

(See rule 114)

QA/TA/RA/CP/MA/PT 07.34.5... of 20...1990 C.W.C.C.F.

Applicant(S) 20/92

U.O.I

Respondent(S)

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Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. 345/90

Onkar Nath Srivastava

Applicant

versus

Union of India & others

Respondents

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

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

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

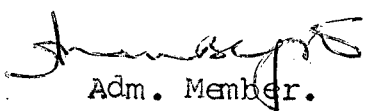
The applicant who retired as Assistant Post Master General (PLI), which post he held till the date of superannuation on 31.7.85, ^{on} which date he was served with two charge-sheets for disciplinary proceedings against him but both the proceedings were dropped vide order dated 20.9.89 and 13.10.89. These chargesheets pertain~~ing~~ to the period when he was functioning as AD (T). Another chargesheet was issued to the applicant on 28.4.86 for holding of enquiry into the alleged irregularity in the repair/purchase under section 9 of the C.C.S. (Pension) Rules, 1972 when the applicant was functioning as AD (T), Lucknow. The applicant expressed his inability to attend the enquiry at Delhi being heart patient. It was informed after dropping of the proceedings in the year 89, some of the pensionary benefits were released to him and no interest on the amount which was withheld for such a long period was given to him. A sum of Rs 20,182 out of Rs 1,14,972 was also paid to him and the rest amount was withheld. According to the applicant normally pension is also not being paid to

to him. The proceedings are still pending and the applicant has challenged the said proceedings on variety of grounds including that after retirement the chargesheet in respect of some acts of omission and commission which is said to have been committed by him some 4 years prior to retirement and as such in view of rule 9 of the C.S.S (Pension) Rules, 1972 under which the proceedings have been initiated, the same cannot be initiated and the said rule itself provides (Rule 9(2) (b) (ii) of C.C.S) Pension Rules 1972) that the departmental proceedings shall not be initiated in respect of the event ^{which took place more than four years} prior to superannuation. 2

The chargesheet has also been filed before us and the same indicates that last date of tenders which were invited for repairs was 17.11.80. The A.D. (T) approved the tender notice on 27.11.80 appeared in Lucknow 9 Newspapers located at ~~Delhi~~. Another tender was submitted on 5.1.81. The draft was approved on 6.1.82 to be issued under the signatures of the applicant and notice was sent to the firm on 14.1.1981. Certain ~~are~~ ^{were} other proceedings on file/going on. The concurrence of the I.F.A. was obtained on 17.2.81 and the contractor were addressed on 20.2.1981 intimating him the approval and requesting him to deposit Rs 500/- as security. Vide letter dated 24.2.81 the contractor asked for permission to allow his staff to visit the site for installation of the tower clock etc. The permission was granted on 27.2.81 and the contractor submitted the bill on 27.4.81 and without examination of bills and challans etc. the bill was sanctioned by the applicant on 29.4.81. It was in the year 1982 when the Clock stopped working and again office notings started that there was 10 years guarantee for the

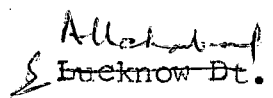
17

said clock given by the Contractor. Thus, the bill was paid thereafter by the applicant. Thus, everything happened concluded in the year 1981 and the charge-sheet was issued to the applicant in the year 1986 i.e., 4 years after the act of omission and commission in respect of the event in which the payment was made and everything was concluded and the disciplinary proceedings under Rule 9 of the Discipline & Appeal Rules were initiated after more than 4 years of the event. Accordingly, the proceedings ~~are~~ being barred by time, could not have been initiated in violation of Rule 9 of C.C.S. (Pension) Rules, 1972. and as such this application deserves to be allowed and the proceedings against the applicant are without jurisdiction and the said proceedings are quashed. The respondents are directed to make payment of the entire amount which has been withheld within a period three months from the date of receipt of a copy of this judgment alongwith interest @ 12%.


Adm. Member.


Vice Chairman.

Shakeel/


Lucknow Dt. 31-7-91

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 345 of 1989 90 16

23/11/90

syd
23/11

APPLICANT(S) Shri Onkar Nath Srivastava

RESPONDENT(S) V. C. I & others

Particulars to be examined	Endorsement as to result of examination
1. Is the appeal <i>application</i> 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? <i>application</i>	4 Sets
3. a) Is the appeal <i>application</i> in time?	yes
b) If not, by how many days it is beyond time?	
c) Has sufficient case for not making the application in time, been filed?	yes
4. Has the document of authorisation/ Vakalatnama been filed?	yes
5. Is the application accompanied by B.D./Postal Order for Rs. 50/-	yes Postal Order recd
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 out come of such representation been indicated in the application?	yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	no

5/11

Particulars to be Examined

Endorsement as to result of examination

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

2 sets

yes

yes

x

N.A.

yes

yes

N.A.

yes

yes

yes

yes

No

dismiss

Registered
in the
High Court
on 5/11/10
23.11.10

23/10

845/90 ②



8.11.90

Honble Mr. D.K. Agrawal - JM.
" Mr. M.Y. Prichar - AM

Due to resolution of Bar Association
Case is Adj to 23.11.90

23.11.90

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

UN

B.O.C.

Heard the learned counsel for

applicant. The relief claimed is to quash

chargesheet dated 24.4.86(Annexure-1). The

ground is that while the petitioner had retired from service on 31.7.85 the period of alleged misconduct was only from 14.12.80 to 14.12.81, that ~~more~~ ^{mis-} more than 4 years had elapsed after the act of ~~this~~ ^{mis-} conduct and before the institution of the disciplinary proceedings. Counsel for the applicant says there is no justification to institute the disciplinary proceedings ~~under~~ ^{in view of} Rule 9 (2i) of the Central Civil Services Pension Rules, 1972.

Issue notice to the respondents to show-cause why the petition~~er~~ may not be admitted, and list for orders/admission on 14.12.90, as no Bench is available in the week commencing 3.12.90. Till the aforesaid date, the disciplinary proceedings aforesaid shall remain stayed in so far as it concerns the applicant. It is clarified that the proceedings may continue in respect of other persons involved in the chargesheet. Shri V.K. Chaudhari accepts notices on behalf of the respondents. Notices meant for respondents may be delivered to Shri V.K. Chaudhary. Copy of the order may be given to both the parties within 2 days.

Received 6/11/90
of the order.
(C.V.N. v. S. P. A.)
Counsel for Applicant
28/11/90

M. H. L.

A.M.

V.C.

Recd
Chaudhary
addressed
3/12/90

OR
Notices accept
En. V.K. Chaudhary.
No reply filed.
S. P. A. 13/12
Notices Issued

3

ALLAHABAD.

O. N. Srinivasan. V. O. G. Sathya

Received copy of
judgment of
C. Hanna
13/8/91

Received copy
O.P. M. S.
to V.L. Chaudhary
Advocate
29/8/84

P.T.O.

(7/6)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD, CIRCUIT BENCH, LUCKNOW

O.A. No 345 of 1990 (L)

Onkar Nath Srivastva - - - - - Petitioner

Versus

Union of India & Others - - - - - Respondents

I N D E X

Srl No	Description of the documents relied upon	Page no
1.	Application - - - - -	1 to 8
2.	Annexure "1" - - - - -	9 to 17
3.	Annexure "2" - - - - -	18, 19
4.	Vakalat name - - - - -	20

noted
for 5/11/90
C. K. Singh
23/11/90

For use in the Tribunal's
Office

Date of filing
or

Date of receipt by post

Registration no

Signature of the Applicant
(Onkar Nath Srivastva)

for Registrar

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD, CIRCUIT BENCH, LUCKNOW

O.A. No - - - - - of 1986
Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing - - - - - 23/10/90
Date of Receipt by Post - - - - -

Deputy Registrar (U)
23/10

Onkar Nath Srivastva, s/o Sri A.L. Srivastva, r/o
269/37 Devi Dayal Marg, Birhana, Lucknow

----- APPLICANT/PETITIONER

VERSUS

1. Union of India, through Secretary Min. of Communications, Deptt. of Posts, Govt of India, New Delhi
2. The Director General (Posts) Dak Tar Bhawan, New Delhi-1
3. The Chief Post Master General (UP Circle) Lucknow
4. The Sr. Dy Director Gen (Vig), Govt of India, Min of Communications, Deptt of Posts, New Delhi-1

----- Respondents

APPLICATION UNDER SECTION 19 OF THE CENTRAL TRIBUNAL
ACT 1986

1. Particulars of the Order against which the
Application is made : The application is directed against Sr. DDG (Vig), Govt of India, Min. of Communications, Deptt of Posts, New Delhi order no 7/14/85-Vig-II, dated 24.4.86, instituting departmental proceedings against the applicant under Rule 9 of the CCS (Pension) Rules 1972, and consequently withholding applicants D.G.R.C and Pension Commutation amount payable on retirement and also not fixing the regular pension so far.

Contd page 2

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

3. Limitation : The applicant further declares that the application is within the limitation period prescribed in section 21 of the Adm. Tribunal Act 1985.

4. Particulars of the case : (i) That the petitioner joined the Postal Services (P & T Deptt) as a sorter in the year 1946 and during the course of his employment earned various promotions and ultimately he was promoted to the post of A.D.P.S (T), class II, wef 14.7.80 and remained on this post till 14.12.81.

(ii) That the applicant was further promoted to Senior Class I post, wef 15.12.81, as A.P.M.G (PLI), which he held till his retirement on superannuation on 31.7.85. The petitioner retired from postal services as APMG (PLI) LKO, wef 31.7.85.

(iii) That on the last day of his service, i.e. on 31.7.85, the applicant was served with two charge sheets initiating disciplinary proceedings against him vide D.D.G (VIG) New Delhi Nos 7-9/85-Vig-II, and ~~7-10/84~~ 7-10/84-vig-II, both dated 29.7.85, but both the proceedings were dropped vide 7-9/85-Vig-II dated 28.9.89 and 7-10/84-Vig-II dated 13.10.89.

(iv) That both the above charge sheets pertained to the period when the applicant was functioning as AD(T) and the proceeding were dropped as the charges could not be proved.

Contd page 3

On 2/1/85

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(v) That another charge sheet was issued to the applicant vide Sr DDG (Vig) No 7-14/85-Vig-II dated 24.4.86, for holding enquiry into the alleged irregularity in repair/purchase of clock (Tower), under section 9 of the CCS (Pension) Rules 1972. The incident pertained to the period when the applicant was functioning as AD(T), Lucknow.

(vi) That ~~because~~ because the applicant is a heart patient, he expressed his inability to attend the enquiry at New Delhi and prayed that the same be held at Lucknow. The applicant did not receive any reply to his prayer. The earlier two charge sheets were dropped in 1989 unilaterally by the Competent Authority and ~~only~~ only the proceedings initiated on the authority of Sr DDG(Vig) Memo dated 24.4.86 are pending against the applicant.

(vii) That as a result of the above proceedings, the retirement benefits of the applicant have been held up which are as under :

	About
1. Death-cum Retirement Gratuity	: Rs 46,612.00
2. Pension Commutation	: " 50,000.00
3. Leave Encashment	: " 16,360.00
4. C.G.E.G.I.S	: " 2,000.00

(viii) That as a result of dropping of the proceedings initiated on 31.7.85, and also because of the frantic prayers of the applicant to the concerned officials, the amount specified in Srl 3, and 4 in the preceding pa-ra was released on 30.5.90 and 16.8.90 respectively amounting Rs 17310.00 and 2872.00 respectively without paying any interest. It may kindly be seen that the amount which was due in 1985 was paid in 1990 without any interest resulting in huge financial loss to the applicant and another 1.25 lacs is withheld without any justifiable reason since last five years and the applicant who had put on about 40 years of unblemished

[Signature]

service, is made to suffer in his old age and his miseries and difficulties can be judged from the fact that he has not been awarded yet the normal pension for which he is entitled and the same is fixed at an ad-hoc basis at the rate of Rs 1256/- pm and all his dues earned during his long service have been withheld.

