order of respondent No.3 dated 30.6.1988 rejecting the said memorial as, non-est.

4. Jurisdiction of the Tribunal

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

5. Limitation

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



ACO

6. Facts of the Case :

The facts of the case are as under :

(i) That the applicant is a member of the Provincial Civil Service(Executive Branch)of the Government of Uttar Pradesh and belongs to 1963 batch and his name in the seniority list of officers of Provincial Civil Service(Executive Branch) is at Serial No.79.

(ii) That the applicant is at present posted as Vice-chairman,Moradabad Development Authority,Moradabad and is drawing his pay in the pay scale of Rs.2050-2500. The applicant is at present drawing the maximum salary in the said pay scale.

(iii) That the applicant was promoted to the senior scale in the P.C.S.Cadre in August,1973 and thereafter in the year 1978, the applicant was placed in the selection grade of P.C.S.Cadre i.e.in the grade of Rs.2050-2500.

(iv) That since the date the applicant has been placed in the aforesaid selection gards, no adverse entry or adverse remark ever accorded in the character-roll of the petitioner.No adverse entry or adverse remark was ever communicated to the petitioner. The character-roll of the applicant as such is unblemished.

(v) That during the year 1983-84, the applicant was posted as Additional District Magistrate(Executive-City),Meerut under the direct administrative control of Sri T.George Joseph who was the then District Magistrate,Meerut.



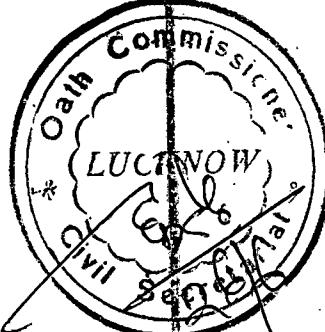
PLD

(vi) That for the reasons best known to the District Magistrate, Meerut who was the immediate superior officer of the applicant, he became annoyed with the applicant and was out to somehow or the other harm the interest of the petitioner. In pursuance of the aforesaid motive, the then District Magistrate, Meerut recorded an adverse entry in the character-roll of the applicant for the period 1.4.1983 to 6.1.1984. The said adverse entry was communicated to the applicant through letter of the State of Uttar Pradesh dated 26.3.1985. A true copy of the said letter is being filed as ANNEXURE-I.

(vii) That a perusal of the aforesaid entry shall establish that the then District Magistrate, Meerut specifically appreciated the work and conduct of the petitioner. However, in the last part of the entry, he made certain adverse remarks against the petitioner.

(viii) That feeling aggrieved by the accordance of the aforesaid adverse entry, the applicant preferred a representation dated 12.7.1985 before the respondent No.3 which was however rejected as communicated by letter dated 1.7.1986. On a memorial preferred by the petitioner, the adverse entry was expunged on 27.6.87. A true copy of the order is being annexed herewith and marked as ANNEXURE - II.

(ix) That in the meanwhile, on the report of the then District Magistrate, Meerut, the State Government, respondent No.3 vide letter dated 9.9.1985 issued a warning to the petitioner and directed that the same may be placed on the character-roll of the applicant. A true copy of the said letter dated 9.9.1985 is being filed as ANNEXURE-III.



(x) That at the very outset, it may be pointed out that the allegations made in the warning were, on the face of it, vague and did not in any manner impute any misconduct on the part of the applicant.

(xi) That it may further be pointed out that the only allegation against the petitioner, as borne out from the warning, was that during the marriage of his niece, the applicant had invited all Excise Licencees, all Arms dealers and all Cinema Licencees of the District of Meerut.

(xii) That it is specifically submitted that under the U.P. Government Servants Conduct Rules or under any Government order or direction, there is no prohibition in socialising with the constituents.

(xiii) That there is no allegation against the applicant that he accepted gifts from any of the persons invited in the marriage or in any manner mis-used his official position. Thus, the warning itself is on the face of it misconceived in, as much as from the allegations made therein, no misconduct under the U.P. Government Servant's Conduct Rules, 1956 is made out.

(xiv) That it may further be stated that the adverse remark made in the character-roll of the petitioner by the then District Magistrate, Meerut was in respect of the same period for which the alleged warning has been issued.

(xv) That feeling aggrieved by the aforesaid warning, the applicant filed a representation dated 20.3.1986 to the respondent No.3. A true copy of the same is filed as ANNEXURE-IV.



Abd

(xvi) That the said representation (Annexure-IV) was however rejected by the respondent No.3.

(xvii) That the applicant aggrieved by the rejection of his representation against the warning, preferred a memorial to His Excellency The Governor of Uttar Pradesh. A photostat copy of the said memorial is being filed herewith as ANNEXURE-V.

(xviii) That so far as the relief against the warning was concerned, the applicant was informed vide letter 30.6.1988 by the respondent No.3 that the said memorial has not been accepted by the State Government. A true copy of the said letter dated 30.6.1988 is being filed herewith and marked as ANNEXURE-VI.

(xix) That as already demonstrated herein above, the adverse part in the entry of the year 1983-84 specifically pertains to the same period for which the warning has been issued to the petitioner and all the two entries further suggest that the same were based on the same incident.

(xx) That the adverse entry having been expunged, there was no justification for refusing to set aside the warning which pertained to the same period and related to the same incident as will be borne out from the facts stated hereinbefore.

(xxi) That since the adverse part of the entry and the warning were more or less of the same nature and based on the same incident, the two could either survive together or should have been expunged together.



(P)

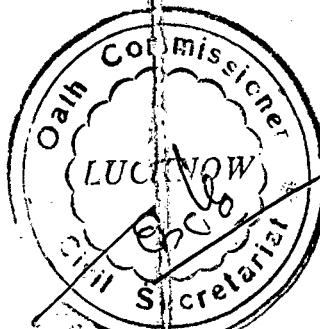
(xxii) That in view of the facts and circumstances stated above, it shall be clear that the issuance of the warning with a direction to be kept on the character-roll of the applicant as also the rejection of the representation and memorial in respect thereof is manifestly illegal and arbitrary.

(xxiii) That inspite of the fact that when the said memorial was in existence, the applicant was elevated to the post of Joint Development Commissioner, Meerut which post is of higher status and responsibility than the post of Additional District Magistrate.

(xxiv) That having regard to the meritorious service of the petitioner and his sincerity towards his service as also best ability to successfully handle challenging jobs, the applicant was posted as Additional District Magistrate(Executive-City), Meerut in October, 1982 to control the riots which were continued for several months. The applicant on account of his impartiality, fairness, hard work and quick decisions was able to control the communal riots and his efforts in that respect were appreciated through-out.

(xxv) That even after accordance of the adverse entry and warning, the applicant was posted as Regional Food Controller, Meerut and thereafter as Joint Development Commissioner, Meerut.

(xxvi) That at present, the applicant is working on the post of Vice-Chairman, Moradabad Development Authority, Moradabad. All the three posts are usually held by officers of I.A.S.Cadre. In these circumstances, there can be no manner of doubt that the applicant's performance throughout has been of outstanding calibre.



(xxvii) That in the year 1984, the Union Public Service Commission prepared a select list of the officers of the P.C.S. Cadre(Executive Branch) for promotion to the I.A.S.Cadre.

(xxviii) That under the Indian Administrative Service(Appointment by promotion)Regulations,1955, Selection Committee was constituted for preparation of list of suitable officers for promotion to the Indian Administrative Service.

(xxix) That the said Selection Committee,after considering the character-roll entries of the applicant,found the applicant suitable for being empanelled in the list of suitable officers under Regulation 5 of the aforesaid 1955 Regulations.

(xxx) That it is specifically stated that the name of the petitioner was mentioned in the list of suitable officers prepared by the Selection Committee under Regulation No.4 of 1955 Regulations in the month of December,1984.

