

(A2)

Particulars to be Examined

Endorsement as to result of examination

- 11. Are the application/duplicate copy/spare copies signed? Only in main copy
- 12. Are extra copies of the application with Annexures filed? Yes.
 - a) Identical with the Original? Yes
 - b) Defective? Yes
 - c) Missing Annexures Union of India is not respondent
 - d) Missing pages? N.A.
- 13. Are the file size envelopes bearing full addresses of the respondents been filed? N.A.
- 14. Are the given address the registered address? Yes
- 15. Do the names of the parties stated in the copies tally with those indicated in the application? Yes
- 16. Are the translations certified to be true or supported by an Affidavit affirming that they are true? N.A.
- 17. Are the facts of the case mentioned in item no. 6 of the application? Yes
 - a) Concise? Yes
 - b) Under distinct heads? Yes
 - c) Numbered consecutively? Yes
 - d) Typed in double space on one side of the paper? No.
- 18. Are the particulars for interim order prayed for indicated with reasons? No.
- 19. Whether all the remedies have been exhausted.

dinesh/ C Union of India is not respondent. Yes

4.12.90
D.R.

Put up before the Hon. Bench,
on 14.12.90 for orders
[Signature]
4/12/90

[Signature]
4/12


25-4-91

(15) OA 299

Hon Mr D.R. Agrawal Jm
Hon Mr K. Balyan. Am.

Learned Counsel for applicant
pleas to file application
for condonation of delay. Put
up and when the application
for condonation of delay is filed.


Jm.


Jm.

OR



4c for the applicant
has filed M.P. NO 250/91
for condonation of delay.
S.F.O.


1/2/91.

8/5/91

Hon. Mr. Justice U.C. Srivastava, vc.
Hon. Mr. A.B. Gothi, Am.

M.P. No. 250/91


This application for condonation
of delay is condoned as the
cause shown is sufficient.

Issue notice to respondents
to show cause why the petition
may not be admitted. Respon-
dents may file reply within
six weeks to which the
applicant may file rejoinder
within two weeks thereafter.
D.R. (J) will fix the case
immediately. The Comets &
Rejoinders are exchanged.

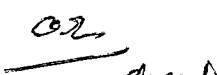
24/6/91



Am.


vc.



OR
Notice issued

15/5/91

(AU)

(1)

(1)

14.12.90

Hon. Mr. Justice K. Mathur vs
Hon. Mr. K. Chagga. AM

On the request of counsel for
applicant case is adjourned to 11.1.91
for admission.

AM

ve

(2)

11.1.91

No sitting Adj. to 29.1.91.

(3)

29.1.91

No sitting Adj. to 28.2.91
for

(4)

28.2.91

No sitting, this case is
adjourned to 22.3.91 for
Admission.

(5)

22.3.91

No sitting Adj. to 3.4.91

stu

(6)

3/4/91

Hon. Mr. Justice K. Mathur, vs
Hon. Mr. A.B. Zutshi, vs.

Case called. None is present for the
applicant. The respondents in this case
do not include the Union of India and
the question of limitation in certain
respect is involved. The case be
relisted for admission on 25/4/91.

AM

ve

OK
2/c for the
applicant to not
filed any amendment
24/4

23.1.92
D.R.

Both the parties are present. Counsel for the applicant had filed M.P. 12/92 (L) on 8/1/92 for listing the case before the Hon. Bench for Ex parte order. Hence, case is listed on 26/2/92 for disposal of M.P. 12/92 (L)

26.2.92

No sitting of D.B. adjourn to 16.3.92
L

16.3.92

No sitting of D.B. adjourn to

6.4.92
L

6.4.92

No sitting of D.B. adjourn to

5.5.92
L

21/93

प्रिय,
श्री आर० ड० लंघान
प्रभागोप वनाधिकारी (काठंडे),
उ० ड० लंघान

सैन्य,

रजिस्ट्रार
आर० ड० लंघान प्रशासनाधिकारी
लंघान

विषय: - आ० ड० लंघान - 394/90 श्री (कै० लंघान वनाड)

आत लंघान व अन्य

संदर्भ: - शासकीय पत्रांक - 227/14-1-93-61(1)(6)/91

सहायक,


उपरोक्त विषयक संबंधित पत्र के क्रम में कठोरेय
है कि प्रसंगत याद में 'मेमो आफ पेशिज' की प्रमाणित
को उपलब्ध कराने की कृपा करें। याद दिनांक 10.7.92 का
निर्णय हो गया है।

RT
22/11/93

AK

Received
22/11/93
AM

Issue
22.11.93

भवदीय,

(आर० ड० लंघान)
प्रभागोप वनाधिकारी
(काठंडे)
लंघान

आवश्यक

संख्या-237/14-1-93-61116/91

प्रिय,

डायरेक्टर आरपीसी वास्तव,
विशेष सचिव,
उपप्रशासन।

सेवा में

रजिस्ट्रार,
महानगरीय प्रशासनाधिकरण,
लखनऊ।

कम अनुभाग-1

लखनऊ: दिनांक: जनवरी 20,

विषय:- आरपीसी संख्या-394/90, श्री कुबेर नाथ बनाम भारत सरकार व अन्य।

महोदय,

उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि प्रसंगत केस में "मेमो आफ पार्टी" शासन की ओर से प्राप्त करने के लिये श्री आरपीसी व प्रशासकीय कर्ताधिकारी (कोर्टिस) को प्राथिकता दिया जाता है। कृपया आप तत्काल "मेमो आफ पार्टी" श्री स्थान को हस्तगत कराने का कष्ट करें यह भी स्पष्ट करने का कष्ट करें कि प्रसंगत केस में यूनिवर्सल आफ इण्डिया पार्टी थी अथवा नहीं।

भवदीय,

डायरेक्टर आरपीसी वास्तव,
विशेष सचिव।

संख्या-237/14-1-93-61116/91 तदुद्दिनांक

प्रतिलिपि निम्नांकितों को सूचनाार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- 1- मुख्य कानून सहायक, प्रशासन एवं नियोजन। उपप्रशासन, लखनऊ।
- 2- श्री आरपीसी व प्रशासकीय कर्ताधिकारी (कोर्टिस) को इस अभ्युक्ति के साथ कि वे तत्काल "मेमो आफ पार्टी" तथा संबंध सूचनाएं प्राप्त कर इस संदर्भ में उचित कार्यवाही करें।

जाता है,

डायरेक्टर आरपीसी वास्तव,
विशेष सचिव।

Received from
Registry

F.T.
20.1.93

(Amil km)
Applicant

W/S inspect

File

21.1.93

inspected me
File

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO. 394 /90 199 (L)

T.A. NO. _____

Date of Decision _____

Kuber Nath PETITIONER.