(ix) That it is submitted that all the dues of the applicant have been withheld ^{till now} only because of the lone, proceedings illegally initiated against the applicant by O.P. vide Sr DDG (Vig) order dated 24.4.86, a copy of which is Ann 'I' to this application.

(x) That the above proceedings relates to the period when the applicant was working as AD(T) , regarding alleged irregularity in repair/purchase of Tower Clock. The tender for the same was invited vide order/notice dated 24.1.81, and on the completion of the work, the applicant conveyed the sanction of the Director on 29.4.81.

(xi) That it is an admitted fact that the ~~lone~~ incident relates to a period which took place more than four years before the initiation of proceedings under section 9 of CCS(Pension) Rules and is in violation and controvention of Rule 9 (2) (b) (ii) of CCS (Pension) Rules 1972 and as such irreparable loss and injury and injustice has been caused to the applicant by the impugned order.

(xii) That in spite of repeated reminders/prayers to release the money due to the applicant and to drop the proceedings, no heed was paid and till now, not a single hearing has so far been fixed by the enquiry officer.

(xiii) That aggrieved by the callous attitude of the department, the applicant submitted a review petition to the President of India on 1.8.89, but unfortunately, no action has so far been taken to redress the grievance of the applicant. A copy of the same is Ann '2' to this

On *LLC*
End Page '5'

application. That as no action seems to have been taken on the review petition, the applicant sent a reminder on 13.12 89. The applicant has not so far heard anything in reply thereof.

(xiv) That the applicant is a chronic heart patient and is facing great financial hardship and is therefore unable to get proper medical treatment for want of money.

(xv) That the proceedings initiated under the impugned order dated 24.4.86 are illegal and against the Rules framed in this regard and the non-fixation of pension and the non-release of his dues are not only greatly unjust but also against the Rules and are liable to be quashed by this Hon'ble Tribunal.

(xvi) That it may further be submitted that on merits too, there is no case against the applicant. The applicant was not the sanctioning authority and the amount of the bill in question was sanctioned by the Director and the applicant merely conveyed the sanction and as such he could not be held responsible for any alleged loss to the Govt.

(xvii) That against the alleged loss of Rs 18000/-, the O.Ps have withheld applicant's 1.75 lacs, his whole life's earning and saving and have not fixed the proper pension due to him, since last five years.

(xviii) That the impugned order dated 24.4.86, the proceedings initiated thereunder, and non-fixation of pension are against the Rules and natural justice and has resulted in great financial hardship to the applicant who has been made to suffer and to run from pillar to post in this old age and deteriorating health.

5. Grounds for relief with legal provisions :

That this application is filed on the following legal grounds :

- (a) Because the impugned order/charge sheet is arbitrary, against the Rules and in contravention of the mandatory provisions and the proceedings are liable to be quashed.
- (b) Because the Rule 9 of the CCS (Pension) Rules 1972, under which the proceedings are initiated, provides in sub clause (2) (b) (ii) that the departmental proceedings shall not be instituted in respect of any event which took place more than four years before such institution. In the instant case, the event relates at the most to period till 29.4.81 and the proceedings could not be initiated on 24.4.86.
- (c) Because on merits too, there is no case against the applicant and that is why no progress has been made after the appointment of I.O.
- (d) Because withholding of applicant's dues has resulted in injustice and irreparable loss to the petitioner.
- (e) Because it is against the justice to prolong illegal proceedings and harass the Govt servant after retirement when he needs rest and comfort.
- (f) Because the proceedings ought to have been dropped immediately when the mandatory provisions were brought to the notice of higher officials.

6. Details of remedies exhausted : Besides a large number of petitions to the Deptt. the applicant has represented to the President of India, vide his review

contd page 7

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petition dated 1.8.89, contained in Ann '2' to this application. A reminder has also been sent on 13.12.89 but no reply or action has been intimated so far.

7. Matters not previously filed or pending with any other Court : That the applicant further declares that he has not previously filed any application, writ petition or suit, regarding the matter in respect of which this application has been made, before any other Court or authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief Sought : That in view of the facts mentioned in para 4 above, the applicant most respectfully prays for the following reliefs.

(a) That this Hon'ble ~~Court~~ Tribunal may be kind enough to quash the impugned order/charge sheet issued by the ^{OP No 4, the} Sr DDG (Vig), Min of Communications, Deptt. of posts, New Delhi No 7-14/85-Vig-II dated 24.4.86, and be further pleased to order that all proceedings instituted under the authority of above quoted order be quashed.

(b) That the amount with-held viz, D.G.R.C AND Pension Commutation be released forthwith alongwith an interest of 12 % per annum for the period of unauthorised delay, i.e. 6 months after 31.7.85 till the date of release.

(c) That the regular pension of the applicant be fixed at the earliest, and

(d) Any other order this Hon'ble Tribunal deem just and fit in the circumstances of the case.

9. Interim order if any prayed for : That the humble applicant most respectfully prays that during the

Contd page ~ 8'

pendency of this application, this Hon'ble Tribunal be pleased to direct that the due amount of the applicant towards his D.G.R.C and Pension Commutation be released immediately alongwith 12% per annum interest for the delay period, to enable the applicant to undertake his treatment properly.

10. That this petition/application is being moved through the Counsel for the applicant.

11. Particulars of the Postal Order :

Name of the issuing PO. : High Court P.O. Lko
Date of issue and no of : B 02 415930 dt 22/10/90
postal order
Post office at which payable : Allahabad.

12. List of Enclosures : That the following documents are enclosed with the application :

1. Ann 'I' Sr DDG(Vig) No 7-14/85-Vig-II dated 24.4.86 alongwith complete charge-sheet.
2. Ann '2' Review/Representation to the President of India dated 1.8.89 by the applicant.

VERIFICATION

I, Onkar Nath Srivastva, s/o Sri A.L.Srivastva, aged about 63 years, having retired as APMG (PLI) Lucknow on 31.7.85, r/o 269/37 Devi Dayal Marg, Birhana, Lucknow hereby verify that the contents of paras 1 to 12 of this personal application are true to my own knowledge, and that I have not suppressed any material fact.

Lucknow

Dated : 23 Oct 90

To

The Registrar

Signature of the Applicant
(Onkar Nath Srivastva)

(C. Sharma)
Counsel for the Applicant

Before the Hon'ble C.A. T
Circuit Bench, Lucknow

OA No _____ of 1990

Ankur Das Srivastava - - - Applicant

vs

Union of India
+ others - - - Respondents

Ann

143
No. 7/14/85-Vig. II
Government of India
Ministry of Communications
Department of Posts

Ann
Dak Tar Bhavan, Sansad Marg,
New Delhi-110 001.

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Dated the 24 April 1986.

MEMORANDUM

26 APR 1986

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29/4

In pursuance of the sanction accorded by the President under Rule 9 of the Central Civil Services (Pension) Rules, 1972 for instituting departmental proceedings against Shri O.N. Srivastava, formerly Assistant Director (T) and retired as Assistant Postmaster General (Postal Life Insurance), O/o the Postmaster General, U.P. Circle, Lucknow vide Department of Posts order No. 7/14/85-Vig. II dated 24.4.86 it is proposed to hold an enquiry against the said Shri O.N. Srivastava in accordance with the procedure laid down in Rules 14 & 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The enquiry shall be conducted by Shri A.K. Garde, Commissioner for Departmental Inquiries, Central Vigilance Commission, Jamnagar House Hutments, New Delhi at New Delhi.

2. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexures III & IV).

3. Shri O.N. Srivastava is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

4. He is informed that an enquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

5. Shri O.N. Srivastava is further informed that if he does not submit his written statement of defence on or before the date specified in para 3 above or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rules 14 & 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 or the orders/directions issued in pursuance of the said Rules, the inquiring authority may hold the inquiry against him ex-parte.

6. The receipt of this Memorandum may be acknowledged.

By order and in the name of the President.

Gurcharan Singh
(GURCHARAN SINGH)
Senior Deputy Director General (Vigilance)

Shri O.N. Srivastava,
Formerly Assistant Director (T) and retired Assistant Postmaster General
(Postal Life Insurance), O/o the Postmaster General, U.P. Circle, Lucknow.
(Through the PMG, U.P. Circle, Lucknow.)

C.T.C.
C. T. C.
AN.

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ANNEXURE I

Statement of Articles of Charge framed against Shri O.N. Srivastava, formerly Assistant Director (T) and retired Assistant Postmaster General (Postal Life Insurance), O/o the Postmaster General, U.P. Circle, Lucknow.

Article I

Shri O.N. Srivastava while functioning as Assistant Director (T) in the O/o the Postmaster General, U.P. Circle, Lucknow during the period 1980-82 while handling the case for repair/purchase of tower clock in the office of the Postmaster General, U.P. Circle, Lucknow committed the following irregularities:-

- 1) While submitting ^{the} his tender notice for approval ~~and~~ he did not assess the amount involved for purchase of tower clock and failed to indicate the procedure to be followed for making such purchase and the competent authority for the purpose.
- 2) While issuing the tender he did not comment on the firms to whom the tender was being sent regarding their creditability, financial status, technical know-how and reputation and whether the firms were approved by any competent authority. He did not indicate the basis on which the said firms were selected. While recommending the acceptance of lowest tender of M/s Shabban Sons Time Crafters, he did not comment upon the creditability, official status and antecedents etc. of the said firm. While recommending payment of the bill of the said firm, he did not point out that the new clock be got inspected from a person of technical competence and did not ensure that the delivery of the new clock had been taken by an authorised person on behalf of the Department.

It is therefore, alleged that Shri O.N. Srivastava, Assistant Director (T) acted in collusion with the contractor and Shri Gautam Gupta, Director Postal Services (HQ), Shri Pramod Kumar, Upper Division Clerk and Shri Jamuna Ram, Section Supervisor to serve the interests of M/s Shabban Sons Time Crafters which resulted in loss of the old tower clock and a sum of Rs. 18,000/- being the cost of the new clock which served no purpose.

Thus by his above acts Shri O.N. Srivastava contravened the provisions of rule 60 of the Posts and Telegraphs Financial Hand Book Volume I read with rules contained in Appendix 14 of the Financial Hand Book Volume I and thereby did not maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government servant violating rule 3 (1) (i) (ii) and (iii) of Central Civil Services (Conduct) Rules, 1964.

Gurcharan Singh

(GURCHARAN SINGH)

Senior Deputy Director General (Vigilance)

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C.T.C

C. T. C

ADN

(M) (8/9)

ANNEXURE II

Statement of imputations of misconduct, or misbehaviour in support of articles of charge framed against Shri O.N. Srivastava, formerly Assistant Director(T) and retired Assistant Postmaster General (Postal Life Insurance), O/o the Postmaster General, U.P. Circle, Lucknow.