(xxxi) That in accordance with the 1955 Regulations, the said select list was to be reviewed and revised every year and names of the officers placed in the select list is ordinarily repeated every year unless they incur some disqualification or some adverse entry or remark is recorded for the subsequent years.

(xxxii) That thus normally, the name of the applicant should have been repeated in the select list of 1985. However, because of the communication of the adverse entry and warning to the petitioner referred to above the name of the applicant was not retained in the select list for the year 1985.



(xxxiii) That in the select list of the year 1985, two other officers of P.C.S.Cadre namely, Shri J.N.Dwivedi and Shri R.P.Singh found mentioned as suitable for being promoted to the I.A.S.Cadre. It is submitted that Shri J.N.Dwivedi is senior to the applicant while Shri R.P.Singh is junior to the applicant.

(xxxiv) That it is submitted that the adverse entry was recorded in the character-roll of Shri J.N.Dwivedi for the year 1984-85 while in the character-roll of Shri R.P.Singh, an adverse entry was made for the period between 16.11.1984 to 31.3.1985.

(xxxv) That to the best of the knowledge of the applicant, the said two officers had preferred representation against the aforesaid entry. Thus, the said entries were not taken into consideration by the Select Committee and the names of the aforesaid two officers were mentioned in the select list prepared in the month of December, 1985.

(xxxvi) That the case of the petitioner was identical ⁱⁿ as much as his representation against the adverse entry was also pending on the relevant date, yet he was discriminated and his name was not retained in the select list prepared in the month of December, 1985.

(xxxvii) That it may be pointed out that both Shri J.N.Dwivedi and Shri R.P.Singh have now been appointed in I.A.S.Cadre in pursuance of the select list of 1985.

(xxxviii) That even after expunction of the adverse entry awarded to the applicant for the year 1983-84, a select list was prepared by the Committee in the month of December, 1987.



(A67)

(xxxix) That for the reasons best known to the respondents, this time again the name of the petitioner was not restored to the select list prepared in the month of December, 1987 while Juniors to the petitioners, namely Shri Pramod Kumar whose name in the seniority list was below the applicant i.e. at serial no. 81, has been promoted to I.A.S.Cadre vide notification dated 6.5.1988. A true copy of the said notification is being filed herewith as ANNEXURE-VII.

(xxxx) That there is absolutely no justification for not including the name of the petitioner in the select list prepared in the year 1985, and 1987 in as much as after expunction of the adverse entry for the year 1983-84 there remained nothing adverse which could justify the non-retention of the petitioner in the select list and for his not being promoted to the I.A.S.Cadre in pursuance thereof.

(xxxxi) That in pursuance of the select list for the year 1987, after necessary consultation with the Union Public Service Commission, a notification dated 6.5.1988 has been issued for appointment by promotion to the I.A.S.Cadre of incumbents working in the State Civil Service of Uttar Pradesh. A true copy of the notification is being filed herewith as ANNEXURE-VII. It was only after the said notification was issued that the applicant could receive information of his not being included in the select list prepared in the month of December, 1987.

Parul



(xxxxii) That it is further submitted that the warning awarded to the petitioner vide letter dated 9.9.1985 and directing the same to be placed in the character-roll of the application, cannot be the basis for declaring the applicant unsuitable for promotion to I.A.S.Cadre.

PKD

(xxxxiii) That as already held by various High Courts and Hon'ble Supreme Court of India, issuance of warning is not a penalty and an incumbent can not be refused promotion on the basis of thereof.

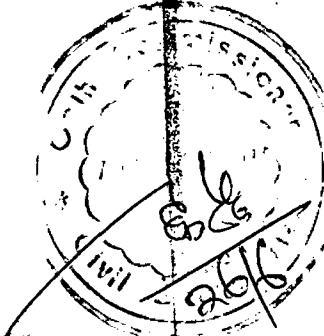
(xxxxiv) That even otherwise from the facts narrated above, it shall be amply clear that the warning issued to the petitioner is manifestly misconceived in as much as no misconduct under the Rules is made out for socialising with the constituents.

(xxxxv) That thus practically, there is nothing adverse in the character-roll of the petitioner which could justify his non-inclusion in the select list for the year 1987.

(xxxxvi) That at this stage, It may further be brought this Hon'ble Tribunal that under the wrong advice, the petitioner had filed a writ petition being writ petition No.1305 of 1988 in the Hon'ble High Court of Judicature at Allahabad at Lucknow for the following reliefs :-

Dated
(A) Issue a writ, order or direction in the nature of mandamus commanding the opposite parties to promote the petitioner in the I.A.S.Cadre from the date such promotions were given to his juniors.

(B) Issue a writ, order or direction in the nature of mandamus commanding the opposite parties not to make any further promotions to the I.A.S.Cadre of the State Civil Service of Uttar Pradesh to the Indian Administrative Service without promoting the petitioner to the I.A.S.Cadre.



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(C) Issue an appropriate writ or direction to the opposite parties not to take into consideration the warning contained in Annexure No.I in any service benefits of the petition declaring it as non-existent and non-existent.

(D) Issue any other writ, order or direction as may be deemed just and proper in the circumstances of the case.

(E) Waive the condition of 14 days notice to the opposite parties as the matter is Urgent.

(F) Allow the costs of this petition to the petitioner.

(xxxxvii) That now the petitioner has been advised that the reliefs in so far as they pertain to promotion to, I.A.S.Cadre, cannot be granted in the petition under Article 226 of the Constitution of India and the petitioner can only approach this Hon'ble Tribunal under section 19 of the Central Administrative Tribunals Act,1985. Thus, the reliefs pertaining to recruitment and promotion to I.A.S. Cadre are beyond the scope and jurisdiction of the writ petition No.1305 of 1988 and the petitioner shall withdraw the reliefs in respect thereof by filing suitable applications before the Hon'ble High Court.

(xxxxviii) That the facts and circumstances demonstrated herein above shall categorically establish that the petitioner has been superseded and ignored by the opposite parties in respect of the matter pertaining to recruitment and promotion to I.A.S.Cadre in a most illegal and arbitrary manner while his juniors have been granted promotion to the said cadre manifestly in violation of Articles 14 and 16 of the Constitution of India.

(xxxxviii) That the petitioner is filing the instant application on the following amongst other —

GROUNDS

- I. Because in the matter of promotion, the applicant has been subjected to arbitrary and discriminatory treatment and his fundamental rights as guaranteed to him under the Article 14 and 16 of the Constitution of India have been denied to the applicant.
- II. Because it is settled view of this Hon'ble Court and Hon'ble Supreme Court that adverse material if any against which a representation/memorial is pending, can not be made the basis of suppression at the time of selection for promotion to next higher post.
- III. Because the applicant has been denied the rights of his promotion to I.A.S.Cadre which have been granted to his juniors in an arbitrary and discriminatory manner and the applicant has been illegally denied his fundamental rights guaranteed to him under articles 14 and 16 of the Constitution of India.
- IV. Because the adverse entry have been expunged for the year 1983-84, the warning pertaining to a single day falling in" between this period merged in the order of expunction and the warning annexure No.III is liable to be declared as non-existent and non-ext.

V. Because the adverse entry having been expunged, there was no justification for refusing to set-aside the warning which pertained to the same period and related to the same incident as will be borne out from the facts stated hereinafter.

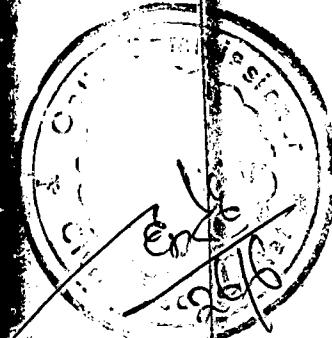
VI. Because since the adverse part of the entry and the warning were more or less of the same nature and probably based on the same incident, the two could either survive together or should have been expunged together.