Shri R. B. Singh Advocate for the Petitioner(S)

V E R S U S

Union of India & others RESPONDENT.

Dr. E. Chandra Advocate for the RESPONDENT(S)

CORAM :

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

The Hon'ble. Mr.

1. Whether Reporter of local papers may be allowed to see the Judgment? ✓
2. To be referred to the reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgment? ✓
4. Whether to be circulated to other benches? ✓

Vice-Chairman/Member

[Signature]

AG

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

O.A. No. 394/90

Kuber Nath

Applicant

versus

Union of India & others

Respondents.

Shri R.B. Singh counsel for the Applicant.

Shri Dinesh Chandra, Counsel for Respondents.

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

By means of this application, the applicant who has retired from service, has prayed that the respondents may be directed to pay interest on gratuity of Rs 36,000/- from 1.5.83 to 28.3.83 @ 24% p.a. amounting to Rs 42,410/-. Interest on the above @ 24% p.a. from 28.3.88 to 28.3.91 amounting to Rs 30,535/- and Interest @ 24% p.a. on delayed payment of pension and dearness relief upto 30.6.88 and further interest thereon from 1.7.88 to 31.3.91 amounting to Rs 25,230/-, totalling to Rs 98,175.00. Apart from this he has further prayed for interest on the amount of Rs 98,175/- @ 24% till the payment of the said amount and Rs 10,000/- compensation for the inconvenience and mental torture caused to the applicant.

2. The applicant who was Addl. Chief Conservator of Forests, retired on 31.1.83. 10 days before his retirement, the applicant was served charge sheet dated 19.1.83. He submitted the reply to the charge sheet

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The enquiry proceeded . The copy of the enquiry report wasnot given to him . The matter was kept pending for about 4 years and then the enquiry proceedings were closed and the pension and gratuity was paid to the applicant in the year 1988.

3. From the reply it appears that the applicant was exonerated from the charges levelled against him. It was thereafter that the applicant made representation for payment of amount but no payment was made to him despite reminders, whereafter he approached this Tribunal. The respondents have stated that under rule 6(2) of All India Services (Death-cum-retirement benefit) Rules, 1958 "Where any departmental or judicial proceeding is instituted under sub rule (1) or where a departmental proceeding is contained under clause(a) of the proviso thereto against an officer who has retired on attaining the age of retirement or otherwise, he shall be sanctioned by the Govt. which instituted such proceedings, during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceedings final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on his qualifying service upto the date of retirement, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension but no gratuity or death-cum retirement gratuity shall be paid to him until the conclusion of such proceedings and the issue of final orders thereon." Final decision on the application of gratuity of the applicant was taken on 21.10.87 and the A.G.U.P.

Vh

AE

was informed by the Govt. on 4.12.87 that the applicant was exonerated, and final pension and gratuity was paid.

According to the respondents during the departmental proceedings, no gratuity or death-cum-gratuity shall be paid and as such the payment of interest is not applicable in the case of the applicant.

4. The proceedings were uncalled for which started just before retirement. Withholding of gratuity and pension and other amount was not justified. In case the payment would have been made, the applicant would have not been deprived of the interest/which he would have been otherwise eligible. The respondents are liable to pay interest at the rate of 12% in respect of arrears of payment of his ~~due~~ pension and gratuity with effect from 1.4.83 up to the date the amount is paid. The above payment of interest will be made by the applicant within a period of 3 months from the date of communication of this Order.

5. Application is disposed of as above. No order as to costs.

V.C.

V.C.

Lucknow: Dated: 10.7.92

Shakeel/

O.A.No. 394/90

D/O 10⁰² 92

July 13/17

No. D.No. 605/93/XI

SUPREME COURT INDIA

All communications should be addressed to the Registrar, Supreme Court, by designation, NOT by name. Telegraphic address :- "SUPREMECO"

34

Dated New Delhi, the 3rd March, 1993. 19

FROM

The Registrar
Supreme Court of India
New Delhi.

TO

The Deputy Registrar
Central Administrative Tribunal,
Lucknow Bench,
Lucknow.

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 3507 OF 1993
(Petition under Article 136 of the Constitution of India for Special Leave to Appeal to the Supreme Court from the Judgment and Order dated 10th July, 1992 of the Central Administrative Tribunal at Lucknow Bench, Lucknow in O.A.No.394/90.)

State of U.P. & Anr.

... Petitioners

Vs

Kuber Nath & Anr.

... Respondents

Sir,

I am to inform you that the Petition above mentioned for Special Leave to Appeal to this Court was filed on behalf of the Petitioners above named from the judgement and Order of the High Court noted above and that the same was dismissed by this Court on the 26th day of February, 1993.

A certified copy of this Court's Proceedings dated 26th February, 1993 is enclosed herewith for your information and necessary action.

Yours faithfully,

For REGISTRAR

Amrit Karmal
Dy R
11/3/93

Record Room
Put up with
get on 23/3/93
27/19-3-93

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CC 19618

Petition(s) for Special Leave to Appeal (Civil/201) No.(s) **3507**...../93

423028

(From the judgment and order dated **10.7.92**
Lucknow Bench in O.A.No.394/90)

of the ~~High Court~~ **C.A.T.**,

State of U.P. & Anr.