Article I

Shri S.N. Datta, the then Section Supervisor, Tech. B Section as per the directions of Shri Gautam Gupta, the then Director Postal Services (HQ), submitted a note on 21st July, 1980 to the then Assistant Director (T) Shri O.N. Srivastava to call for tenders for repairs to the Electronic clock in the office of the Postmaster General, U.P. Circle, Lucknow. In the said note it was also suggested that an Electronic clock be procured for the clock tower, if available.

2. The case was marked to the Director Postal Services (HQ) on 21.7.80 but it did not reach him and as per the marginal remarks it was marked to Shri S.N. Datta, the then Section Supervisor, Tech. B for discussion. Shri Datta after discussion recorded the note on 24th July, 1980 wherein he mentioned that Director Postal Services (HQ) instructed that an enquiry for new big size Electronic clock may be issued, and the tender notice may be given to press through DAVP, New Delhi. However, as it would seem in contravention of the decision of the Director Postal Services, a draft tender notice for repairs of the tower clock was submitted for approval by Shri Datta on 8th October, 1980 and the same was approved by Shri O.N. Srivastava on 21st October, 1980 and issued on 22.10.80 through DAVP. In the note dated 6th November, 1980 Shri Datta, Section Supervisor Tech. B pointed out that it would not be proper to send the tender notice direct to the press and it will be better if the advertisement is sent through some special messenger to DAVP, New Delhi. This note was approved by Shri Gautam Gupta, the then Director Postal Services (HQ) on 6th November, 1980.

3. Shri S.N. Datta, in his note dated 11th November, 1980 mentioned that he would be going to Delhi by 29 Up on 11th November, 1980 and will leave Delhi by 30 Down on 13th November, 1980 and the date of insertion and the date of receiving tenders would be altered by him in consultation with the DAVP. Shri Datta, in his note dated 29th November, mentioned that he visited the office of the DAVP, New Delhi and he was informed by DAVP that the advertisement sent with their letter dated 22nd October, 1980 had been released for publications on 4th November, 1980 to the following papers:-

1. National Herald, Delhi-Lucknow.
2. SVatantra Bharat, Lucknow.
3. Navjeevan, Lucknow.
4. Lucknow Mail, Lucknow.

The last date for receipt of the tender was 17.11.80. However the file does not indicate that the DAVP acknowledged letter dated 22.10.80 nor there is any record to show that tender was published in the said papers nor bills of DAVP and the said papers were received and passed nor payment on this account was made. Shri Datta also mentioned that no tender was received as such a fresh tender may perhaps be issued through local Newspapers and a copy of the same be given to DAVP, New Delhi. This was suggested in view of the urgency, the note was approved both by Shri O.N. Srivastava, Assistant Director (T) and Shri Gautam Gupta, Director Postal Services (HQ) on 21.11.1980. Shri Pramod Kumar, the dealing assistant then put up draft tender notice to AD (T) on 27.11.1980 for repair of tower clock who approved it.

4. The notice was issued on 27.11.1980 to 9 Newspapers located at Lucknow.

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Name of the firm. . . Date of the . . . Cost of Machine. . . Cost of Dial. . . Cost of 3 pairs of hands. . . Cost of Dust proof Machine cover. . . Total . . . Guarantee . . . Condition

	Rs.	Rs.	Rs.	Rs.	Rs.		
1. M/s Shabbam Sons Time Crafters, 140, Shahed Ashfaqullah Marg, Bhooosa Mandi, Aminabad, Lucknow.	24.1.81	12,000	3,000	1,000	2,000	18,000	10 years. Estimated life 20- 25 years. Weekly maintenance & winding service charges Rs. 100/- per month.
2. Master Watch Company, Aminabad, Lucknow.	NIL	13,000	4,000	1,100	2,100	20,200	5 years. Weekly winding & maintenance charges Rs. 150/- per month.
3. M.N. Watch Company, Aminabad, Lucknow.	24.1.81	13,500	4,100	1,150	2,200	20,950	4 years. Weekly winding & maintenance charges Rs. 175/- per month.

It is worth noting that all the quotations received were from dealers in Aminabad, Lucknow.

C.T.C. Sharma

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/ Shri O.N. Srivastava recommended the purchase of the tower clock from M/s Shabban Sons Time Crafters,

7. The tenders were opened by Shri O.N. Srivastava alone as per his signature on the quotations and a comparative chart was prepared by Shri Pramod Kumar, Dealing Assistant and signed by Shri S.N. Datta, Section Supervisor and Shri O.N. Srivastava, Assistant Director (T) and note was submitted by Shri Pramod Kumar indicating that the lowest tender had been submitted by M/s Shabban Sons Time Crafters. Shri Datta mentioned that in view of the 10 years guarantee and 20-25 years span of life the tower clock may be purchased from M/s Shabban Sons Time Crafters in his note dated 31.1.1981 and marked the case to the Director Postal Services. Shri Gautam Gupta, Director Postal Services (HQ), in his note dated 16.2.81 sent the file to the IFA with the remarks that the lowest rates offered by M/s Shabban Sons Time Crafters might be considered for approval and he also mentioned that the maintenance would be done departmentally. The concurrence of the IFA was obtained on 17.2.81. Accordingly the contractor M/s Shabban Sons Time Crafters were addressed on 20.1.1981 intimating him the approval of the rate with the request that he should deposit Rs. 500/- as security. As per the office copy one "Shri Chakkan" received copy of the letter meant for the firms as his signature appears on the office copy of the letter dated 20.2.1981. In his letter dated 24.2.81 the contractor asked for permission to allow his staff to visit the site for installation of the tower clock etc. He was allowed necessary permission on 27.2.1981.

8. On 16.3.81, Office Superintendent, O/o the PMG was instructed by Shri O.N. Srivastava, Assistant Director (T) to direct the Senior caretaker and Chowkidar to provide all the necessary help to the firm for removing the old clock and for installation of the new one. But there is no note on the file leading to issue of such directions.

9. On 27.4.1981 the firm submitted the bill and intimated completion of the work. A note dated 28.4.1981 was submitted by the dealing assistant Shri Pramod Kumar who mentioned that the clock tower has been fixed at the approved rate and is working correctly. The note of Shri Pramod Kumar was endorsed and approved by Shri S.N. Datta, Shri O.N. Srivastava and Shri Gautam Gupta also without any examination of the bills, challans for receipt of new tower clock, inspection of the material received by a competent authority. The bill was sanctioned by Shri O.N. Srivastava on 29.4.1981.

10. On 8.7.1982 Shri Pramod Kumar recorded a note stating that the tower clock had stopped working and the contractor was addressed on 12.7.1982. The contractor was reminded on 24.7.1982 by registered post. The registered letter dated 12.7.82 was received back with the remarks "left without address hence return to sender." A perusal of the cover in which the letter was sent indicates that the concerned postman tried to deliver the letter on 11 occasions. The letter dated 24.7.1982, signed by Shri Jamuna Ram, Section Supervisor was received back with the similar remarks. There is no indication in the file that the clock was set right by any agency.

11. Shri Pramod Kumar, dealing assistant wrote a note dated 16.11.82 that the tower clock had run out suddenly that day. The contractor who had furnished ten years guarantee was contacted. If approved, the tower clock may be repaired and the work will ~~will~~ be carried out without any

Copy to the
C. V. Ramani
ADP

.....5/-

charges. The AD passed order that the tower clock should be repaired in the Office and should not be taken out of the office. Shri Pramod Kumar did not clarify how the clock was repaired earlier, how he was able to contact the contractor M/s Shabban Sona Time Crafters when the registered letters addressed to them had been received back undelivered with the remarks "left without address". These facts established a clandestine deal between Shri Pramod Kumar and the contractor. Shri Pramod Kumar prevailed upon the AD and had gate pass signed by him for taking following parts of the tower clock out of the office.

1. Barrel Drum 1
2. Central Wheel 1
3. Second Wheel 1
4. Lever Wheel 1
5. Lever 1
6. Plates 2

The gate pass was signed by AD (T). On 16th December, 1982 the contractor intimated that his maintenance responsibility was for a period of one year which had expired. However he would do the work free of charge for which he will have to stop watch for 10 days. The note of Shri Pramod Kumar dated 17.12.82 shows that it was endorsed by Shri Jamuna Ram.

12. On 21.2.1983 Shri Jamuna Ram submitted a note stating that the contractor had taken away the parts of the tower clock on 16th December, 1982 and had not replaced the same for the last two months despite the reminders.

13. In letter dated 19th February, 1983 received by circle office on 21.2.83, the firm M/s Shabban Sons Time Crafters intimated that they may be allowed a period of 15 days to complete the job and it would be done by 15th March 83, without any further delay. On 15th March, 83 the contractor sought extension upto 21st March, 1983.

14. Again on 29th June, 1983 the Assistant Director Postal Services (Tech), Shri Ved Prakash wrote to the firm to set the tower clock within a week's time otherwise legal action would be taken against him. The efforts were made to have the letter in question delivered through PRI who returned the same with the remarks "There is no such firm in physical appearing at Ashafaquallah Road, Bhooosan Mandi." As such the SSPOs, Lucknow addressed the PMG for intimating the complete address. On 19th August, 1983 the SSPOs, Lucknow was intimated address of the contractor 140, Shaheed Ashafaquallah Road, Bhooosan Mandi and was also intimated that one Shri Chakkan was receiving the letters on behalf of the firm. On 21st September, 1983 the SSPOs intimated that PRI made fresh efforts but no firm was located. Another letter dated 17th September, 1984 sent by registered cover was received back with the remarks "not met." The tower clock has not been repaired by the contractor so far.

It is thus alleged that:-

1. Shri O.N. Srivastava submitted the tender notice for approval of the Director Postal Services on 6th January, 1981. He did not assess the amount involved for purchase of the tower clock. Secondly, he failed to indicate the procedure to be followed for making the purchase and he also failed to indicate the competent authority for the purpose of incurring the expenditure.

2. Shri O.N. Srivastava did not elaborate in his note the firms to

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R. V. K. M. D.
AD

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ANNEXURE III

List of Documents by which the articles of charge framed against Shri O.N. Srivastava, retired ARMG (FLI), O/o the RMG, U.P. Circle, Lucknow are proposed to be sustained.

* * * * *

1. RMG, UP Circle, Lucknow letter No. Tech-B/M-1-35/80 dated 22nd October, 1980.
2. DAVP, New Delhi gate pass dated 12.11.80.
3. Visitors pass No. A-1-306846.
4. RMG, UP letter No. Tech B/M-1-35/80 dated 27.11.80.
5. RMG, UP tender mptoce Np. Tech. B/M-1/35/80 dated 14.1.81.
6. Manuscript list of the names of the firms to whom the tender at serial 5 was sent.
7. Shabban Sons Time Crafters letter dated 24.1.81.
8. Master Watch Company, Aminabad, Lucknow letter dated Nil.
9. M.N. Watch & Co., Aminabad, Lucknow tender dated 24.1.81.
10. Comparative statement of rates given by the companies mentioned at serial No. 7,8,9.
11. RMG, UP letter No. ~~771/81~~ ~~771/81~~ dated 20.1.81.
12. Shabban Sons Time Crafters letter dated 24.2.81.
13. RMG, UP letter No. ~~771/81~~ ~~771/81~~ dated 27.2.81.
14. RMG, UP letter No. ~~771/81~~ ~~771/81~~ dated 16.3.81.
15. Shabban Sons Time Crafters letter dated nil received with bill of Shabban Sons Time Crafters No. 486 dated 27.4.81.
16. Shabban Sons Time Crafters Bill No. 486 dated 27.4.81.
17. RMG, UP Memo No. Tech/M-1/35/81 dated 29.4.81.
18. RMG, UP letter No. ~~771/81~~ ~~771/81~~ dated 12.7.82.
19. RMG, UP letter No. Tech B/M-1-35/81 dated 24.7.82.
20. Registered letter cover No. 2657.
21. Registered letter cover No. 2656.
22. Shabban Sons Time Crafters letter dated 16.12.82.
23. Shabban Sons Time Crafters letter dated 19.2.83.
24. Shabban Sons Time Crafters letter dated 15.3.83.
25. RMG, UP letter No. Tech B/M-1/35/80 dated 29.6.83.
26. SSPOs letter No. CR/Misc-13/83-84 dated 15.7.83.
27. SSPOs, Lucknow division letter CR/Misc-13/83-84 dated 28/29.7.83.
28. RMG, UP letter No. Tech B/M-1/35/80 dated 19.8.83.
29. SSPOs, Lucknow division letter No. CR/DLY-13/83-84 dated 21.9.83.
30. RMG, UP letter No. ~~771/81~~ ~~771/81~~ dated 17.9.85.
31. Registered cover No. 2917 issued by RMG, UP.
32. Notes on file No. Tech B/M-1/35/80 at pages 1,2,3,4,5,6,7,12,13,14(a),15.