VII. Because the issuance of the warning with a direction to be kept the same on the character-rol of the applicant as also the rejection of the representation and memorial in respect thereof is manifestly illegal and arbitrary.

VIII. Because the applicant was elevated to the post of Joint Development Commissioner, Meerut which post is of higher status and responsibility than the post of Additional District Magistrate.

IX. Because the case of the applicant was identical in as much as his representation against the adverse entry was also pending on the relevant date, yet he was discriminated and his name was not retained in the select list prepared in the month of December, 1985.

X. Because there is absolutely no justification for not including the name of the applicant in the select list prepared in the year 1985 and 1987 in as much as after expunction of the adverse entry for the year 1983-84, there remained nothing adverse



which could justify the non-retention of the applicant in the select list and for his not being promoted to the I.A.S.Cadre in pursuance thereof.

XI. Because the warning awarded to the applicant vide letter dated 9.9.1985 and directing the same to be placed on the character-roll of the applicant, cannot be the basis for declaring the applicant unsuitable for promotion to I.A.S.Cadre.

7. Relief prayed for

(i) Issue of writ of mandamus declaring the non-selection/appointment of the petitioner by the respondent No.1 and 2 to the I.A.S. Cadre as illegal and void,

(ii) Issue of writ of mandamus directing the respondents No.1 and 2 to promote the petitioner in the Indian Administrative Service Cadre from the date his juniors were promoted in the said cadre ignoring the warning issued to the petitioner on 9.9.1985 which was placed in the character-roll of the petitioner for the year 1983-84.

Final
(iii) Issue of writ order or direction in the nature of mandamus declaring the warning placed on the character-roll of the petitioner vide letter dated 9.9.1985 as also the order rejecting the representation of the petitioner against the same and the order of respondent No.3 dated 30.6.1988 rejecting the said memorial as, non-est.

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8. INTERIM ORDER

For the facts stated in the application, it is expedient in the interest of justice that the respondent may be restrained from making any further promotions to the I.A.S.Cadre from State Civil Service of Uttar Pradesh to the Indian Administrative Service without promoting the petitioner to the Indian Administrative Service.

9. DETAILS OF REMEDIES EXHAUSTED

No remedy is available to the petitioner qua reliefs 1,2,3, so far as relief no.3 regarding mandamus is concerned, the petitioner has already exhausted his departmental remedies and his representation and memorial have been rejected details whereof have already been given herein above.

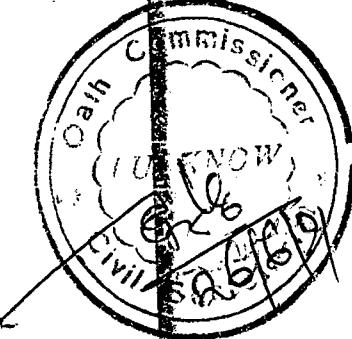
10. Matter not pending with any other court etc.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of Law or any other authority or any other bench of the Tribunal, having jurisdiction to adjudicate upon the reliefs prayed for.

11. Particulars of Bank Draft/postal order in respect of the application fee.

....

- i. Name of Bank on which drawn
- ii. Demand draft No.
- iii. Number of Indian Postal order(s) OHL NO. DD 638868
for Rs. 50/- only



(AP28)

iv. Name of issuing post office. High Court (A.O. Aled)

v Date of issue of
Postal Order(s) 30.11.88

vi Post Office at which payable. Aled.

12. Details of Index

An index in duplicate containing the details of the documents to be relied upon is enclosed.

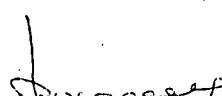
13. List of enclosures :

As per Index.

IN VERIFICATION

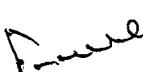
I, Bhagat Singh Verma, aged about 49 years son of Sri Todi Singh, Vice-chairman, Moradabad Development Authority, Moradabad verify that the contents from paras 1 to 13 of this application are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place:


(Bhagat Singh Verma)
Applicant.

Date:

To,


The Registrar,
Central Administrative Tribunal.
Addl. Bench at Allahabad.



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW

COUNTER AFFIDAVIT ON BEHALF OF O.P. NO.2

IN O.A. NO. 310 of 1990(L)

Bhagat Singh Verma Petitioner

Versus.

The Union of India and others... Opp. Parties.

ANNEXURE NO. II

Before the Central Administrative Tribunal Additional
Bench at Allahabad.

COUNTER AFFIDA VII

IN

Registration No.1350 of 1988

(District : Moradabad)

Bhagat Singh Verma Applicant.
versus.

Union of India and others. Respondents.

Affidavit of K.D.Tandon aged about 57

years, son of (Late) Shri M.C.Tandon,

Joint Secretary to Government U.P.

Appointment Department, U.P. Govt.
Lucknow.

(Deponent)

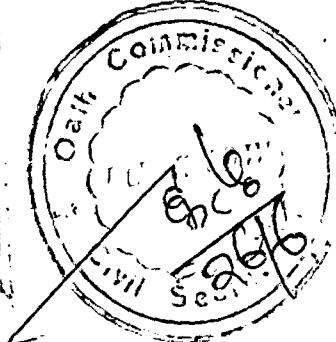
I, the deponent, above named, do hereby solemnly
affirm and state on oath as under:-

1. That the deponent is Joint Secretary to Govt.

U.P. dealing with the aforesaid case and as such, is
well conversant with the facts, deposed to below.

2. That the deponent has read and understood the
contents of the application filed by Sri Bhagat Singh
Verma and has understood the same. He has also been

Deponent



AP25

(A76)

authorised to file this counter affidavit for and on behalf of the State Government.

3. That the contents of paragraph 6(i) of the petition are not disputed except that the name of the petitioner is at serial no. 69 instead of at serial no. 79 in the Graduation list corrected upto 31.3.1988.

4. That the contents of paragraph 6(ii) of the petition are admitted.

5. That the contents of paragraph 6(iii) of the petition are not disputed except that the petitioner was promoted to the senior scale in P.C.B. in November 1973 and not in August 1973 as alleged.

6. That the contents of paragraph 6 (iv) of the petition are not admitted.

7. That the contents of paragraph 6(v) of the petition are admitted.

8. That in reply to the contents of paragraph 6(vi) of the petition, it is submitted that the petitioner was awarded adverse remarks for the period

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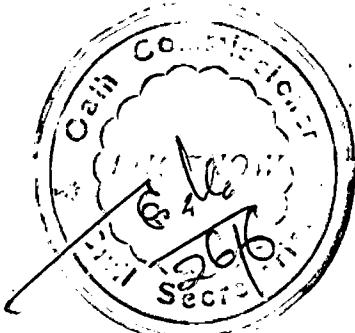
1.4.1983 to 6.1.1984 by the then District Magistrate Meerut, which was communicated to the petitioner vide Govt.'s letter dated 26.3.1985 as shown in Annexure-1 to the petition. It may be mentioned here that the petitioner has attributed some motives, in pursuance of which the then D.M. Meerut is alleged to have recorded the impugned entry, but he has not impleaded him as party. The reply to the said allegation can only be given by the then D.M. Meerut who has not been impleaded as party by the petitioner. There is no material on record to show that the then District Magistrate was annoyed with petitioner.

9. That the contents of paragraph 6(vii) of the petition are admitted.

10. That the contents of paragraph 6 (viii) of the petition are not disputed.

11. That the contents of paragraph 6 (ix) of the petition are not disputed.

12. That the contents of paragraph 6(x) of the petition are denied. In reply thereto it is stated that the impugned warning was given on the basis of



serious complaints against the petitioner and on

consideration of ~~contents~~ ^{Report} of the then District

Magistrate Meerut.