Petitioner (s)

Versus

Kuber Nath & Anr.
With I.A.No.1 (Appl. for c/delay in
filing SLP)

Respondent (s)

Date: **26.2.93**

This/these petition (s) was/were called on for hearing today.

CORAM:

Hon'ble Mr. Justice **P.B. Sawant**
Hon'ble Mr. Justice **Yogeshwar Dayal**
Hon'ble Mr. Justice

Certified to be true copy
Assistant Registrar
Supreme Court of India

For the petitioner (s) **Mr. D.V.Sehgal, Sr.Adv.**
Mr. A.K.Srivastava, Adv.

For the respondent (s)

UPON hearing counsel the Court made the following
ORDER

Delay condoned.

The Special Leave Petition is dismissed. However,
the petitioners are granted four weeks' time to make the
payment as directed by the Tribunal.

N. Sahita
(N. Sahita)
Court Master

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Suma
27/2/93

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT, 1985.

In the Central Administrative Tribunal

Circuit Bench, Lucknow.

OA No 394 of 1990 (2)
Between

KUBER NATH

.. Applicant

and

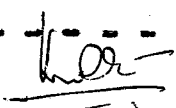
State of U.P. & others

.. Respondents.

I N D E X

Sl. no.	Descriptions of documents relied upon.	Annexure No.	Page No.
1.	Claim Application.		1-9
2.	Photostat copy of letter No. 9578(i)/14-1-87-300 (13/78 dated 4.12.87.	A-1	10
3.	Photostat copy of representation regarding payment of interest on Pension & gratuity dated 27.7.89.	A-2	11-13
4.	Photostat copy of registered reminder dated 19.12.89.	A-3	14
5.	Photostat copy of letter dated 30.12.89.	A-4	15
6.	Photostat copy of registered letter dated 5.1.90.	A-5	16
7.	Photostat copy of representation sent to Hon ^{ble} Forest Minister, U.P. dated 16.4.90.	A-6	17
8.	Photostat copy of representation / reminder dated 22.8.90 sent to the Secretary Forest, U.P.	A-7	18
9.	Power		19

Dated Lucknow:
Dec. 4, 1990


Signature of applicant.

For use in Tribunal's office.

	Date of Filing	
	or	
	Date of receipt by post.	
	Registration No.	

held -

3. Limitation :

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

4. Facts of the case :

i) That the applicant while functioning as Addl. Chief Conservator of Forests U.P. retired on 31.1.83 on attaining the age of superannuation of 58 years.

ii) That on 21.1.83 i.e. about 10 days before his retirement, the applicant was served charge sheet dated 19.1.83. He submitted reply of the charge sheet on 29.1.83. The enquiry was conducted and completed during May, 1983. No copy of the enquiry report given by the Inquiring Officer was ever shown or given to the applicant. The matter was kept pending for over 4 years and it was during Dec. 1987 that the applicant was informed that the State Govt. of U.P. had decided to close the departmental proceedings against the applicant. It was at this belated stage that final pension and gratuity was made to the applicant during 1988. However, only interim pension was allowed to the applicant vide P.P.O. No. 5908 dated 8.4.83. The applicant was at no stage shown or given a copy of the final order passed in the departmental proceedings. However,

held -

AK

letter No. 9578(i)/14-1-87-300(13)/78 dated 4.12.87 from Special Secretary to Govt. to the Accountant General, U.P. Press Bazar, Nishatganj, Lucknow was issued stating that the State Government has decided to close the departmental proceedings going on against the applicant, hence final pension and entire gratuity payable to the applicant should be released. A photostat copy of the said G.O. dated 4.12.87 is enclosed as Annexure-A-1 to this application.

iii) That the applicant submitted representation dated 27.7.89 addressed to the Secretary, Van Vibhag, Uttar Pradesh Shasan (Sachivalay), Lucknow requesting that interest on delayed payment of pension, Dearness Allowance and gratuity should be paid to the applicant, but no payment has been made so far. A photostat copy of the said representation dated 27.7.89 is enclosed as Annexure-A-2 to this application.

iv) That the applicant sent registered reminder dated 19.12.89 to the Secretary, Van Vibhag, Uttar Pradesh Shasan, Lucknow for expediting the payment of interest. A photostat copy of the said reminder dated 19.12.89 is enclosed as Annexure A-3 to this application.

v) That the said reminder dated 19.12.89 was sent in original to the Chief Conservator of Forests (Opposite party No. 2) ^{by O.P. No. 1} vide letter No. 12092/14-I-

Indra

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit Bench, Lucknow.

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 4/12/90
Date of Receipt by Post 4/12/90

Deputy Registrar
4/12-90

Kuber Nath aged about 66 years
S/o Sri Munshi Lal Gupta-Addl.
Chief Conservator of Forests,
U.P. (Retired), resident of C-31,
E-Park, Mahanagar Extension,
Lucknow - 226 006.

.. Applicant.

Versus

1. State of U.P. through Secretary
to Government, U.P. Forests
Department, Civil Secretariat,
Lucknow.

3. The Chief Conservator of Forests,
U.P. Lucknow.

3. The Accountant General, U.P.
Allahabad.

.. Respondents.

DETAILS OF APPLICATION :

*P Filed today
4/12/90*

1. Particulars of the order against which the
application is made :

No orders have been passed by the State
of U.P. in spite of several representations and
reminders .

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter
of the case for which he wants redressal is within
the jurisdiction of the Tribunal.