C.T.C

(Signature)
ADV

Before the C.A.T, Circuit Bench, Rko
Chander Nath Srivastava -- Vs -- Union of India

For

To

The Hon'ble President of India
New Delhi-110001

Ann 2

THROUGH DIRECTOR GENERAL POSTS NEW DELHI

Sub: Revision petition against the orders contained in Government of India Ministry of Communication, Department of Posts, New Delhi memo no. 7/14/85-Vig II dated 24.4.86 initiating departmental proceedings against O.N. Srivastava formerly Asstt Postmaster General (PLI) O/O the Postmaster General U.P. Circle Lucknow u/r 9 of CCS (Pension) Rules, 1972.

Hon'ble Sir,

The humble petitioner begs to submit as under:

(1) That the petitioner worked as Asstt Director (Tech) in the office of P.M.G. UP Lucknow from 14.7.80 to 14.12.81 and Asstt Postmaster General (Postal Life Insurance) in the same office from 15.12.81 to 31.7.85.

(2) That the petitioner retired from Government Service on 31.7.85 on superannuation from the post of Asstt Postmaster General (PLI) U.P. Circle.

(3) That after the retirement of the petitioner the Disciplinary Proceedings under rule 9 of the C.C.S. (Pension) Rules 1972 were instituted against the petitioner vide Presidential Order contained in Department of Posts, New Delhi memo No. 7/14/85-Vig II dated 24.4.86 enclosed herewith as Annexure No. 1 on the basis of the charge sheet issued vide memo of even number dated 24.4.86 enclosed herewith as Annexure no. 2.

(4) That this petition is submitted the President has the power to review any order under the CCS (CCA) Rules 1965 conferred upon him vide Rule 29 A of the CCS (CCA) Rules 1965 and no time limit has been prescribed for the purpose as such the petition is admissible for being considered.

(5) That this petition is submitted on following grounds:

GROUND OF THE PETITION

Because the disciplinary proceedings have been instituted in contravention of Government of India Instruction no. (1) 2. (b) (ii) below rule 9 of the C.C.S. (Pension) Rules and are therefore, not maintainable.

(a) The submission of the petitioner is that (1) the decision cited above envisages that the departmental proceedings, if not instituted while the government servant was in service, whether before his retirement or during his re-employment shall not be in respect of any event which took place more than four years before such institution. It would mean that at the most the events upto 23.4.82 could be made the subject matter of the proceedings against the petitioner.

(ii) A reference to Annexure II of the charge sheet would reveal that the conduct of the petitioner as Asstt Director (Technical) O/O the P.M.G. UP Circle Lucknow from 21.7.80 to 29.4.81 has been made the basis of the proceedings. It may be seen that the rule of the petitioner ended in the case under inquiry on 29.4.81 with the sanction of the bills of the supplier with due approval of the competent authority i.e. The Director Postal Services (Headquarters), UP Circle

C.T.C
Chander Nath Srivastava

U.O. G.P.O. PL no 1855
Ad Dt 4.8.89

Lucknow. After this date no involvement of the petitioner has been alleged in the memo of charges.

(iii) The facts of the case against the petitioner would further reveal that he has never taken independent decision in the case and every time the approval of the competent authority i.e. Director Postal Services (Head quarters) was obtained and concurrence of the Internal Financial Adviser was also taken where warranted - Further rule 60 of P&T Financial Hand Book Volume and appendix 14 there of is applicable to the officer incurring or authorising payment from public funds which in the instant case was the Director Postal Services (HQ) and not the petitioner.

(6) In view of the foregoing facts initiation of disciplinary proceedings after retirement of the petitioner on the basis of events taken place more than four years from the date of the initiation of the proceeding is irregular and liable to be quashed.

PRAYER

The petitioner therefore prays that the disciplinary proceedings initiated vide Memo No. 7/14/85-Vig-11 dt: 24.4.86 be kindly ordered to be dropped.

Dr 18/89

O.N. Srivastava
(O.N. Srivastava)
Retired A.P.M.G. (P.L.I.)
U.P. Circle,
269/37
Devi Bopal Marg,
Birhana
Lucknow.

C.T.C

Adv. V. K. Singh
Adv

Before the Hon'ble Central Adm. Tribunal
Circuit Bench, Lucknow

(20)

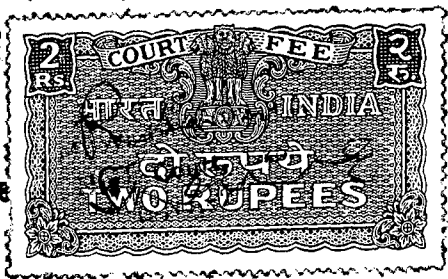
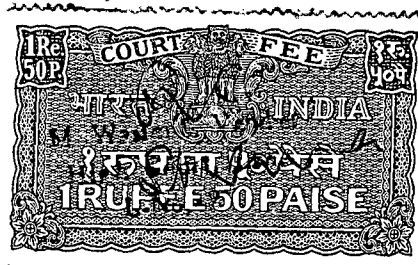
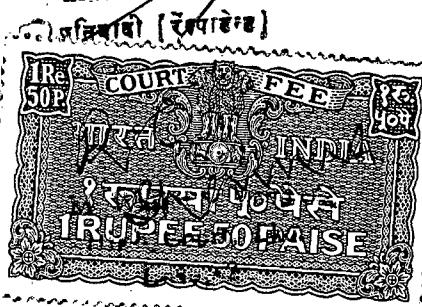
अदालत भीमान्

महोदय

[पदी] अपील

Onkar Nath Srivastava

वकालतनामा



Onkar Nath
Srivastava

बनाम Union of India प्रतिवादी (रिप्लाइंग)

नं० मुकद्दमा

सन्

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री R. C. Sharma, Advocate,

24 Patel Nagar, Alambagh, Lucknow वकील
महोदय
एडवोकेट

नाम अदालत	बनाम
मुकद्दमा नं०	
नाम फरीकत	

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेंरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या मुलहनास व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पेंरवी में एक तरफा 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

Onkar Nath Srivastava

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

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स्वीकृत

Accepted

R. C. Sharma
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH- LUCKNOW

mp *no 29914*
O.A. NO. 348 of 1990(L)

O.N. Srivastava

.. Applicant

-versus-

Union of India and others

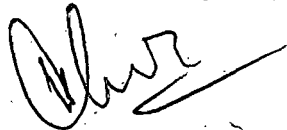
.. Opposite parties

APPLICATION FOR CONDONATION OF DELAY IN FILING C.A.

....

The opposite parties begs to submit as under:-

1. That in the above noted case the counter affidavit could not be filed in time due to inadvertence. The same is now ready and is being filed herewith along with this application.
2. That the delay in filing this counter affidavit was not intentional.
3. Wherefore, it is most respectfully prayed that the delay in filing the counter affidavit may kindly be condoned and counter affidavit be taken on record and such other order as are deemed just and proper be also passed.



(VK Chaudhari)

Addl Standing Counsel for Central Govt
Counsel for the Opp. parties

Lucknow,

Dated: 4 Feb. 1991.

Filed today
4.2.91

158

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. NO.345 of 1990(L)

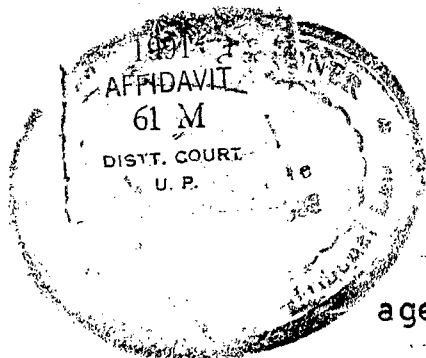
O.N. Srivastava

.. Applicant

-versus-

Union of India and others .. Opposite parties

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES.



I, D.D. Pandey

aged about 57 years, son of Late Sri R.N. Pandey

at present posted as Vigilance officer

in the office of the Chief Postmaster General,

Lucknow do hereby solemnly affirm and state

as under:



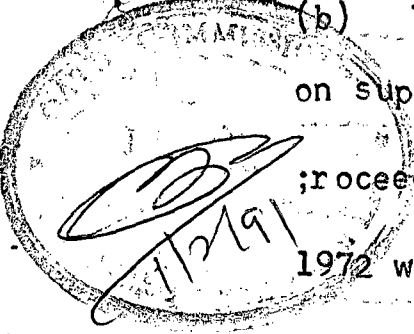
1. That the deponent has been authorised to file this counter affidavit on behalf of all the opposite parties.

2. That the deponent is well conversant with the facts of the case and the facts deposed to herein under in reply thereof.

3. That before giving parawise reply to the averments made in the application certain facts and circumstances which are relevant are being stated herein-under:

Caution

(a) That in the year 1981 three dimension clock fixed in the tower of the office of PMG, UP Circle Lucknow was sought to be repaired. Subsequently it was found during the course of preliminary inquiries that S/Shri Gautam Gupta, the then Director Postal Services (HQrs.) Lucknow, the applicant, Shri Jamuna Ram SS and Promod Kumar Misra dealing Assistant Tech. B. Section had handled the concerned file from time to time and had committed many financial irregularities in processing of the case at various levels. In the process the eall clock was lost. The matter was, therefore reported to Postal Directorate, New Delhi for considering feasibility of disciplinary proceedings against the concerned officers.



(b) That in the meantime the applicant retired on superannuation on 31.7.1985 as such disciplinary proceedings under Rule 9 of the CCS (Pension) Rules 1972 were instituted against him vide Director General Department of Posts Memo No. 7/14/85-Vig. II dated 24.4.1986. Shri AK Garde CDI CVC, New Delhi was appointed as Enquiry officer to go into the charges framed against the applicant. He and his successor Shri S. Lahiri could not conduct inquiry in the case earlier, as stated above and as such, Shri D.N. Joshi APMG in the office of PMG Dehradun has

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been appointed as E.O. vide Dte. Memo No. even dated 15.10.90. No date has been fixed for inquiry in the case so far. In the meantime the Hon'ble CAT Circuit Bench Lucknow vide their interim order dated 23.11.90 have stayed the proceedings against the applicant till 14.12.90 and the E.O. and P.O. have been informed of the aforesaid decision vide letter dated 6.12.90.