13. That the contents of paragraph 6(xi) of the petition are not admitted as stated. In reply thereto

it is stated that the petitioner invited all Excise Licences, all Arms Dealers and all Cinema Licences who are indirectly associated with him in his capacity as Incharge of Arms Licences, Entertainment Tax and Excise work of the District, which was not proper on the part of the petitioner, being a senior Officer.

14. That the contents of paragraphs nos. 6(xii) and 6 (xiii) of the petition need no comments.

15. That in reply to the contents of paragraph 6(xiv) of the petition, it is submitted that the warning was issued for a particular incident which took place on 16.7.1983, in respect of which complaints and comments of District Magistrate were received.

16. That the contents of paragraphs nos. 6(xv) and

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A79

6(vi) of the petition are not disputed. The representation against the said warning is dated 20.3.1986 which is Annexure V and not IV as mentioned by the petitioner.

17. That the contents of paragraph 6(xvii) of the petition are not admitted. Annexure IV is a copy of representation dated 20.3.1986 which was filed against the impugned warning as stated in foregoing para, the same was rejected.

18. That the contents of paragraph 6 (xviii) of the petition are not disputed.

19. That the contents of paragraph 6(xix) of the petition are not admitted. The position has already been explained in para XIV above.

20. That the contents of paragraphs nos. 6(xx), 6(xxi) and 6(xxii) of the petition are not admitted.

21. That the contents of paragraph 6 (xxiii) of the petition are not disputed.

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RJD

22. That the contents of paragraphs nos. 6(xxiv)

and 6(xxv) of the petition are not admitted as

stated. The transfers and postings referred ^{to} in paras
more or less
under reply were made in routine way.

23. That the contents of paragraph 6(xxvi) of the

petition are not admitted as stated. All the 3 posts

viz. Vice Chairman, BR Development Authority, RFC

and Joint Development Commissioner are generally held

both by the officers of IAS cadre as well as by the

Officers of PCS cadre.

24. That the contents of paragraphs nos. 6(xxvii)

and 6(xxviii) of the petition need no comments.

25. That with regard to the contents of

paragraphs nos. 6(xxix) and 6(xxx) of the petition,

it is stated that the Selection Committee which met

in December 1984 considered the case of the petitioner

along with other eligible officers but his name was not

included in the selection list approved by Government
Union Public Service Commission
on 7.6.85.



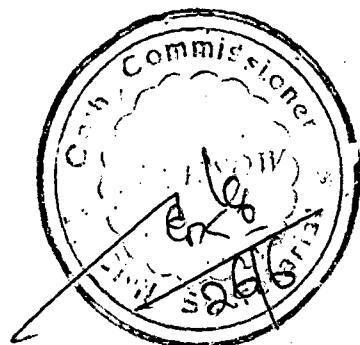
ASR

26. That with regard to the contents of paragraph 6(xxvi) of the petition, it is stated that I.A.S. (Promotion) Regulations, 1966 provide that the Select List shall be reviewed and revised every year. The Select list is prepared in accordance with the ^{said} procedure of selection laid down in the rules.

27. That with regard to the contents of paragraph 6 (xxvii) of the petition, it is stated that the name of the petitioner was not included in the Select List approved by the U.P. S.C. on the basis of Selection Committee meeting held in December 1984. The name of the petitioner was again considered by the Selection Committee in its meeting held in December 1985 and again his name could not find place in the Select List then prepared for promotion to I.A.S.

28. That the contents of paragraph 6(28) of the petition needs no comments.

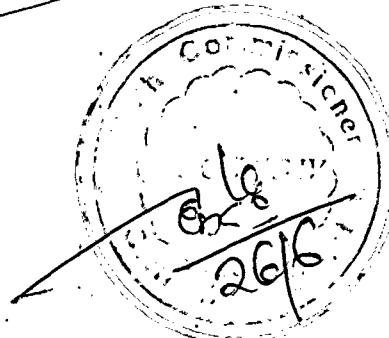
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R.D.D.

20. That with regard to the contents of paragraphs nos. 6(xxiv) and 6(xxx) of the petition, it is stated that the entry for 1984-85 in respect of Sri J.N. Dwivedi was completed on 19.2.86. This entry contained adverse remarks which were communicated to Sri Dwivedi vide letter dated 3.3.86. Sri Dwivedi submitted his representation against those remarks and the State Government after due consideration expunged the whole adverse entry and also certified his integrity. These facts were brought to the notice of Selection Committee which again reviewed the case of Sri Dwivedi in its meeting held on 22.3.86. The adverse portion of the entry of Sri R.F. Singh for the period 16.11.84 to 31.3.85 recorded by the then Commissioner, Allahabad Division was completely over-ruled by the Accepting Authority, the then Chairman, Board of Revenue. The said remarks were therefore not treated to be adverse in view of the instructions contained in State Govt. C.O. No. 36/1/76, Karmik (2) dated 10.8.76.

Bawali



A/23

30. That the contents of paragraph 6(xxxvi) of the petition are not admitted as they stand. The memorial of the petitioner against the adverse entry for 1983-84 was also considered by State Government and decision thereon was communicated to the petitioner on 27.6.87.

31. That with regard to the contents of paragraph 6(xxxvii) of the petition it is stated that Sri J.N. Dwivedi was appointed to I.A.S. on 17.10.86 from the Select List which was approved by the Union Public Service Commission on 26.3.86 while Sri Ramendra Pratap Singh was appointed to I.A.S. on 19.11.87 from the Select List which was approved by the Union Service Commission on 22.1.1987.

32. That with regard to the contents of paragraphs nos. 6(xxxviii) and 6(xxxix) of the petition it is stated that the name of the petitioner was not included in the Select List prepared by the Selection Committee in its meeting held in December 1987 and

Final

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ADW

Approved by the Union Public Service on 1.2.1988.

Sri Ramrod Kumar Pandey was appointed to IAS on 6.6.83 from the aforesaid Select List as his name was included in the Select List. The Selection Committee categorized the petitioner as 'Good' and Sri I.K.Pandey as 'Very Good'.

22. With regard to the contents of paragraph 6(XXXX) of the petition, it is stated that the name of the petitioner was not included in the Select Lists for promotion to I.A.S. prepared by the Selection Committee which met in the years 1985, 1986 and 1987. The petitioner was given a warning by the State Government on 8.9.1986 on complaints received against the petitioner while he was working as A.D.M.
 (Administration) City, Meerut, against which he has filed a Writ Petition No.1305 of 1988 in the Hon'ble High Court, Lucknow Bench, Lucknow and in the U.P. Public Service Tribunal III Lucknow wide Claim Petition No.449/F/III/1988 which are still pending in the Hon'ble Courts. The PST has on 16.12.88 passed an

Final





order, copy of which is enclosed herewith as
Annexure No.1 to this counter affidavit.

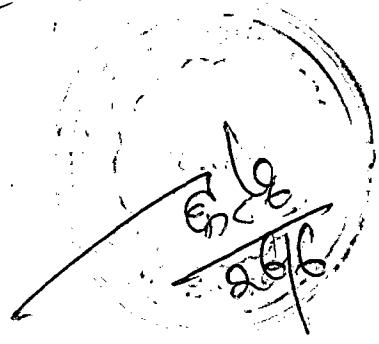
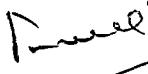
34. That the contents of paragraph 6(xxxxi) of
the petition need no comments.

35. That the contents of paragraph 6(xxxxii) of
the petition are denied.

36. That the contents of paragraph 6(xxxxiii) of
the petition needs no comments.

37. That the contents of paragraph 6(xxxxiv) of
the petition are denied. In reply thereto it is stated
that the reply in regard to the contents of this para
has already been given in reply to para (xi), (xii)
and (xiii) of the petition.