Kuber -

89-300(3)/78 dated 30.12.89 and a copy thereof was endorsed to the applicant but this too yielded no result. A photostat copy of the said letter dated 30.12.89 is enclosed as Annexure A-4 to this application.

vi) That the applicant further sent registered letter dated 5.1.90 to the Secretary Van Vibhag, Uttar Pradesh Shasan Lucknow stating that the matter regarding payment of interest is being considerably delayed without any reasons but this also did not meet any response. A photostat copy of the said letter dated 5.1.90 is enclosed as Annexure A-5 to this application.

vii) That the applicant sent representation dated 16.4.90 to the Hon'ble Forest Minister, U.P. Shasan Lucknow but this too did not meet any response. A photostat copy of the said representation dated 16.4.90 is enclosed as Annexure A-6 to this application.

viii) That the applicant at long lost sent once again registered representation of the remainder dated 22.8.90 to the Secretary Van Vibhag Uttar Pradesh Shasan, Lucknow and endorsed copy thereof to the Hon'ble Van Mantri, Uttar Pradesh, Shasan, Lucknow, but has not been favoured with any reply, whatsoever regarding his request for payment of interest on delayed payment of pension and gratuity. A photosta

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copy of the said representation/remainder dated 22.8.90 is enclosed as Annexure-A7 to this application.

5- Grounds for relief with legal provisions :

The reliefs are sought on the following amongst other grounds :

G R O U N D S

- I- Because gratuity and pension has been paid to the applicant with about 5 years of delay without any valid reasons.
- II- Because the payment of gratuity became due on 1.2.1983 as the applicant retired on 31.1.83 but gratuity was paid to him on 28.3.83, similarly the pension and Dearness relief also ^{was} paid with considerable delay.
- III- Because in the departmental enquiry the applicant was fully exonerated from the charges levelled against him.
- IV- Because though the departmental enquiry was completed during May, 1983 but the applicant was informed on 4.12.87 that the enquiry against the applicant has been finished
- V- Because opposite party No.1 & 2 have not taken any action on the various representations / reminders sent by the applicant from time to time. Details of these have been given in para -4 above of this application.

K. B.

AM

VI- Because Rule 19-A of the All India Service (Death-cum-Retirement Benefits) Rules, 1958 provides that interest shall be paid on delayed payment of gratuity.

VII- Because the State Government of U.P. opposite party No. I have also provided for the payment of interest on delayed payment of gratuity in the under mentioned G.Os:

- i) G.O.No. Sa-3-664/X-971/80 dated 29.4.83.
- ii) G.O.No. Sa-3-1776/X-971/80 dated 30.11.84.
- iii) G.O.No. Sa-3-1713/X-87-933/89 dated 28.7.89.

VIII- Because the Hon'ble Supreme Court in their Judgement in State of Kerala and others V/s M. Patmanabhan Nair have held " Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are ^{valuable} ~~available~~ rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the Penalty of payment of interest at the current market rate till actual payment." (A.I.R. 1985 SC page 37).

6- Details of the remedies exhausted :

The applicant declares that he has availed of all the remedies available to him under the ~~relevant~~ ^{relevant} Service Rules etc., details of which have been given in para -4 above.

Kulde

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7- Matters not previously filed or pending with any other court :

The applicant further declares that he had not previously filed any application, writ/^{Petition} pension or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, writ ~~pension~~ petition or suit is pending before any of them.

8- Relief Sought :

In view of the facts mentioned in paras 4, 5 & 6 above the applicant prays for the following reliefs :-

i) Interest on gratuity of Rs. 36,000/-
from 1.5.83 to 28.3.83 @ 24% p.a.
(Current market rate) amounting
to Rs. 42,410/-

(payment of interest due from 1.5.83 as per Rules and date of actual payment of gratuity was 28.3.88).

ii) Interest on the above @ 24%
p.a. from 28.3.88 to 28.3.91 .. 30,535/-

iii) Interest @ 24% p.a. on delayed payment of pension & dearness relief up to 30.6.88 & further interest thereon from 1.7.88 to 31.3.91.

Total Rs. 25,230/-
Rs. 98,175/-

K. S. Reddy

iv) Further interest on the amount of Rs. 98,175/- @ 2% p.a. till the interest amount is paid to the applicant may also be allowed.

v) An amount of Rs. 10,000/- (Rs. ten thousand) only by way of compensation for the inconvenience and mental torture caused to the applicant by the opposite party No. 1 & 2.

vi) Cost of this claim application may also be ordered to be paid to the applicant by the opposite parties.

9- Interim order if any prayed for :

None.

10- Application is being submitted through Counsel of the applicant Sri R. B. Singh, Advocate C-1077/78 Sector 'B' Mahanagar, Lucknow 226 006 .

11- Particulars of the postal order filed in respect of the application fee :

1) No. of Indian Postal order 02 415990

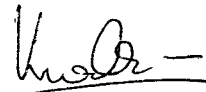
2) Name of issuing Post office : High Court Post Office, Lucknow.

3) Date of issue of Postal order 30.11.90

4) Post Office at which payable : Allahabad.

12. List of Enclosures : 7 (Seven)

(details in the index)


Signature of the applicant.
Through : R. B. Singh, Advocate.

917

Verification.

I, Kuber Nath S/o Sri Munshi Lal Gupta aged about 66 years retired as Additional Chief Conservator of Forests, U.P. resident of C-31, E-Park, Mahanagar, Extension Lucknow 226 006 do hereby verify that the contents of paras 1, 2, 4, 5(I) to 5 (V) 6, 7, 8(i) to 8(vi) 9, 10 & 11 are true to my personal knowledge and paras 3, 5(VI) to 5 (VIII) are believed to be true on legal advice and that I have not suppressed any material facts.

Kuber Nath

Signature of the applicant.

Dated ~~Kanpur~~
Dec. 4, 1990.

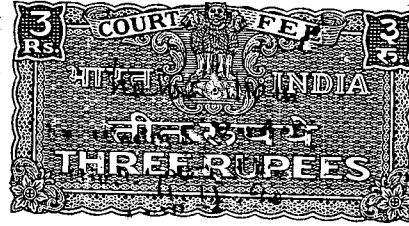
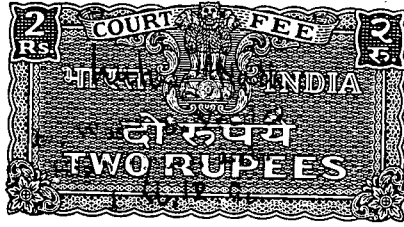
Place : Lucknow.