(c) That the Department of Posts vide their note dated 13.11.90 had sought for clarifications on the issue of release of DCRG and commutation value of pension during pendency of departmental/judicial proceedings, from the Department of Pension and Pension's Grievances, Government of India, New Delhi.

They have clarified vide their note dated 11.12.90

that the DCR Gratuity or commutation value cannot be released until conclusion of departmental/judicial proceedings and issue of final orders thereon, and any relaxation of pension rules in a solitary case was not desirable.

(d) That orders in respect of all the retirement benefits admissible to the applicant however stand released.

4. That in reply to the contents of para 1 of the application it is submitted that the institution

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of proceedings under rule 9 of the CCS(Pension) Rules 1972 vide Memo 7/14/85-Vig.II dated 24.4.86

is not denied. However, it is further added that final pension and DCRG not paid to the applicant so far, has been ordered to be released for payment under CPMG UP letter number VIG/M-13-4/86/2 dated 9.1.1991.

5. That the contents of para 2 & 3 of the application need no comments.

6. That the contents of para 4(i) to (iv) of the application are matter of record.

7. That in reply to the contents of para 4(vi) of the application it is submitted that the applicant made a request direct to the Inquiry officer requesting him to hold the inquiry at Lucknow endorsing only a copy to the department and so it was for the Inquiry officer to comply with his request or not. It is, however, not admitted that the earlier two charge sheets were dropped unilaterally. In fact one charge sheet dealt in DG(Posts) file no. 7-10/84-Vig.II was dropped only after prescribed departmental inquiry and in respect of other, the Government's displeasure was conveyed to the applicant from DG(Posts) file No.7-9/85-Vig.II only



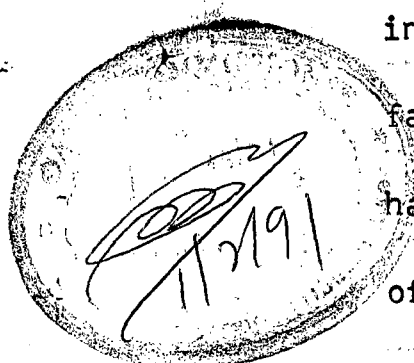
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after necessary departmental inquiry in which it was held that the charges were proved. It is admitted that at present only one charge sheet dated 24.11.86 is pending against the applicant.

8. That the contents of para 4(vii) to (x) of the application are matter of record, hence no comments are required.

9. That the contents of para 4(xi) of the application need no comments.

10. That in reply to the contents of para 4(xii) of the application it is submitted that the orders in respect of all the retirement benefits admissible to the applicant stand released. The delay in inquiry against the applicant was due to the fact that the documents relied upon were common and have been made part of inquiry against three other officials involved in the case.



11. That in reply to the contents of para 4(xiii) of the application it is submitted that the so-called review petition dated 1.8.89 was not traced to have been received by the department and as such the contents of this para are not admitted.

12. That in reply to the contents of para 4(xiv) to 4(xv) of the application it is submitted that

Handwritten signature

all the monetary benefits including final pension and DCRG due to the applicant since stand

released.

13. That the contents of para 4(xvi) of the application need no comments.

14. That in reply to the contents of para 4(xvii) to 4(xviii) of the application it is submitted that all retirement benefits including final pension and DCRG since stand released.

15. That the contents of para 5(a) & (b) of the application need no comments.

16. That the contents of para 5(c) of the application are incorrect as stated, hence denied and in reply it is submitted that due to change of Inquiry officer as also for want of relied upon documents there has been no progress in the inquiry.

17. That the contents of para 5(d) & (e) of the application needs no comments.

18. That in reply to the contents of para 5(f) of the application it is submitted that no instance of the kind was brought to the notice of the department.

Leanne

19. That the contents of para 6 of the application are incorrect as stated, hence denied and in reply it is submitted that the so called review petition dated 1.8.89 was neither received by the department nor it could be termed as a review petition ~~as a review petition~~ as no review was due at that stage. In the representation dated 13.12.89 the officer had requested for release of his retirement benefits and a decision on his petition dated 1.8.89 for dropping of the proceedings which was not there when oral enquiry proceedings were on.

20. That the contents of para 7 of the application need no comments.

21. That in reply to the contents of para 8(a) of the application ie. the grounds taken by the applicant are not tenable in the eyes of law.

22. That in reply to the contents of para 8(b) of the application it is submitted that the order for release of DCRG and commutation of pension have since been issued as stated in the preceding paragraphs, as such no further comments are required.

Caution

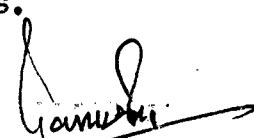
23. That in reply to the contents of para 8(c) of the application it is submitted that the orders for fixation and payment of final pension stand issued.

24. That the relief sought by the applicant in para 8(d) of the application is not entitled to get any relief in view of the facts and circumstances stated above.

25. That in reply to the contents of para 9 of the application it is submitted that the interim relief sought by the applicant has already been given to him as stated in the earlier paragraphs.

26. That the contents of para 10 to 12 of the application needs no comments.

27. That in view of the facts and circumstances stated in the foregoing paragraphs, the application filed by the applicant is liable to be dismissed with costs to the opposite parties.


Deponent.

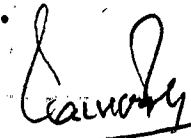
Luc know,

Dated: 1st Feb. 1991.

Verification.

I, the above named deponent do hereby verify that the contents of para 1 & 2 are true to my own knowledge.

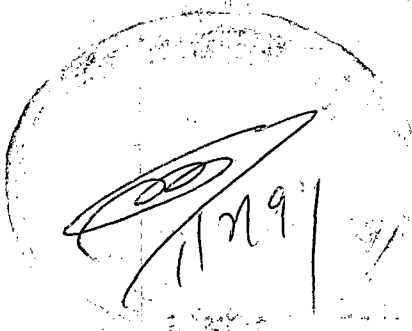
those of paragraphs 3 to 26 are believed by me to be true on the basis of records while those of paragraphs 27 are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed.


Deponent.

Lucknow,
Dated: 1st Feb. 1991.

I identify the deponent who has signed before me and is also personally known to me.


(VK Chaudhari)
Addl Standing Counsel for Central Govt


Solemnly affirmed before me on 11/2/91 at 5-30 am/pm by the deponent who is identified by Shri VK Chaudhari, Advocate, High Court, Lucknow Bench.

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


Oath Commissioner.

11/2/91

व अदालत श्रीमान CAT Circuit Bench Lucknow महोदय
 [वादी] अपीलान्ट Union of India & others का **वकालतनामा**
 प्रतिवादी

(टिकट)

O N Srivastava
 वादी (अपीलान्ट)

Union of India and others
 बनाम प्रतिवादी (रेस्पान्डेंट)

मुकदमा नं० OA 345/90(L) सन्

पेशी की ता० 14-12-1990 ई०

ऊपर लिखे मुकदमा में अपनी ओर से **श्री वी० के० चौधरी एडवोकेट** हाईकोर्ट
 ऊपर स्थायी अधिवक्ता भारत सरकार लखनऊ वेन्य, निवास- १४/६२६
 बरफखाना, नईबस्ती अलंकार सिनेमा के पास लखनऊ टेली. न. २३४६८६
 हाईकोर्ट चेम्बर न. १४ टेली. न. २४०६०७

(CAT Circuit Bench Lucknow)
 नाम अदालत OA 345/90(L)
 मुकदमा नं० नाम Union of India & others
 फरीकन Union of India & others

को अपना वकील नियुक्त करके प्रतिज्ञा (इकगार) 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 रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम अवे ।

स्वीकृत
(श्री० के० चौधरी)
 एडवोकेट हाईकोर्ट

हस्ताक्षर (श्री० डी० पण्डे)

साक्षी (गवाह) Asst. Commr. Lucknow साक्षी (गवाह)
 दिनांक 12 महीना Dec सन् 1990 ई०

BEFORE THE HON. CENTRAL ADM. TRIBUNAL

CIRCUIT BENCH, LUCKNOW

REJOINDER AFFIDAVIT IN RE :

O.A. No. 345 of 1990 (L)

Filed for 12/6/91

O.N.Srivastva - - - - - Applicant

Versus

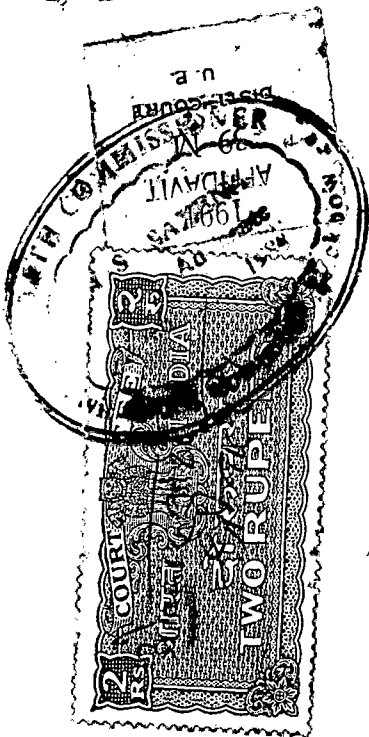
Union of India & others - - - - - Opp. Parties

AFFIDAVIT

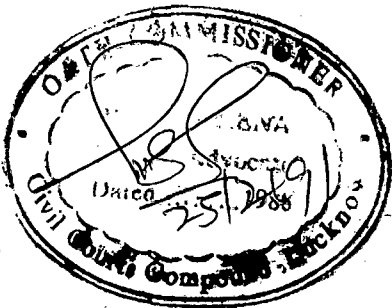
I, Onkar Nath Srivastva, aged about 63 years,
s/o Sri A L Srivastva, r/o 269/37 Devi Dayal Marg
Birhana, Lucknow do hereby solemnly affirm and state
on oath as under :

1. That the deponent is the applicant in the above mentioned claim petition and is fully conversant with the facts of the case. He has read the counter affidavit filed by the opposite parties and depose in reply as under.
2. That the contents of paras 1 and 2 of the C.A. do not need any reply.
3. That in reply to the contents ~~of~~ of para 3 (a) it is admitted that the clock in the tower was sought to be repaired but it is strongly denied that the deponent had any hand in the alleged financial irregularities. It is further stated that Sri Jamuna Ram was not working as SS (Tech) and therefore his charge-sheet was withdrawn. Sri S N Dutta who was S.S at that time was ~~however~~ not charge-sheeted. Thus the contents are incorrect as far as this fact is concerned.

Contd page 2



Filed today
SN
4/3/91



4. That the contents of para 3(b) of the C.A are admitted to the extent that the deponent retired on 31.7. 1985 and that an enquiry against the provisions of Rule 9 of CCS (Pension) Rules 1972 was instituted against him. It is however added that no date was fixed for enquiry and in the circumstances explained in the petition, this Hon'ble Tribunal rightly stayed the proceedings.

5. That the contents of para 3 (c) are matter of departmental records to which the deponent has no access, and as such no comments are offered.

6. That in reply to the contents of para 3 (d), it is stated that the retirement benefits have not been released fully as the interest payable on delayed payments have not been given and the amount released is nett, i.e. the same which was due in 1985 and no interest. It is further added that the pension is also fixed on old rates and not as per rates modified w.e.f 1986 and as such, the petitioner is still put to financial loss.

7. That the contents of para 4 of the C.A are admitted but it is denied that final pension settlement and retirement benefits have been paid fully to the deponent, as per explanation in the preceding para of this affidavit.