38. That the contents of paragraph 6 (xxxxv)
of the petition are denied. In reply thereto it is
stated that the Selection of P.C.S. Officers for
inclusion in the select list is done by the Selection
Committee in accordance with the provisions of I.A.S.


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2/2/66

Ref 6

(Appointment by Promotion) Regulations, 1955 and the petitioner cannot substitute his judgment for the decision of the Selection Committee.

33. That the contents of paragraph 6 (xxxxvi) of the petition are not disputed.

40. That the contents of paragraph 6 (xxxxvii) of the petition relates to arguments.

41. That the contents of paragraph 6 (xxxxviii) of the petition are denied. It is further stated that the facts of the case have been narrated in the replies given in aforesaid para, the case of the petitioner was considered by the Selection Committee for promotion to I.A.S. alongwith other eligible officers in the years 1986, 1986 and 1987 but the petitioner was not included in the Select Lists for these years.

42. That it is submitted that according to Regulation 6(1) of I.A.S. (Appointment by Promotion) Regulations, 1955, the number of members of the State

Final



ASR

Service to be included in the Select List shall not be more than twice the number of substantive vacancies anticipated in the course of the period of 12 months commencing from the date of preparation of the list in the posts available for them under rule 8 of the I.A.S. (Recruitment) Rules or 5 % of the senior duty posts borne on the cadre of the State, which ever is greater. The number of senior duty posts borne on the I.A.S. Cadre were 371, 5 % of which was 18. The Selection Committee met on 11.12.84. The number of vacancies in the promotion posts upto a period of 12 months from the date of the meeting were 93. The U.P. S.C. therefore approved the Select List of 46 officers only. The name of Sri Bhairat Singh Verma appeared at serial no. 47 of the list prepared by the Selection Committee. As such the name of the applicant was not included by the U.P.S.C. in the Select List approved by the Commission on 7.6.1946, on the basis of selection made on 11.12.1984.

It is further submitted that the Selection Committee, which met on the 26th December 1985 and on 01.12.86 also

D. m. d.

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26/6

Addl

considered the name of Mr P.S. Verma but did not find him suitable for inclusion in the Select List prepared in both these years on an overall relative assessment of his service record. It may be submitted here that the A.C.R. for the period 1.4.83 to 6.1.84, which was adverse was completed on 31.1.86 and communicated to the petitioner vide P.G. letter No. 1143/11-6-2/6(55)/84 dated 26.3.85. At the time of Selection Committee meeting held on 24.11.85 A.C.R. of the petitioner for 1984-85 ^{disc} had been completed and a warning for his work as A.D.M. (Administrative City) Meerut was placed in his C.R. which was communicated to the petitioner on 2.9.85. The Selection Committee was also informed that the representation of the petitioner against the adverse remarks for the period 1.4.83 to 6.11.84 had been received but the decision of the State Government was yet to be taken. The A.C.R. of the petitioner for 1985-86 was completed on 29.5.87. The Selection Committee considered the case of the petitioner each year from 1984 to 1987 but the petitioner could not find place in the Select Lists which were approved by the

Dwarka

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H.P.C. on 7.6.85, 25.3.86, 22.1.87 and 1.2.88.

It is further stated that according to the provisions laid down under Regulation 5(3) and 5(4) of the Promotion Regulations, 1956 the Selection Committee classifies the eligible officers as 'Outstanding', 'Very Good', 'Good' or 'Unfit' as the case may be on an overall relative assessment of their service records. The Selection Committee in the Selection List includes the required number of names first from amongst the officers finally classified as 'Outstanding', then from amongst those classified as 'Very Good' and thereafter from amongst those similarly classified as 'Good' and the order of names inter-se within each category shall be in order of their seniority of the State Civil Service.

The criteria laid down under Regulation 5(4) by the amended Regulation for categorising officers as 'Outstanding', 'Very Good', 'Good', or 'Unfit' as the case may be on an overall relative assessment of service records has been upheld by the Supreme Court in the case of Sri P.C. Desai versus Union of India

P.C.D.

E.C.C.

26/6

PAC

(AIR 1987-SC-593), and further reaffirmed by the Supreme Court in Uttar versus P.L. Dev (AIR- 1988-SC-1069).

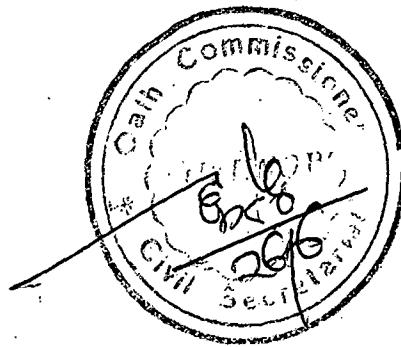
43. • That in view of the facts stated above, the petition is devoid of merits and deserves to be dismissed.

I, the defendant, above named, do hereby verify and swear that the contents of paragraphs nos. 1 and 2 of this affidavit are true to my personal knowledge, and those of paragraphs nos. 3 to 42 of this affidavit are true according to the records of the case, and which all I believe to be true, that no part of it is false and nothing material has been concealed in it. So help me God.

(H.B. Tandon)
Defendant.

I identify that the defendant is personally known to me and he has signed before me.

(K.N. Jaggi)
Section Officer



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW

COUNTER AFFIDAVIT ON BEHALF OF O.P. NO.2

IN O.A. NO. 310 of 1990(L)

Bhagat Singh Verma Petitioner

Versus.

The Union of India and others... Opp. Parties.

ANNEXURE NO. III

649
C 1
CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH ALLAHABAD
....

O. A. No. 1383/1988.

Bhagat Singh Verma Applicant.

v.

Union of India and others... Respondents.

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

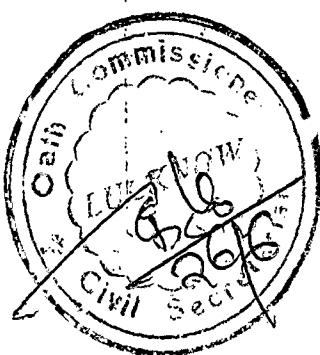
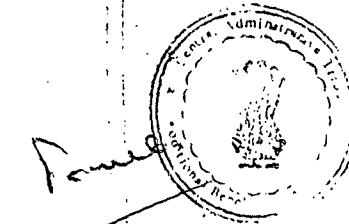
Hon'ble Mr. K. Obriyan, A.M.

(By Hon. K. Obriyan, A.M.)

This application u/Sec. '19' of the Administrative Tribunals Act, 1985 has been filed for a direction to the respondents to promote the petitioner to the Indian Administrative Services from the date of promotion of his juniors, ignoring the warning issued to the applicant on 09.09.85.

2. Counter and Rejoinder have been exchanged. We have heard the counsel of the parties. The learned counsel for the applicant urged that the applicant was eligible for consideration for inclusion in 1987 Select List for appointment to I.A.S., but was not included in the list as he was under a cloud of warning issued to him in 1985, relating to certain alleged acts of omission and commission during the year 1983-84. The applicant moved the U.P. State Administrative Tribunal, for setting aside that adverse remark, and was successful in obtaining a favourable order. The order of warning issued was quashed; as such there is nothing adverse against the applicant standing in the way of consideration for inclusion in 1987 list when he was eligible.

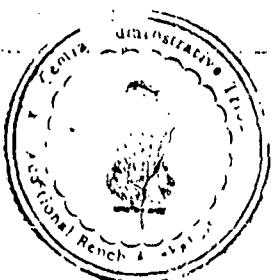
Contd..... p2/-



APR

The learned counsel for the respondents admitted that the warning issued has been quashed, and conceded that there is no bar for considering the applicant for inclusion in the select list.