R.B. Singh
B. SINGH, Advocate
C/1077-78, SE 1st Phase
Lucknow-226001

बअदालत श्रीमान The Central Administrative Tribunal, Council Bench, Lucknow. महोदय

वादी (मुद्दई) KUBER NATH
मुद्दई (मुद्दालेह) का

वकालतनामा



Kuber Nath

बनाम State of U.P. प्रतिवादी (रेस्पान्डेन्ट) and others

नं० मुदद्दमा सन 1990 पेशी की ता० 99 ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री R. B. SINGH,

RAJ BHADUR SINGH

वकील

HIGH COURT & SERVICES TRIBUNAL

एडवोकेट महोदय

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

नाम बअदालत
नं० मुकद्दमा
नाम फरीकन

Accepted
R. B. Singh
5/11/90

Kuber

हस्ताक्षर

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् 99 ई०

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जान कार्यालय परमा पत्रिका । २७ वी १९८३ ० शासनाधीन
० दिनांक ० अन्तर्गत प्रत्येकी ० प्रत्येकान ० ज्ञा प्रत्येकी ० विर म्ही
प्रत्येकानिद पर ० जाय वि ० ।

कार: शासन ० निर्देशन ० वि प्रत्येकान वि जाय ज्ञा ०
० प्रत्येकान विर परी ० विर प्रत्येकान कार्यालय कार्यालय परी ०
ज्ञा परी जाय ।

प्रत्येकी

। प्रत्येकी जाय ।
कार्यालय शासनाधीन शासनाधीन ।
जी-३१०० परी
प्रत्येकी शासनाधीन शासनाधीन

27.7.83

<p>NOT INCURED</p> <p>Amount of Claims (Rs.)</p> <p>Received & Registered</p> <p>Submitted to</p>		<p>No. 3340</p> <p>Date Stamp</p> <p>Signature of Receiving Officer</p>
---	--	---

Kuber Hall
and
Deopandita
Banspur - A-3

Regd.

सीधत
तेन विभाग
जो एव शासन
कालन के

महोदय,

कृपया मेरे पत्र दि. 27.7.89 को
संज्ञित की जिसमें मैंने निवेदन
किया था कि गणतंत्र के अधिकारों का अतिक्रमण
नहीं किया जा रहा है तथा मुझे देना
निवृत्त के उपरोक्त प्राधिकारों के अतिक्रमण
को रद्द तथा गणतंत्र का स्वीकार नहीं
किया गया जिसके कारण मुझे आर्थिक
आर्थिक हानि हुई है। इस संबंध में शासन
को दृष्टिगत कि विभाग द्वारा जारी शासन-देश

सं. सा-3884/ता-971/80 दि. 29.11.83 एवं
सं. सा-3-1776/ता-971/80 दि. 30.11.84
को ध्यान में रखकर मुझे देना

निवेदन से अतिरिक्त मुझे देना
विषय निम्नलिखित दर से व्यक्त है।
मुझे देना है कि मेरे प्रार्थना पत्र के माध्यम
साहचर्यता से जोन के उपरोक्त अतिक्रमण
शासन के अधिकार प्राप्ति नहीं हुई है।
पुनः निवेदन है कि शासन के अधिकार
अतिक्रमण प्राप्ति होने का कृपा को आज
आपके सुभीता के लिये मैं अपने पत्र दि.
27.7.89 की प्रति संलग्न कर रहा हूँ।

दि. 19.12.89

गणदीय
कृष्ण नारायण
I.F.S. (Retd.)
C-31, E-Rank
Mechanagar, Lucknow

In the Bihar Administrative Tribunal
Circuit Bench, Lucknow
Bekwan

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Kuber Nath

Applicant

and

State of U.P. and Miss

Respondents

Annexure - A-4

संख्या-12092/14-1-89-300 83 0/78

प्रति,

श्री जे.के. सिंह,
संयुक्त सचिव,
उत्तर प्रदेश शासन।

सेवा में

प्रमुख वन संरक्षक,
उत्तर प्रदेश, लखनऊ।

एन अनुभाग-एच

दिनांक: लखनऊ: 30 दिसम्बर, 1989

विषय: श्री कुशेर नाथ, भारतीय वन सेवा सेवा निवृत्त, की ग्रेज्युटी एवं पेंशन का विवरण में पुनर्जांच किये जाने के सम्बन्ध में।

प्रतीक्ष्य,

उपरोक्त विषय पर श्री कुशेर नाथ, भारतीय वन सेवा सेवा निवृत्त, का पत्र दिनांक 19 दिसम्बर, 1989 को मूलस्थ से प्राप्त है। वापसी अपेक्षित है। केजते हुए मुझे यह पत्रों का निदेश हुआ है कि पत्र में की गई शिकायत पर अपनी सुस्पष्ट जांचया उपलब्ध कराने का कष्ट करें।

संतोष: वकील परि

पवटीय,

श्री जे.के. सिंह,
संयुक्त सचिव।

संख्या-12092/14-1-89 तदुदिनांक

प्रतिलिपि श्री कुशेर नाथ, भारतीय वन सेवा सेवा निवृत्त, सी-31, ई
बाई, महा नगर एकेडमी, लखनऊ को उनके पत्र दिनांक 19 दिसम्बर, 1989 के संदर्भ
में सूचनाएँ प्रेषित है।

आज्ञा है,

श्री जे.के. सिंह,
संयुक्त सचिव।

16-A

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विशेषी एत तेषां नै जीर्ण नवनिर्माणादी जी यती ।