8. That the contents of para 5 and 6 do not need any reply, and it is pointed out that para 4(v) of the application has not been replied intentionally, by the O.Ps.

9. That the contents of para 7 of the C.A are ~~ex~~ incorrect and hence denied. It is stated that the deponent had applied for shifting the place of enquiry on health grounds to the I.O, through O.P no 2, who did not care to reply. It is also submitted that the earlier two enquiries

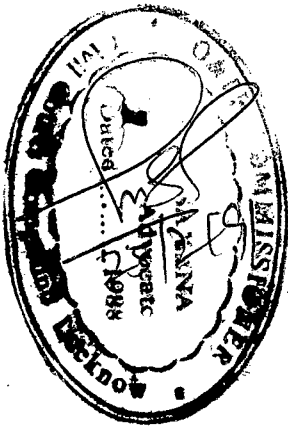
were conducted ex-parte as the petitioner could not defend his case because of health reasons and also because his prayer for holding enquiry at Lucknow was turned down. As such, the charges ~~was~~ ^{did} not stand proved as alleged. Even without any defence offered by the deponent, one charge-sheet was dropped and in other only displeasure was expressed with the observation that there was no malafide intention of the deponent in those cases. Thus the deponent was ^{held} innocent in those enquiries.

10. That the paras 8 and 9 of the C.A do not need any reply.

11. That in reply to the contents of para 10 of the C.A, it is stated that all the retirement benefits donot stand released as alleged, as the interest for the period for which the amount in question has been withheld illegally has not been paid to the applicant. The applicant is not responsible for the delay, which is purely because of the callous attitude of the opposite parties and as such there cannot be any valid excuse for putting the applicant to such financial loss.

12. That the contents of para 11 of the C.A are wrong and incorrect and hence denied. The review petition dated 1.8.89 was sent to the President of India, through O.P no 2 vide registered letter vide postal receipt no 1855 dated 4.8.89 which was acknowledged vide their acknowledge-slip. A photostat copy of the receipts are Ann '1' to this affidavit.

13. That ~~xxx~~ the contents of para 12 of the C.A are denied and it is stated that the 12% interest due on account of late payment is still outstanding against the O.Ps.



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14. That in reply to the contents of paras 13 to 15, it is re-iterated that the applicant's retiring benefits have not been paid fully as he is entitled for the interest at the rate of 12 % for the period for which the amount has been withheld without authority, i.e. from 1.8.85 to the date of actual payment, which the Hon'ble Tribunal may order in the interest of justice.

15. That in reply to the contents of para 16 of the C.A, it is stated that the delay was not because of any lapse on the part of the applicant as such the liability for delay and causing financial harm to the applicant lies wholly on the O.Ps. The contents of para 5 (c) are re-iterated.

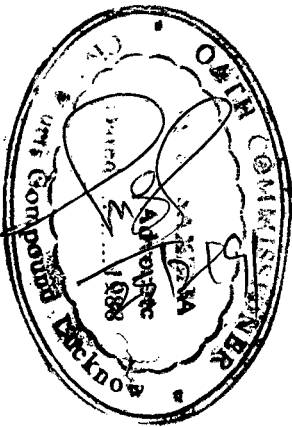
16. That no reply is needed to the contents of para 17 of the C.A.

17. That the contents of para 18 of the C.A are false and denied. In the representation made to the President of India through O.P no 2, the mandatory provision was brought to the notice of O.P no 2, but no action was taken by him or by the higher authorities.

18. That in reply to the contents of para 19, it is stated that the review petition was fully competent as it was also against the sanction accorded by the President, and as the same was accorded ~~without~~ against the provisions of Rule 9, Pension Rules, review was valid. The contents of para 18 are therefore incorrect and denied.

19. That the contents of para 20 of the C.A do not need any reply.

Contd page 5



On file

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20. That in reply to the contents of para 21 of the C.A, it is re-iterated that all the grounds taken are based on mandatory provisions of law and are fully applicable in applicant's case.

21. That in reply to the contents of para 22 of the C.A, it is again stated that the applicant money on account of interest due on late payments, is still due and it is further stated that his pension has not fixed as per scales applicable w.e.f 1986 and is adjusted at old ~~rates~~ rates and as such, the contents are denied.

22. That in reply to the contents of para 23 of the C.A, the contents of preceding para are re-iterated and it is stated that the O.Ps have deliberately withheld the full payment.

23. That in reply to the contents of para 24 of the C.A, it is re-iterated that the applicant is fully entitled for the relief applied for in para 8(d) of the ~~petition~~ petition.

24. That in reply to the contents of para 25 of the C.A, it is re-iterated that the interim relief has not been granted to the full extent as the interest accumulated on the amount for illegally withheld period has not been sanctioned so far, which should be at least 12% looking at the present rates of interest ~~on~~ ^{on} deposits.

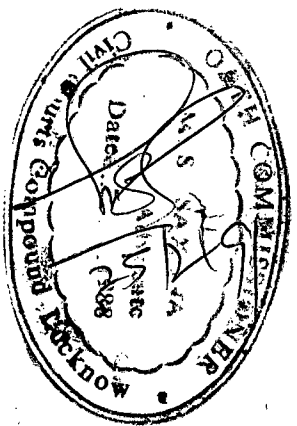
25. That in reply to the contents of paras 26 and 27 of the counter affidavit, it is stated that the applicant's case is genuine and the case and application deserves to be allowed granting all the prayers applied for in the application.

Lucknow

Dated : 25 Feb 91


DEPONENT

Contd page 6



13

VERIFICATION

I, the deponent named above do hereby verify that the contents of paras 31 to 25 of this affidavit are true to my own knowledge and those of paras 27 to 32 true on the basis of legal advice which I believe to be true. Signed and verified at Civil Courts Lucknow compounds on this 25th day of February 1991.



Lucknow

[Signature]
Deponent

I identify the deponent who has signed in my presence.

[Signature]
(R C Sharma)
Advocate

39/17
I have satisfied myself by examining the deponent that he understands the contents of this affidavit which has been explained to him by me. Fee charged Rs. 150/-
20/11/91 by Onkar Nath
who is identified by Shri. S. N. Sharma.
Check to Shri. S. N. Sharma
R. C. Sharma
Advocate

[Signature]
25/2/91

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

W.P. No. 749 of 1991. (L)

APPLICATION FOR EXTENSION OF TIME.

By Applicant/Respondents.

In

O.A.No.345 of 1990(L)

Onkar Nath Srivastava.....Applicant.

Versus

Union of India & others.....Respondents.

The Applicant/Respondents most respectfully
submits as under :-

That on account of the facts & circumstances
stated in the accompanying affidavit it is prayed that
this Hon'ble Tribunal may graciously be pleased to
give two months more time to comply with its order dt.
31-7-91 which were delivered to the deponent on
for which act of kindness the respondents shall ever
remain grateful.

Dated;- 6/12-91
Lucknow.

J. Chandra
(DR.DINESH CHANDRA)

Counsel for Applicant/Respondents

Filed today

OTB

5/12/91

15

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

-: AFFIDAVIT :-

In

O.A.No.345 of 1990(L)

Onkar Nath Srivastava.....Applicant.

Versus

Union of India & others.....Respondents.

I, D.D. PANDEY.....aged about 57.
years, son of Late Shri R.N. Pandey.....
Vigilence Officer, Office of the Chief Post Master
General, U.P.Circle, Lucknow do hereby solemnly affirm
and state as under :-

1. That the deponent is well conversant with the
facts of the case deposed hereinafter and is filing
this affidavit on behalf of all the respondents.

2. That the Hon'ble Tribunal vide judgement and
order dt.31-7-91 directed the respondents to make
payment of the entire amount which has been with
within a period of three months from the date of
receipt of a copy of this judgement alongwith
@ 12%.

3. That the copy of the above judgement
ed/True copy by the Section Officer of the
12-8-91 and was received by the counsel
dents on 20-8-91.

Deponent

// 2 //

4. That a copy of the above judgement was received by the Chief Post Master General, U.P., Lucknow on 03.09.91...

5. That immediately on receipt of the send judgement and order of this Hon'ble Tribunal, action was initiated for making payment of the entire amount which has been withheld.

6. That on account of administrative ^{formalities} reasons the entire amount admissible to the applicant in terms of the Hon'ble Tribunal's order could not be worked out & sanctioned by the competent authority within the stipulated period.

7. That in view of the facts stated above it is prayed that the Hon'ble Tribunal may grant two month more time to comply with the above orders.

x *[Signature]*
DEPONENT.

-: VERIFICATION :-

I, the deponent above named do hereby verify that the contents of para 1 are in my personal knowledge and these of para 2 to 7 are based on record which I believe to be true. No part of it is false and nothing material has been concealed, So help me God.

x *[Signature]*
DEPONENT.

समक्ष:- केन्द्रीय प्रशासनिक अधिकरण, उ० प्र०, लखनऊ।

प्रार्थना पत्र सं० ७५५ १९९०

ओ० ए० सं० :- ३४५ / ९०

ओ० एन० श्रीवास्तव

अपलीकान्ट,

बनाम

भारत सरकार

अप० पार्टि,

तारीख के० :- १४. १२. ९०

प्रार्थना - पत्र वास्ते अन्तरिम आदेश हेतु।

प्रार्थी निम्न निवेदन करता है कि :-

१. यह कि विपक्षीय ने उसका ₹ डेढ़ कम रिटायरमेंट ग्रेजुटी तथा पेंशन कम्प्लेन्स का लगभग एक लाख से अधिक रूपया १९८५ से बिना करण रोक रक्खा है।

२. यह कि माननीय सुप्रीम कोर्ट ने डी० वी० कपूर बनाम भारत सरकार १९९० एस० सी० सी० १४१ पैज ३१४ में निर्णित किया है कि राष्ट्रपति रु० ९ / २ सी० सी० एस० पेंशन रुल्स के तहत पेंशन के अलावा कोई राशि नहीं रोक सकते, न ही सरकार को ही इसका अधिकार है।

अतः श्रीमान जी से प्रार्थना है कि वह विपक्षीय को निर्देश देने वृत्ता करें कि प्रार्थी को उपरोक्त रुका हुआ पैसा तुरन्त प्रार्थी को अदा किया जाय।

महान वृत्ता होगी।

लखनऊ दिनांक :-

१५/१२/९०



प्रार्थी / अधिकारी

आर० सी० शर्मा

एडवोकेट,

(See rule 114)

OA/TA/RA/CP/MA/PT20.....of 202.....

.....Applicant(S)

Versus

S. P. Rai Versus Respondent(S)

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
①	Order sheet and Final order	1 - 2
②	Redition with Power	3 - 10
③	M.P. 480/92	11
④	C.A.	12 - 15

Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

(AM)

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

W.P. No. 749/91

In

O.A. No. 345 of 1990

Onkar Nath Srivastava

Applicant

versus

Union of India & others

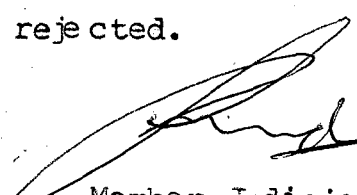
Respondents.

Hon. Mr. S.N. Prasad, Member Judicial.

O.A.

In the above No. 345/90 the respondents have moved W.P. No. 749/91 with the prayer for giving two months more time to comply with the order of this Tribunal dated 31.7.91 passed in the aforesaid O.A.

2. This is noteworthy that this application is dated 1.12.91 and more than two months time has already expired. Thus, this being so, this W.P. No. 749/91 having been infructuous stands rejected.