3. The fact that the applicant was eligible for consideration in the 1987 Select List is not in dispute. In the circumstances, we direct the respondents to convene a review OPC and consider the case of the applicant for inclusion in the Select List of 1987 for appointment to IAS on merits as per rules within four months from the date of receipt of a copy of this order. The application is allowed as above with no order as to costs.



MEMBER (A)

January 16th, 1991.

Allahabad.

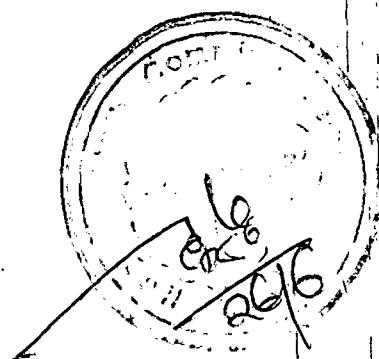
VICE-CHAIRMAN

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17/1/91

(D. S. DUREY)
Section Officer
CENTRAL ADMINISTRATIVE TRIBUNAL

Allahabad



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW

COUNTER AFFIDAVIT ON BEHALF OF O.P. NO. 2

IN O.A. NO. 310 of 1990 (L)

Bhagat Singh Verma Petitioner

Versus.

The Union of India and others.. Opp. Parties.

ANNEXURE NO

תְּשִׁׁירְתָּה 27:15/גַּתְּה 1:11/3:89-

प्रेषक

श्री अनिल कुमार,
तथिव,
उर्दूग, बुदेश श्रीसन ।

तेजा में

तथिव भारत तरकार कामिल लोक प्रिकायत तथा धेन्नन मंसोल्लभ कामिल आर प्रशिक्षण विभाग नड्ड टिलसी

(मानविकी, श्री प्र०. क०. गोह० - डॉ स० अ० अ० स०)

लघुनाथः दिनांक २। जून, १९८९

नियुक्ति अन्तर्गत- 1

विषयः भारतीय धुशात्तनिक सेवा में प्रोन्नति द्वारा नियुक्ति

महोदय

मुझे यह कहने का निर्देश हुआ है कि इत्युक्तेश के आई0१०८०८०० तंत्रंग में प्रोन्नति कोटा के १२६ पद सम्मिलित हैं जिनके फिल्ड इत्युक्त तम्य १०६ पदों पर प्रोन्नति अधिकारी नियुक्त हैं तथा शेष २० अधिकारी उपलब्ध हैं। इनमें से एक रिक्ति में राज्येतर तिविल सेवा के अधिकारी की तेजाती का प्रत्याप अलग से भेजा जा रहा है। इसके अतिरिक्त एक रिक्ति में नियुक्ति इत्युक्त कारण नहीं है तकती यथोकि ५ संवर्णीय पद त्रुटी भौलंग। भौलंग की ६ माह से अधिक सम्य से रिक्त हैं। भारत सरकार के युनितंद्याः १४०१५/१३/८९-ए0आई0१०८०१।। दिनांक १९-४-८९ ऐ भौली गढ़ तेलेक्ट लिन्ट के क्रमांक ८ पर श्री मटन मोहन तिंह का नाम तारांकित कर इत्युक्तिवन्ध के साथ सम्मिलित है कि उनके फिल्ड घल रही कार्यसाधार्थों में वह निर्देश पाए जायें। श्री मटन मोहन तिंह के फिल्ड घल रही कार्यसाधार्थों में अभी अनियमित्य नहीं हुआ है, जितः उनके लिए भी एक रिक्ति आवारणित रही गई है। उपरोक्त तेलेक्ट लिन्ट के क्रमांक ५ पर श्री भात तिंह घर्मा का नाम भी तारांकित है। उनके तंत्रंग में दियति नीचे दिस गये थे २० ५ में स्पष्ट की गई है। इत्युक्त राज्य तिविल सेवा के अधिकारियों की आई0१०८०८०० में एवं रिक्तीयों पर नियुक्ति देता १७ रिक्तियों इत्युक्त सम्य उत्तर्व्य है।

१२१ राज्य तिविल सेवा अधिकारियों की जारी०४०८० में नियुक्ति के प्रस्ताव भेजने के दिनांक २-४-८९ को संघ लोक सेवा आयोग द्वारा अनुमोदित तेलेकॉट लिस्ट, जो भारत सरकार के उपरोक्त बब्ल दिनांक १९-४-८९ के साथ प्राप्त हुई हैं, के छान्दों । से ५ तथा ६, ७ और ९ से १६ तक के अधिकारियों से विकल्प मार्ग गए थे । प्रतिलिपि संलग्न । संलग्न नं०-५३ । उन्हें यह स्पष्ट कर दिया गया था कि यदि इंगित तिथि तक उनका जोई उत्तर प्राप्त नहीं होता अथवा प्रतिबन्धात्मक विकल्प प्राप्त होने वाले द्वारा विश्व में कोई और वृद्धि किए जाने पर यह भावने हुए कि वह आर्द्ध०४०८० में नियुक्ति के इच्छुक नहीं हैं, तेलेकॉट लिस्ट के उनके आगे के अन्य अधिकारियों की नियुक्ति की संतुति भारत सरकार को देंख दी जायगी । तेलेकॉट लिस्ट के कामांक १२१



पर सम्मिलित श्री अशीक कुमार से कोई उत्तर प्राप्त नहीं हुआ है।
 क्रमांक 3 तथा 4 पर सम्मिलित श्री प्रभु नाथ सिंह तथा के ०५०८००५८५
 ने क्रमशः अपने वन्दे दिनांक ५-५-८९ तथा ६-५-८९ प्रतिया संलग्न।
 संलग्नक-दो तथा तीन) में सूचित किया है राज्य गारन द्वारा गठित वेतन
 समता समिति की रिपोर्ट यद्यपि प्राप्त हो गई है वहाँन्तु उसकी संस्तुतियाँ
 के विवरण तथा उस पर राज्य सरकार के आदेश अभी प्रतीक्षित हैं। अतः
 उन्हें लिए तत्काल प्रतिबंध रहित विकल्प दिया जाना सभै नहीं है। उपरोक्त
 से स्पष्ट है कि सर्वश्री अशीक कुमार, प्रभुनाथ सिंह तथा कौशल किशोर नारायण
 सिंह नियमों की विधित तथा वक्ष्मान परिवर्तनियों से पूर्णः अवगत होते
 हुए भी आई ०५०८०८० में नियुक्ति हेतु प्रतिबंध रहित विकल्प नहीं देना
 चाहते हैं। अतः राज्य सरकार की संस्तुति है कि नियमानुसार इन अधिका-
 रियों को छोड़ते हुए सेलेक्ट लिस्ट में सम्मिलित उनके आगे के अधिकारियों
 की नियुक्ति भारतीय प्रशासनिक सेवा में छर टी जाय।

13। सेलेक्ट लिस्ट के क्रमांक 2, 6, 7 तथा 9 से 16 पर सम्मिलित
 राज्य सिविल सेवा के अधिकारियों से स्पष्ट तथा प्रतिबंध रहित विकल्प
 प्राप्त हो गए हैं। अतः अनुरोध है कि इन नियमानुसार ।। अधिकारियों
 की भारतीय प्रशासनिक सेवा ।। रिकूटमेंट।। नियमादली, 1954 के नियम 8
 के उपर नियम ।।। के अधीन भारतीय प्रशासनिक सेवा में नियुक्ति की
 विविध शीर्ष जारी बने का कार्य करें:-