उक्त पूर्व ही कुं प्रे कुली के भुगतान तथा अंतिम अंशान
 स्वीकृत करने में गौप वर्क का विवरण जो गुप्त है देरी के भुगतान किए जाने
 पर ध्यान दिये जाने के सम्बन्ध में शासन के स्पष्ट आदेश है । उक्त
 सम्बन्ध में वित्त विभाग द्वारा शासनादेश सं० ता-3-204/दस-971/80
 दिनांक: 29-4-83 एवं सं० ता-3-1778/दस-971/80 दिनांक: 30/11/84
 का प्रतीकन करने की दूरा जी तय । अतः कुं पुनः नियुक्त करना ही
 शासन देय धारा का भुगतान किए जाने के आदेश अधिनियम पारित करने
 की दूरा हैं । ऐसे हेतु के निस्तारण में इस विवरण के सिधे तीन व्यक्ति
 दोजी है यदि शासन प. जीव करना चाहे तो का जीव पाह में ही न
 सक्ती है क्योंकि इसमें और अधिप विवरण होगा । ध्यान दिये जाने है
 सम्बन्ध में शासन द्वारा आदेश पारित कर सक्ता है क्योंकि वित्त विभाग
 के स्पष्ट आदेश है ।

भाषदीय,

दिनांक: 3-1-1990

डुपेर नाथ।

शासकसचिव, विभाग

जन टि केन्द्र ए. विनिर्वा
संस्कृत प्रान्त शासनादेश
की ज्वान

संस्कृत

उपर नाटा

एवं

स्टेट आफ यूजीओ व अन्य

---संस्थानकेन्द्रमें

संस्कार -ए

संस्कार ए - 161

उपर नाटा
शांतिनगर संस्कृत संस्थान

सी-31, ई- पुरी
मथानगर संस्कृत संस्थान
मथानगर 226006

माननीय जन लक्ष्मी जी,
3090, शासन
मथानगर

प्रतीत्य,

मैं आपकी सेवा में अपने पत्र दिनांक: 27-7-89 को लखिब,
जन विभाग को संबोधित है, की सं प्रति आपके विचार हेतु भेज रहा हूँ।
उक्त पत्र में धैरे निवेदन किया था मुझे प्रेष्युली का भुगतान बहुत विषय से किया
गया था। शासनादेश सं० शासनादेश सा-5-864/दस-971/80
दिनांक: 29-4-89 तथा शासनादेश सं० 1778 /दस-971/80 दिनांक:
30-11-84 के अनुसार प्रेष्युली का भुगतान देरी से किये जाने के लिये आग्रह
देव है। मेरे प्रार्थना पत्र दिनांक: 27-7-89 पर शासन के जवाब का
आदेश नहीं हुए है। आपसे निवेदन है कि मेरे उपरोक्त पत्र पर शासन के
आदेश शीघ्र पारित करने की कृपा करें।

भावदीय,

दिनांक: 16-4-1990

उपर नाटा
शांतिनगर संस्कृत संस्थान
मेरा निवृत्त प्रतिष्ठान संस्कृत संस्थान

But of
627

IN THE CENTRAL ADMINISTRATIVE AT ALLAHABAD
LUCKNOW BENCH

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO 3

In

O.A. NO. 394 of 1990(L)

Kuber Nath.....Applicant

Versus

State of U.P. & Others.....Respondents

I,.....*R. S. Dixit*.....aged about.....*51*.....years
Son of.....*Deli Y. N. Dubey*.....
Dy. Accountant General (Pea) Office of the Accountant
General (Accs)-2, U.P. Allahabad, do hereby solemnly
affirm and state as under.

1. That the deponent has read the application filed by Shri Kuber Nath and has understood the contents thereof.
2. That the ^{deponent} is well conversant with the facts of the case deposed hereinafter and is filing this counter-affidavit on behalf of respondent No 3.
3. That it is worth-while to submit that the deponent is not authorised to grant interest on delayed payment of gratuity. It is the Govt of Uttar Pradesh only which is empowered to sanction and authorise

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interest on delayed payment gratuity to the applicant. The Special Secretary to the Govt of U.P. vide his letter No 9578(1)14-1-87-300 (13)/78 dt 4.12.87 conveyed to the deponent that the State Govt has decided to close the departmental proceedings going on against the applicant hence final payment of entire gratuity payable to the applicant should be released. Gratuity was paid to him on 28.3.88. Thus, there has been no delay on the part of the applicant in authorisation of pensionary benefits.

4. That the contents of para 1 relate to the State of Uttar Pradesh who may make necessary submissions in this regard.

5. That the contents of para 2 need no comments.

6. That in reply to para 3 it is stated that the application is barred by limitation under Sec 21 of the Administrative Tribunal Act, 1985 that the matter relates to payment of interest on the payment of gratuity made to him on 28.3.88. The applicant made a representation in this regard on 27.7.89 after a lapse of 1 year and 4 months and the present application has been filed on _____, after a lapse of _____ when the cause of grievance arose on 28.3.88.

629

: 3 :

7. That the contents of para 4(1) being matter of records need no comments.

8. That in reply to the contents of para 4(11) it is stated that the matter of departmental enquiry relates to the Govt of UP who may make necessary submissions in this regard. As regards the note of the office of the answering respondent is concerned, it is stated that while forwarding the pension papers of the applicant, the State of U.P. vide its letter dt 1.10.82 had directed that payment of gratuity to the applicant will not be made till the final decision of the case. Accordingly only provisional pension was authorised vide letter No PPO/Cell/49-51 dt 8.4.83. Later on vide letter No 9578(1)/14-1-87-300(13)/78 dt 4.12.87, the U.P. Govt authorised release of the final pension and the full amount of gratuity payable to the applicant as the disciplinary proceedings against the applicant were decided to be closed. Full amount of gratuity was therefore authorised by respondent No 3 under payment authority letter No PAIII/19546-48 dated 9.3.88. Thus, there has been no delay in authorisation of pension and/or gratuity on the part of the answering respondent.

.....4

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: 4 :

9. That the contents of para 4(iii) to 4(viii) do not relate to the answering respondent, hence need no comments. There was no delay in authorisation of pensionary benefits to the applicant on the part of the answering respondent.