4.5.92
Member Judicial.

Lucknow: Dated 4.5.92.

(AV)

Contempt 20/12

2

O.A. 345/90

13.4.92

Hon. Mr Justice U.C. Srivastava, VC

Hon. Mr A.B. Gorthi, AM

Issue notice to respondent to show-cause as to why he should not be punished for committing contempt of this court for not complying the order of this Tribunal dated

31-7-91 passed in O.A. No. 345/90 (4).

Issued on 8/5/92 side

on 27-5-92 for order, on which date the respondent Mr. 1 shall appear personally.

VC

VC

PM

OR

Notices Issued

on 8/5/92

VC

MP 480/92 filed by personnel appearance 2 SRO

27.5.92

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

Hon'ble Mr. A.B. Gorthi, A.M.

In this contempt application, counter affidavit has been filed by the respondent in which it has been stated that the entire ^{amount} withheld amount has been paid to the applicant before filing of this contempt application and nothing remains to be paid. The interest @12% has been paid on the amount of DCRG and leave encashment for delayed payment amounting to Rs.29,366 and Rs.10040 respectively on 19.5.92. Learned counsel for the respondent states that if any amount is due, the same shall be paid within si

IN THE HON'BLE ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH, LUCKNOW

Contempt Petition (Civil) No. 29 92

Onkar Nath Srivastava - - - - -

Petitioner

Versus

Sri S.P.Rai, Chief Post Master
General (U.P Circle)
Lucknow - - - - -

Respondent/Contemnee

PETITION UNDER SEC 17 OF THE ADM? TRIBUNAL ACT 1985

That the petitioner most respectfully begs to
submit as under :

That in view of the facts and circumstances
stated in the accompanying affidavit, it is most respect-
fully prayed that this Hon'ble Tribunal may kindly be
pleased to summon the respondent/contemner, and to punish
him for committing the contempt of this Hon'ble Tribunal's
order and judgement dated 31.7.91, passed in O.A No 345
of 1990 (L).

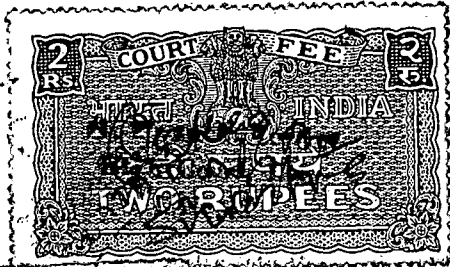
Dated : 07/4/92
Lucknow

(Onkar Nath Srivastava)
Petitioner

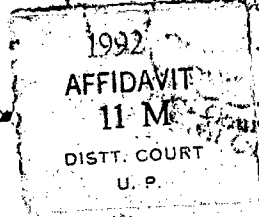
(R. C. Sharma)
Advocate
Counsel for the Petitioner

(AW)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW



In re : Contempt Pet (Civil) No----- 92
20



Onkar Nath Srivastava - - - - - Applicant/Pet.

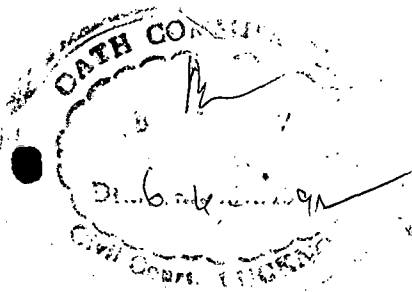
Versus

Sri S.P. Rai, Chief Post Master
General UP Circle
Lucknow - - - - - Respondent/Contemner

A F F I D A V I T

I, Onkar Nath Srivastava, aged about 65 years,
s/o Sri A.L.Srivastava, r/o 269/37 Devi Dayal Marg,
Birhana, Lucknow do hereby solemnly affirm and state
on oath as under :

1. That the deponent is the petitioner in the
above mentioned case and is fully conservant with
the facts of the case .
2. That the deponent has filed an application/
claim petition in this Hon'ble Tribunal which was
registered as O.A No 345 of 1990 (L).
3. That the said claim petition was heard and
decided by this Hon. Tribunal and was decided vide
its judgement and order dated 31.7.91.
4. That vide the above judgement and order, the
Tribunal was pleased to direct the respondents, inclu-
ding respondent no 3, the respondent/contemner in the
instant petition, to release the amount due to the
petitioner with 12 % interest for the period it was
withheld, within 3 months of production of the order
of the Hon'ble Tribunal.



5. That the petitioner submitted his application for release of his dues, as per this Hon. Tribunal's order, for favour of payment, on 19.8.91, alongwith a copy of the judgement and order dated 31.7.91. A ~~xxx~~ copy of the receipt given by the office of the respondent is Annexed as Ann '1' to this affidavit, *and a copy of judgement is Ann '2' to this affidavit.*

6. That in spite of repeated reminders through Telephone (as the petitioner is a heart patient and his movements are restricted), no action has been taken by the contemner/respeondent and the amount is unpaid yet.

7. That an application was moved by the respondent before this Hon'ble Tribunal in the month of Dec 1991, in which a further time of two months was sought by him for implimenting the order of the Tribunal dated 31.7.91. This time too has expired in Feb 1992 but the amount is yet not paid.

8. That the petitioner who is a chronic heart patient and is under medical treatment is suffering because of the non-payment of his dues which ought to have been paid by the respondent/contemner within the time granted by the Tribunal.

9. That the respondent has committed gross contempt of this Hon'ble Tribunal's order dated 31.7.91 and is liable to be punished for his conduct showing disregard and contempt to the order passed by this Hon'ble Tribunal dated 31.7.91 in OA No 345/90 (1).

Dated : 6/4/92

on Ld
Deponent

VE-RIFICATION

I the deponent above named do hereby verify that the contents of paras 1 to 9 of this affidavit are true to my own knowledge. No part of it is false and nothing is concealed. So help me God.

I identify the Deponent who has signed in my presence.

on Ld
Deponent

Before the Hon C.A.T. Circuit Bench Lko
Onkar Nath Srivastava VS J.P. Rai

The Chief P.M.G.

U.P. Circle, Lucknow 226001.

Ann¹

Sir,

Ref : C.O. Case Memo Vig/M-13-4/86/2

With due respect, I beg to submit the following for your kind consideration and necessary orders :

1. that I retired from the Post of A.P.M.G.(PLI) on 31.7.85-
2. that my entire payment were withheld and released only in end of 90 or beginning of 1991, when the case was filed in C.A.T./ Allahabad (LKO Bench)
3. that the case has been decided now and the court is pleased to order for the payment of entire amount with 12% interest thereupon. (copy of judgement enclosed) with in 3 months of the receipt of the copy of judgement.
4. that the following payment were with-held which have been Paid/ sanctioned as per date noted against each and the amount of interest occurred thereupon as noted against each @ 12% as per court order is awarded to be paid.

Dats of Delayed Rate Amount.
sanction period

(a)	D.C.R.O. R. 46,612.00	7.2.91	5 yrs 3 months	12%	R. 29,365.5
(b)	Commutation of pension R. 50,856.00	23.2.91	do	12%	R. 32,026.68
(b)	Encashment of leave R. 17,310.00	30.5.90	4 yrs 10 months	12%	R. 10,039.80
(d)	CORIS R. 28,72. 00	16.8.90	5 yrs	12%	R. 1,723.20
					<u>R. 73,155.24</u>

4.A. Besides this like other pensioners my pension was not revised on the ground of it being provisional pension. It was subsequently revised vide DAP Authority No. Pen-I/P-III/IPC-125/84-85/IPC-164/85-86/10 dated 26.4.91 @ and arrear of pension of R. 16614.00 was paid to me in June 91, interest on it may also be calculated and given.

As such I request your honour to kindly arrange an early payment.

Yours faithfully

D.A.

2

(O.N. Srivastava)

Rtd, A.P.M.G. PLI.

Copy to Shri D.D. Pandey, V.G. 269/37 Devi Dayal Marg Birhana
O/O The Chief P.M.G. U.P. Lucknow for 226001 information and
necessary action along with enclosures.

(O.N. Srivastava).

Before the C.A.T, Lko
Onkar Nath Srivastava Vs S.P. Rai

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

✓ Counsel for Petitioner: Sri R.C. Sharma, Advocate
CIRCUIT BENCH, LUCKNOW

O.A. No. 345/90

Onkar Nath Srivastava

Applicant

versus

Union of India & others

Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

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

The applicant who retired as Assistant Post Master General (PLI), which post he held till the date of superannuation on 31.7.85, on which date he was served with two charge-sheets for disciplinary proceedings against him but both the proceedings were dropped vide order dated 20.9.89 and 13.10.89. These chargesheets pertain to the period when he was functioning as AD(T). Another chargesheet was issued to the applicant on 28.4.86 for holding of enquiry into the alleged irregularity in the repair/purchase under section 9 of the C.C.S. (Pension) Rules, 1972 when the applicant was functioning as AD(T), Lucknow. The applicant expressed his inability to attend the enquiry at Delhi being heart patient. It was informed after dropping of the proceedings in the year 89, some of the pensionary benefits were released to him and no interest on the amount which was withheld for such a long period was given to him. A sum of Rs 20,182 out of Rs 1,14,972 was also paid to him and the rest amount was withheld. According to the applicant normally pension is also not being paid to

OATH COMPLETION
21.6.90
CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW

to him. The proceedings are still pending and the applicant has challenged the said proceedings on variety of grounds including that after retirement the chargesheet in respect of some acts of omission and commission which is said to have been committed by him some 4 years prior to retirement and as such in view of rule 9 of the C.S.S (Pension) Rules, 1972 under which the proceedings have been initiated, the same cannot be initiated and the said rule itself provides (Rule 9(2) (b) (ii) of C.C.S) Pension Rules 1972)

that the departmental proceedings shall not be initiated in respect of the event ^{which took place more than four years} prior to superannuation.