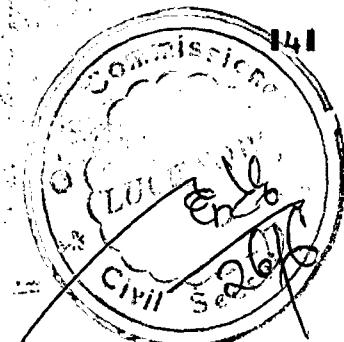
सर्वश्री-

- 1- छोटे लाल कुरील
- 2- भावती प्रसाद वर्मा
- 3- पर्मन्द्र देव
- 4- इनेन्द्र लाल वार्डी
- 5- गंगा राम-।।
- 6- भीरों प्रसाद
- 7- राजेन्द्र नाथ घुर्णेंद्री
- 8- मानवेन्द्र ब्हादुर सिंह
- 9- कौशलिन्द्र प्रताप सिंह
- 10- वेट प्रकाश इर्मा
- 11- राजेन्द्र प्रताप सिंह

उपरोक्त ।। अधिकारियों से इस आवश्यक छोर्णा धन कि -
 उनके केवल एक जीवित पत्नी है, तथा
 भारतीय प्रशासनिक सेवा में स्थाईकरण दर ३०५० राज्य सिविल
 सेवा ।। प्रशासनिक शारीर।। से उनका गहर समाप्त किए जाने में
 उन्हें कोई आपत्ति नहीं है,

प्राप्त कर लिये गए हैं तथा आवश्यक कार्यवाही हेतु संलग्नक।। संलग्नक-पार।। है।

14। सेलेक्ट लिस्ट में ३०८०५ पर सम्मिलित श्री भगत सिंह वर्मा का नाम



उक्त सूची में हस प्रतिबंध के ताथ तम्मिलित है कि ३०४० लोक सेवा अधिकरण में उनके द्वारा दायर वाट में उनके पांच में CLEARANCE हो दिया जाय। उक्त वाट संख्या: ४४८/एफ/१११/८८ में यात्रा अधिकरण द्वारा दिनांक तिसम्बर १६, १९८८ को निम्नलिखित अंतरिम आदेश प्रतिलिपि संलग्न। संलग्न पांच पारित किए गये हैं-

"If the occasion arises for consideration for the higher pay scale by a D.P.C. or for selection in I.A.S. by selection committee, the D.P.C./Selection Committee may consider the petitioner both ways i.e. taking into account the impugned warning as well as ignoring the said warning. If in either of the case he is found suitable for higher scale/IAS he should be given the same. If upon consideration both ways he is found unsuitable then the matter ends there. If he is found suitable after ignoring the adverse entry (but unsuitable on the basis of that entry) and given higher pay/IAS he may be reverted in case the result of this petition goes against the petitioner."

उपरोक्त अंतरिम आदेश यथा तमिलि की बैठक में ड्रूतुत किए गए थे और उत संदर्भ में विचारोपरान्त श्री वर्मा का नाम लेलेकट लिट्ट के तारांकित है। हस विश्व में राज्य के न्याय सचिव द्वारा यह राय दी गई है। प्रति संलग्न। संलग्न-१०। कि यात्रा लोक सेवा अधिकरण के आदेशों के परिप्रेक्ष्य में श्री भगत सिंह वर्मा की आई०स०स्त० में अंतरिम नियुक्ति पर भारत सरकार द्वारा विचार किया जा रहा है। तदनुसार श्री वर्मा को को सूचित। संलग्न-६। किया गया था कि यात्रा लोक सेवा अधिकरण के आदेशों के अन्तर्गत आई०स०स्त० में (अंतरिम उनकी) नियुक्ति का प्रस्ताव भारत सरकार को भेजा जाना है। और उत संबंध में वह अपना विकल्प निर्णयित प्रृष्ठाओं पर भेजें। तदनुसार श्री वर्मा है ।।। उनके केवल एक जीवित पत्नी होने तथा ।२। भारतीय प्रशासनिक सेवा में स्थायीकरण पर ३०४० राज्य तिविल सेवा प्रशासनिक शाखा। से उनका गहन समाप्त किये जाने में उन्हें कोई आपत्ति न होने संबंधी घोषणा पत्र प्राप्त हो रहे हैं और हस पत्र के ताथ संलग्न। संलग्न-७। कर भेजि जा रहे हैं। अनुरोध है कि भारत सरकार कृपया श्री भगत सिंह वर्मा को आई०स०स्त० में अंतरिम नियुक्ति देने पर विचार करने का कष्ट करें। यात्रा लोक सेवा अधिकरण के आदेशानुसार यदि उक्त पिटीजन में निष्ठ उनके वष्ट में नहीं हुआ तो उन्हें आई०स०स्त० से प्रत्यावर्तित किया जा सकेगा।

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15। भारत सरकार के पत्र संख्या: 1174/88-स0आई0स्त0, दिनांक 29-5-75 में वांजित इस आशय का प्रमाणक पत्र, । संलग्न नं. । कि प्रवरण सूची में सम्मिलित होने के उपरान्त इन सभी अधिकारियों के कार्य तथा आवश्यक में कोई दास नहीं हुआ है, भी आवश्यक कार्यवाही हेतु संलग्न है। साथ-साथ भारत सरकार के पत्र संख्या: 14015/36/86-स0आई0स्त0।।। दिनांक 19-2-87 के साथ प्राप्त एनेक्सर तथा प्रौष्ठार्मा-। में वरिष्ठता निर्धारण संबंधी वांजित सूचना भी संलग्न है।

16। यह भी उल्लेखनीय है कि श्री एसी0पा.एड्यू, आई0स्त0 तथा अन्य द्वारा केन्द्रीय प्रशासनाधिकरण इलाहाबाद में दाखर केम पिटीशन संख्या: 928/88 में प्रशासनाधिकरण द्वारा, दिनांक 10-8-88 को । संलग्न न-१। इस आशय के अंतिम आदेश दिस गये है कि इस बीच यदि कोई प्रोन्नति अधिकारिष्ठता निर्धारण का मामला योची के मामले को प्रभावित होता है तो वह उक्त याचिका में अंतिम निर्णय के अधीन होगा। अतः उपरोक्त बारह अधिकारियों की नियुक्ति की किंवित में उक्त श्रेणी का उल्लेख किया जाना होगा।

17। रिट संख्या: 955/85 में मा० उच्च न्यायालय के आदेश दिनांक 12-3-86 के अनुसार प्रोन्नति कोटा का एक पट श्री आरसी0दी.किंग पी0सी0स्त0 के लिए आरक्षित था। मा० उच्च न्यायालय के आदेश दिनांक 4-4-89। धीरे स्टेडिंग काउन्सिल के पत्र ली प्राप्ति संलग्न-संलग्न-।।। द्वारा उक्त याचिका निरस्त कर दी गई है। अतः श्री दीक्षित के लिए उक्त एक पट आरक्षित करने की आवश्यकता नहीं है।

18। भारत सरकार ने अनुरोध है कि वह लूपयां भारतीय प्रशासनिक सेवा।रिकूटमेंट। नियमावली, 1954 के नियम 8 के उप नियम ।।। के अधीन उपरोक्त ।2 अधिकारियों की नियुक्ति की किंवित तदनुसार शीघ्र जारी कर उसकी ।5 प्रतियां राज्य भासन को शीघ्र भेजें की लूपा करें। अन्य रिक्तियों के संबंध में प्रस्ताव जल्द से भैंजे जाएं।

संलग्न-उपरोक्तानुसार।

भवदीय,

संलग्न-
निल कुमार।

सचिव

संलग्न-
निल कुमार।

19/6/87

सचिव



ANNEXURE

REF

(1) Name of the officer recommended	As given in Annexure-A		
(2) SCS Officer or non-SCS officer	State Civil Service Officers		
(3) Date of Birth	As given in Annexure-A		
(4) Number of posts under items 1 & 2 of the Cadre Schedule	379		
(5) No. of posts that can be filled up by promotion and selection	126		
(6) No. and details of cadre posts held in abeyance or kept vacant for over six months alongwith the dates from which held in abeyance or kept vacant.	5 (As given in Annexure-E)		
(7) Effective working strength of the posts that can be filled up by promotion or selection i.e. not exceeding 1/3 of (Col.4 - Col.6)	125		
(8) No. of Officers in position			
SCS			
Non-SCS	95		
(9) Details of vacancy against which the officer is recommended for appointment	11		
(10) Position of the officer in the current select list.	As mentioned in the letter		
(11) Have all the officers above him in the current select list been appointed to IAS?	As given in Annexure-A		
(12) Does the officer have more than one wife living?	Officers at Sl. No. 1, 3 & 4 of the Select List have not given their options, so they have been left out. Officers at Sl. No. 8 has been included provisionally and a vacancy has been reserved for him.		