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

5(1) - There has been no delay on the part of the respondent No. 3 in releasing the pension and gratuity to the applicant as explained in para 8.

5(ii) Provisional pension was authorised to the petitioner on 8.4.88 in compliance of the instructions received from the Govt of U.P. in this regard.

5(iii) - Payment of gratuity was withheld and the same was released in accordance with the instructions received ^{from} the Govt of U.P. in this regard.

5(iv) - On receipt of the instructions contained in Govt of India's O.M. No 2/1/87 PIC-1 dt 16.4.78 under which pension structure was rationalised wef 1.1.76, necessary authority for additional payment was issued to the applicant.

In this connection, it is informed that previously the pension of the applicant was calculated on the qualifying service

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: 5 :

of 32½ years but subsequently on request of the applicant the Govt of U.P. accorded sanction for taking into account the period of service rendered by him in Bhartiya Van Mahavidyalaya in computing the amount of pension vide G.O. No 9771/14-1-87 dt 9.3.88. Accordingly, his pension was calculated on the maximum qualifying service of 33 years and revised authority of pension was issued vide payment authority No. PRI/216981/82-83/52-53 dated 6.4.88. The payment of pension is being paid to him on the basis of orders issued from time to time in this regard.

5(v) - Contents relate to respondents No 1 and 2 to who may make necessary submission in this 5(vii) regard.

5(viii)- Needs no comments.

11. That the contents of paras 6 and 7 need no comments.

12. That in view of the submission made in the above paragraphs the relief sought for in para 8 and the interim relief prayed for in para 9 of the application are not admissible as far as the answering respondent is concerned. The application deserves to be dismissed with cost.

13. That the contents of paragraphs 10 to 12 need no comments.

Lucknow

(Deponent)

Dated:

1332

: 6 :

VERIFICATION

10

That, Iaged about.....
 years, Son of.....

 the above named deponent do hereby verify that
 the contents of paras.....to..... of
 this counter affidavit are true to my own
 knowledge and paras.....to.....are true
 as per records and paras.....to.....are
 based on legal advice. Nothing material has
 been concealed and so help me God.

Lucknow

(Deponent)

Dated:

I identify the above
 named deponent who has
 signed before me.

(Advocate)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Circuit Bench, Lucknow.

O.A.No.394(L) of 1990.

7

Kuber Nath

.. Applicant

Versus

State of U.P. & others.

.. Respondents.

Dak Nos 10.7.92 MH

REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT

----- KUBER NATH -----

I, Kuber Nath aged about 67 years S/o Sri Munshi Lal Gupta, retired Addl. Chief Conservator of Forests, U.P. resident of house No. C-31, E-Park Mahanagar, Extension, Lucknow-226 006 do hereby solemnly affirm and state as under :

*

1. That the deponent is the applicant in the above case and is fully conversant and acquainted with the facts deposed to hereunder :
2. That counter affidavit on behalf of respondent No. 1 & 2 was filed in the Hon'ble Central Administrative Tribunal on 10.4.92 and notice sent to the deponent under Regd. cover but the same has not been delivered to the deponent till to-date, however, as per direction of the Hon'ble CAT given on 5.5.92 copy thereof was given on 9.5.92 to Sri R.B.Singh, Advocate, Counsel of the deponent.
3. That the deponent has gone through the C/A and has fully understood the contents thereof.
4. That the contents of para 1 of the application have not been admitted in para 3 of the C/A without

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disclosing any reason. However, the contents of para 1 of the application are reiterated.

5- That the contents of para 2 of the application have not been replied, hence no further submission with regard to the contents of this para.

3

6- That the contents of para 3 of the application have been denied, in reply thereof it is stated that application dated 29.4.91 was submitted by deponent for condonation of delay and the delay was condoned on 8.5.91 by the Hon'ble CAT.

7- That the contents of para 4(1) have been admitted hence there is no necessity of any further reply.

1

8- That in reply to the contents of para 7 of the CA the contents of para 4(11) of the application are reiterated and it is further stated that the deponent functioned as General Manager of Indian Turpentine and Rosin Company, Bareilly on deputation during the period from 4.9.64 to 20.4.70. His work and conduct was highly praised and appreciated on all hands. After about 10 years the deponent was required to offer clarification on certain points contained in G.O.No.5383/XIV-II-80(38)/36 dated 1.12.80. The deponent clarified in detail the points contained in the above G.O. and submitted his exhaustive comments on 5.12.80. Subsequently the deponent was called by the then Secretary to Govt. U.P. Van Vibhag and informed that the case after being thoroughly examined has been dropped under orders of the then Chief Minister to whom the file was submitted through the then Forest Minister. During Feb. 1981 the deponent was promoted as Addl. Chief

835

Conservator of Forests, on the basis of merit and suitability. After a lapse of two years from the promotion it was on 21.1.83 about 10 days before the retirement of the deponent that he was served a charge sheet vide G.O.No.104/XI8-I/83-80(38)/76 dated 19.1.83 inter-alia on the same points about which he had offered clarification about three years before and these were dropped under the orders of the then Chief Minister. This had been done entirely with the view to harass and humiliate the deponent.

No doubt Rule 6(2) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958 provides that no gratuity shall be paid until the conclusion of the departmental proceedings and issue of final orders thereon but the proviso under the same Rule ^{was} as under :

" PROVIDED that where disciplinary proceedings has been instituted against a member of the service before his retirement from service under Rule-10 of the All India Service (Disciplinary & Appeal) Rules, 1969 for imposing any of the penalties specified in clauses (i), (ii) and (iv) of sub-Rule(1) of Rule-6 of the said Rules and continuing such proceeding under sub-rule(1) of this rule after his retirement from service, the payment of gratuity or Death-cum-Retirement gratuity shall not be withheld.