The chargesheet has also been filed before us and

the same indicates that last date of tenders which

were invited for repairs was 17.11.80. The A.D. (T)

approved the tender notice on 27.11.80 appeared in Lucknow

9 Newspapers located at ~~Delhi~~. Another tender was

submitted on 5.1.81. The draft was approved on 6.1.82

to be issued under the signatures of the applicant and

notice was sent to the firm on 14.1.81. Certain ~~etc~~ were

other proceedings on file/going on. The concurrence

of the I.F.A. was obtained on 17.2.81 and the

contractor were addressed on 20.2.1981 intimating him

the approval and requesting him to deposit Rs 500/-

as security. Vide letter dated 24.2.81 the contractor

asked for permission to allow his staff to visit the

site for installation of the tower clock etc. The

permission was granted on 27.2.81 and the contractor

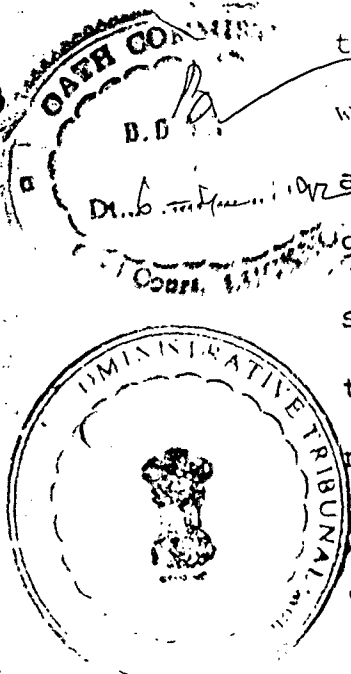
submitted the bill on 27.4.81 and without examination

of bills and challans etc. the bill was sanctioned

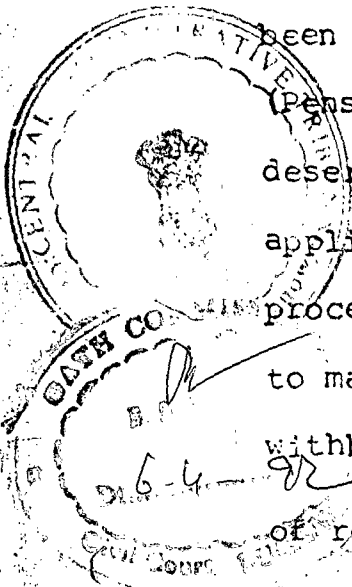
by the applicant on 29.4.81. It was in the year 1982

when the Clock stopped working and an office notings

started that there was 10 years ~~garantee~~ for the



said clock given by the Contractor. Thus, the bill was paid thereafter by the applicant. Thus, everything happened concluded in the year 1981 and the charge-sheet was issued to the applicant in the year 1986 i.e., 4 years after the act of omission and commission in respect of the event in which the payment was made and everything was concluded and the disciplinary proceedings under Rule 9 of the Discipline & Appeal Rules were initiated after more than 4 years of the event. Accordingly, the proceedings ~~are~~ being barred by time, could not have been initiated in violation of Rule 9 of C.C.S. (Pension) Rules, 1972. and as such this application deserves to be allowed and the proceedings against the applicant are without jurisdiction and the said proceedings are quashed. The respondents are directed to make payment of the entire amount which has been withheld within a period three months from the date of receipt of a copy of this judgment alongwith interest @ 12%.



eel/

Sd/

vice Chairman.

Attested
Becknow Dt. 31-7-91

Section Officer
Administrative Tribunal
Bathinda Bench
Becknow

C.T.C.

cyd
12/8/91

Ortula

Before the Hon. C.A.T., Circuit Bench
Lucknow

ब अवालत श्रीमान्

(रादी) वकील

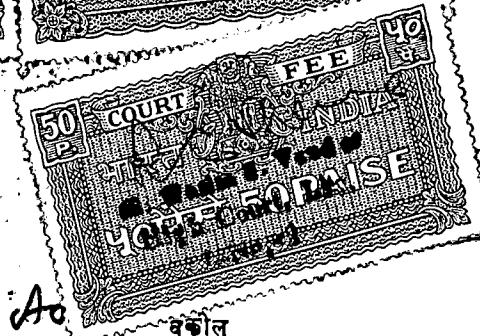
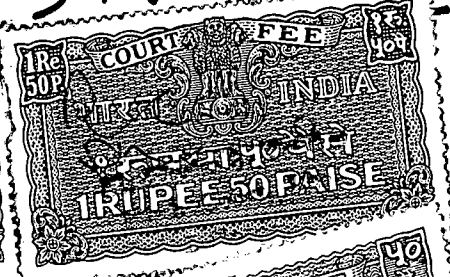
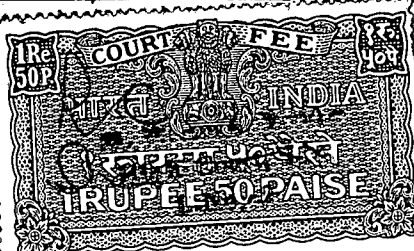
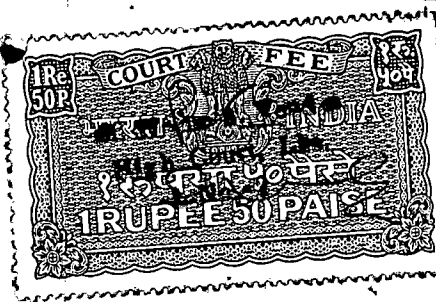
प्रतिवादी (रेस्पण्डेंट)

O.N. Srivastava

महोदय

वकालतनामा

Contempt Pet (Civil) No 27



नं० मुकद्दमा

सन्

पेशी की ता०

ऊपर लिखे मुकद्दमा में अपनी ओर से थी

R.C. Sharma A/c

24 Patel Nagar Lucknow

वकील

महोदय

एडवोकेट

नाम अदाकर्ता	नाम अवालत
मुकद्दमा नं०	बनाम
नाम करीबन	

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाब देहो व प्रश्नोंत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या मुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी विपक्षी (फरीकसाबी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अबम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १९

दि०

स्वीकृत

In the Central Administrative Tribunal

Lucknow Bench.

M.P. No. 480/1992

In

Contempt No. 20/92 (L)

O.N.Srivastava. Petitioner

Versus

Shri. S.P. Rai, Chief P.M.G.

U.P. Circle, Lucknow. Respondants

APPLICATION FOR EXEMPTION FROM PERSONAL APPEARANCE.

The respondent above named most respectfully submits as under:-

1. That in view of the facts and circumstances mentioned in the accompanying counter-affidavit, there was no grievance for the petitioner to file the present contempt petition as the alleged withheld amount as directed by the Hon'ble Tribunal in its judgement and order dated 31.7.91 had already been paid to him even before the said order.

P R A Y E R

WHEREFORE it is respectfully prayed that this Hon'ble Tribunal be gracious enough to exempt the respondent from personal appearance in the above case and allow him to appear through his duly authorised advocate for which ^{act} of kindness the respondent shall ever remain grateful.

S. P. Rai
(S.P. Rai)

Dated. 25.8.92
Lucknow.

Respondant.
Chief Postmaster General
Uttar Pradesh Circle
LUCKNOW-226001,

Filed today
25/8/92

In the Central Administrative Tribunal

Lucknow Bench

A12

Counter-affidavit by Respondant

In

Contempt Petition No. 20/92 (L)

Onkar Nath Srivastava Applicant

Versus

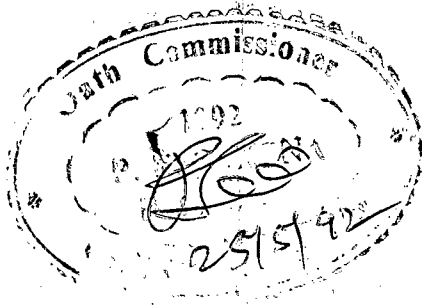
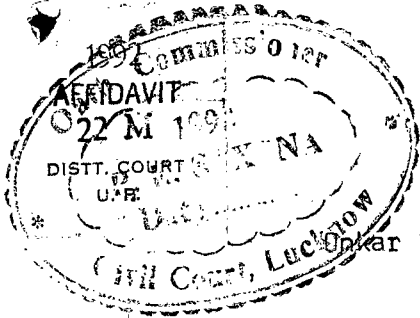
Shri. S.P.Rai, ^{Chief} Post Master General,
U.P. Circle, Lucknow. Respondant

~~66~~

I, S.P.Rai, ^{Post} Chief Master General, U.P. Circle, Lucknow

do hereby solemnly affirm and state as under :-

1. That the deponent has read the contempt petition filed by Shri. Onkar Nath Srivastava and has understood the contents thereof and is well conversant with the facts of the case deposed hereinafter.
2. That it will be apparent from the submissions made hereafter that there was no point in filing the present contempt petition as the withheld payments sought for in the claim petition had already been paid to the petitioner as per directions and order contained in the Hon'ble Tribunals' judgement dated 31.7.91.
3. That the applicant had filed the claim petition No. C.A. 345/90 in this Hon'ble Tribunal which was decided vide judgement and order dated 31.7.91 and was issued by the registry on 12.8.91 and was received in the office of the deponent on 3.9.91.
4. That it was indicated in the above judgement and order that "a



[Handwritten signature]

113

sum of Rs. 20182 out of Rs. 114972 was also paid to him and the rest amount was withheld."

5. That in the above context, the respondents were directed " to make payment of the entire amount which has been withheld within a period of three months from the date of receipt of a copy of this judgement along with interest @ 12% "

6. That during the pendency ^{of the claim petition} an amount of Rs. 46612 as DCRG and Rs. 50836 as commutation of pension was sanctioned on 7.2.91 and 11.2.91 respectively. The said amounts had since been paid to him, has been acknowledged by the petitioner in Annexure 1 to the contempt petition.

7. That according to the above facts, the entire withheld amount was paid to the applicant as early as in February, 1991.

8. That from the above facts it is apparant that the petitioner was paid the entire withheld amount even before filing of the present contempt petition and nothing was left for the respondent to comply with the Hon'ble Tribunals' order dated 31.7.91.

9. That in view of the above submissions the deponent has not disobeyed the Hon'ble Tribunals' order dated 31.7.91 in any manner whatsoever.

Additional Submissions

(1). That interest @ 12% has also been paid on the amount of DCRG and Leave Encashment, for delayed payment, amounting to Rs. 29366 and Rs. 10040 respectively on 19.5.92. An amount of Rs. 1723 was also paid as interest on Group Insurance amount on 21.5.92.

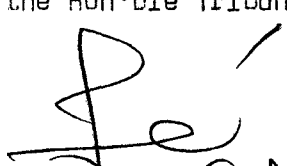
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(II). That interest on commuted value of pension is not admissable because of the fact that the applicant was in receipt of full pension without any reduction till the commuted value was paid to him. In the event of commutation ~~the~~ ^{commuted portion} of pension amount is reduced.

P R A Y E R

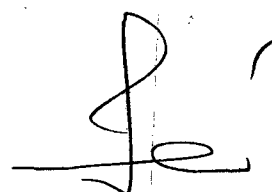
WHEREFORE it is respectfully prayed that in view of the facts and circumstances stated in the above paragraphs, this Hon'ble Tribunal may be gracious enough to discharge the contempt notice for which the respondant shall ever remain grateful.

It is, however, respectfully submitted that the respondant can never even think of disobeying the Hon'ble Tribunals' order in any manner whatsoever.


S. P. Rao
Deponant/Respondant
Chief Postmaster General
Uttar Pradesh Circle
LUCKNOW-226001.

Verification

I, the deponant/respondant above named do hereby verify that the contents of para 1 are true to my knowledge and those of paras 2 to 9 are based on records and legal advice which I believe to be true. No part of ^{it} is false and nothing material has been concealed.

 So help me God.

Deponant/Respondant.
Chief Postmaster General
Uttar Pradesh Circle
LUCKNOW-226001.

affirmed before me on 10/10/92 at 10 a.m. by S. P. Rao
The deponant is identified by Shri

D. Chandra Rao

I have satisfied myself by examining that the deponant is the person of this name.

P. K. SAXENA
Oath Commissioner
Civil Court, Lko.

I identify the deponant who has signed before me


D. Chandra Rao

अदालत श्रीमान्

(वादी) अपीलान्त

Centmt Adm Tulu
C. S. P. Rao

MS

महोदय

श्री

का

प्रतिवादी रैस्पॉन्डेंट

वकालतनामा

टिकट

वादी (अपीलान्त)

G. N. S. Rao बनाम S. P. Rao प्रतिवादी रैस्पॉन्डेंट

नं० मुकदमा १८२/१२ पेशी की ता० १६ ई०

उपर लिखे मुकदमा में अपनी ओर से

D. J. Rao

वकील

महोदय

Adv. Gen. S. P. Rao एडवोकेट

नाम अदालत

मुकदमा नं०

नाम फरीकन

बनाम

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

Accepted
D. J. Rao

हस्ताक्षर

S. P. Rao

Chief Postmaster General
Uttar Pradesh Circle
LUCKNOW-226001

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

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