NO-...2/-

Final



NAME OF STATE CIVIL SERVICE OFFICERS RECOMMENDED FOR APPOINTMENT IN I.A.S.

SI.NO.	NAME OF OFFICER	DATE OF BIRTH	SI.NO. of the officer in the Select List.
<u>S/SRI-</u>			
1.	Chhotey Lal Kuril (SC)	11.1.1936	2
2.	Bhagat Singh Verma	1.12.1938	5
3.	Bhagwati Prasad Varma	1.9.1939	6
4.	Dharmendra Dev	27.9.1939	7
5.	Gyanendra Pal Varshney	10.3.1939	9
6.	Ganga Ram-II (S.C.)	9.7.1940	10
7.	Bhairao Prasad(S.C.)	2.7.1936	11
8.	Rajendra Nath Chaturvedi	24.3.1940	12
9.	Manvendra Bahadur Singh	10.5.1939	13
10.	Kaushlendra Pratap Singh	15.10.1941	14
11.	Ved Prakash Sharma	10.12.1939	15
12.	Rajendra Pratap Singh	30.6.1941	16

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20-6-43

Done

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20-6-43

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL (P)
CIRCUIT BENCH, LUCKNOW.

.....
CASE NO. 310 of 1990 (L)

....

REJOINDER AFFIDAVIT ON BEHALF OF PETITIONER

Bhagat Singh Verma. - - - - - Petitioner.
Versus

The Union of India and Others. - - - - Opp. Parties.

....

REJOINDER AFFIDAVIT

I, Bhagat Singh Verma, aged about 50 years, S/O Sri Todi Singh, presently posted as Vice-Chairman, Moradabad Development Authority, Moradabad, do hereby solemnly affirm and state on oath as under:-

*Filed today
Guru
3/9/91*

1- That the deponent is the Applicant / Petitioner in the above noted case and as such he is well conversant with the facts of the case deposed here as under. The deponent has gone through the counter affidavit and is submitting his para -wise reply as under.

2- That paras 1 & 2 of the counter affidavit need no reply.

Alas

- 3- That para 3-(a) needs no reply. It is further submitted that the prayer in that application is altogether different than the prayer in the instant application.
- 4- That para 3-(b) of the counter affidavit of para-3 needs no reply except that the applicant had challenged the consideration of the warning in the Hon'ble High Court which was awarded to him as a P.C.S. Officer.
- 5- That in reply to para-3 (c) of the counter affidavit, it is submitted that the contents of that writ petition as well as the application No. 1350/83 are entirely different matter and have nothing to do with the instant application.
- 6- That in reply to para-3 (d) of the counter affidavit the same are nothing to do with the contents and relief in the instant application.
- 7- That in reply to para- 3(e) of the counter affidavit, it is nothing to do with the contents and relief prayed in the instant application.
- 8- That in reply to para-3(f) of the counter affidavit it is submitted that the above claim petition filed in the **Rukhs** Services Tribunal have been allowed , a copy of which is annexed with the

Akd

application, and therefore, on account of that allowance of the claim petition the relief of the instant application has arisen. The contents of writ petition are altogether different.

9- That para- 3(g) of the counter affidavit needs no reply.

10- That para- 3(h) of the counter affidavit needs no reply.

11- That the contents of para-3 (i) of the counter affidavit are not accepted as stated. In fact the applicant has filed this application No. 310 of 1990 on 30-11- 1990 at Lucknow ~~is~~ claiming altogether different relief which will speak itself from the perusal of both the applications.

12- That the contents of para-3(j) of the counter affidavit needs no reply.

13- That in reply to the contents of para- 3 (k) of the counter affidavit, it is submitted that the decision to initiate the disciplinary proceeding dated 12-10-90 can never come in the way of the appointment of the petitioner as an I.A.S. Officer on the basis of selection held in the year 1989 in which he was asked for his option which he submitted on 11th May, 1989 itself (Annexure No.3 & 4 of the application).

14- That para-4 of the counter affidavit needs no reply.

15- That in reply to para-5 of the counter affidavit the same need no reply except that the selection of subject ~~clarance~~ ^{clearance} the petitioner was done to the ~~clarification~~ ^{clarified} of the U.P. Public Service Tribunal and the U.P. Public Service Tribunal has given his ~~clarification~~ ^{clarified} vide deciding the claim petition of the petitioner finally deciding in his favour, a copy of which is annexed with the application as Annexure No.6.

16- That para- 7 of the counter affidavit need no reply.

17- That the contents of para-8 of the counter affidavit are denied being misleading and those of para 4.9 of the application reaffirmed.

18- That in reply to para-9 of the counter affidavit it is submitted that the petitioner was given option on account of inclusion of his name in the select - list in 1989 although it was provisional as the same was based on the interim order passed by the Tribunal and the condition was that if the Tribunal decides the matter in favour of the applicant the provisional word would disappear and it would be a regular selection of the applicant and since now the Tribunal

AVB

has

clearly decided the case in favour of the applicant
it has become final and the petitioner was entitled
to be given regular appointment and posting conse-
quence thereof. Annexure-4 annexed with the counter
affidavit may also be perused for the clarity of the
matter.

19- That para-10 of the counter affidavit needs no
reply.

20- That in reply to para-11 of the counter affidavit
it is submitted that the queries as has been men-
tioned in this para are arbitrary, malafide as the
selection of the applicant/ petitioner was made only
to the condition that the Tribunal gives its final
decision in his favour which has been given by the
Tribunal and so far as the disciplinary proceeding is
concerned a decision of which was taken on 20-2-90
can not act retrospectively to block the chance of the
selection of the petitioner retrospectively as deci-
sion to initiate the disciplinary proceeding can only
act prospectly and not retrospectly , therefore, the
contents are denied being based on wrong assertion
and being misconceived and misleading this Hon'ble
Tribunal.

21- That para-12 of this counter affidavit needs
no reply.

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22- That para- 13 of the counter needs no
reply.

23- That in reply to para-14 of the counter affidavit, it is submitted that there is nothing against the petitioner which can come in his way in his appointment as I.A.S. Officer in 1989 batch. The applicant /petitioner is fully entitled for his appointment and posting as I.A.S. without any delay.

24- That in reply to para- 15 of the counter affidavit it has already been explained in detail in the preceding paragraphs - 20 and 23 and paras 4.17 , 4.18 and 4.19 of the application are re - affirmed .

Lucknow: Dated:

September 1, 1991.

... DEPONENT

DEPONENT

PLS

Verification

I, the deponent named above do hereby verify that the contents of paras 1 and 24 are based on personal knowledge and paras ...^{1 to 24}... are based on record rest paras ~~4, 8, 13, 15, 16~~ are based on legal advice, Nothing material has been concealed and no part of it is false. So help me God.

Lucknow; Dated:

September } , 1991.

... DEPONENT

I, identify the deponent who has signed/ put his thumb impression before me.

Caru D

... ADVOCATE

Solemnly affirmed before me onSeptember, 1991 ata.m./p.m. by the deponent who has been identified by Sri Gulab Chand, Clerk of Sri Kapil Dev, Advocate, High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been read over to him and explained by me.

... OATH COMMISSIONER.