It is admitted by ^{O.A.} ~~Sec~~ 1 & 2 that the deponent submitted reply on 29.1.83 of the charge sheet dated 19.1.83 and the enquiry was completed during May, 1983 and report submitted but Opp.party No.1 & kept the matter pending for about 4 years. It was during Dec.1987 that the State Govt.of U.P.(Opp. party No.1) closed the departmental proceedings against the deponent .The deponent at no stage was

636

shown or given copy of the final orders. It would thus be seen that there has been a well thought of evil design to harass and humiliate the deponent.

9- That the contents of para 8 of the C/A in reply to para 4(iii) of the application are denied and the contents of para 4(iii) of the application are reiterated. It is further submitted that Rule 19-A of the All India Services (Death-cum-Retirement Benefits) Rule, 1958 provides as under :

" 19-A Interest on delayed payment of gratuity or Death-cum-Retirement Gratuity (1): If the payment of gratuity or death-cum-retirement gratuity has been authorised after three months from the date when its payment became due, and it is clearly established that the delay in payment was attributable to administrative lapse, interest at the rate of ~~the~~ ten percent per annum on the amount of gratuity in respect of the period beyond three months shall be paid."

10- That the contents of para 9 of the C/A are denied and the contents of para 4(iv) to (viii) of the application are reiterated. It is significant that various representations submitted by the deponent detailed in these paras have not been denied by the opp. party No. 1 & 2.

11- That the various grounds mentioned in para 5 of the application have been replied in para 10 of the C/A replies thereof are given below:

I- That it has been admitted in para 10-A that provisional pension was allowed on 8.4.83. *but the deponent retired from service on 31.1.83.* As a matter

638

VI- That in reply to the contents of para 10-F it is stated that there has been administrative lapse and as such interest should be paid on delayed payment of gratuity and pension.

VII- That in reply to the contents of para 10-G it is stated that no doubt the deponent belonged to Indian Forest Service but he has been serving the State Govt. of U.P. (Opp. party No. 1) as such the G.Os mentioned in para 5(VII) of the application are quite applicable to the case of the deponent.

VIII- That the contents of para 10-H are emphatically denied and the contents of para 5(viii) are reiterated. It is evident that the delay in payment of gratuity and pension was deliberate and suffers from administrative lapse. The delay was caused in a calculated manner with the view to harass and humiliate the deponent. The decision of the Supreme Court - State of Kerala & others V/s M. Padmanabhan Nair (AIR 1985 SC page 357) is absolutely applicable to the case of the deponent. It is prayed that the Hon'ble CAT may be pleased to allow interest @ 24% per annum being the current market rate.

12- That no reply has been given to the contents of para 6 & 7 of the application as such there is no need of any further reply.

13- That the contents of para 13 of the CA are emphatically denied and the contents of para 8(1) to (iv) are reiterated and it is further stated that the deponent is fully entitled for the reliefs claimed in para 8 of the application.

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B59

- 14- That no reply has been given to the contents of paras 9 to 12 hence there is no necessity of any further reply.
15. That in reply to the contents of para 16 of the CA it is stated that there was no need to implead Union of Indian as opp.party because the injury inflicted and the reliefs claimed are against the State of U.P.under whom the deponent was serving. The application of the deponent is not liable to be dismissed on any ground much less non-joinder of necessary party as there has been no such non joinder.
- 16- That the deponent has fully read and understood the CA filed on behalf of respondent No.3, the A.G. U.P.Allahabad .It has been stated in para 3 of the CA that A.G.U.P.is not authorised to grant any interest on delayed payment of gratuity and that it is the Government of U.P. only which is empowered to sanction interest on delayed payment of gratuity to the deponent. It has further been contended that there has been no delay on the part of opp. party No.3.
17. ^{That is} It has further been stated in para 8 of the CA that the state of U.P.on 1.10.82 had directed opp.party No.3 that payment of gratuity to the deponent will not be made till the final decision of the departmental enquiry . It would thus be seen that opp.party No.3 has acted as per instructions issued by opp.party No.1, State of U.P.

Dated: Lucknow
May 11, 1992.

Deponent.

B40

VERIFICATION.

I, Kuber Nath the deponent do hereby verify that the contents of paras 1, 3 to 8(part), 10, 11-III, 12 and 14, of this affidavit are true to my personal knowledge and those of paras 2, 8(part), 11-I, 11-II, 11-IV, 11-V, 16 and 17 are believed to be true on the basis of records and those of paras 8(part), 9, 11-VI to 11-VIII, 13 and 15 are believed by me to be true on the basis of legal advice. No part of it is false and nothing material has been concealed. So help me God.

Signed and verified this the 22nd day of May, 1992 at Lucknow.

Dated, Lucknow
May 22, 1992.

Deponent.

I know & identify the deponent who has signed before me.

Advocate.

T.C.
R.A. Singh
V. B. SINGH, Advocate.
CIC-22, SECTOR 22
Lucknow, U.P.

(164)

Bench Copy

IN THE CENTRAL ~~ADMINISTRATIVE~~ ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Misc. Appn. No. ~~U3?~~ U3? of 1992 (L)

Registration
State of U.P. and another

~~Case No. 387/1992 (L)~~

Applicants
F.F. 16.4.1992

In re

Registration No. 394/1990 (L)

Kuber Nath Applicant

V/S.

State of U.P. & Others . . . Respondents

APPLICATION FOR CONDONATION OF DELAY FOR FILING THE
COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS 1 AND 2

^{Respondents}
The/~~applicant~~ abovenamed most respectfully

begs to submit as under :-

- 1- That due to certain unavoidable reasons counter affidavit could not be filed in time.
- 2- That filing of counter affidavit is necessary in the interest of justice.
- 3- That delay in filing the counter affidavit is bonofide and not deliberate.
- 4- That the counter affidavit is being filed which may be taken on record.

F.C. ✓

PM2

P R A Y E R

WHEREFORE, it is humbly prayed that this Hon'ble Tribunal may kindly be pleased to condono the delay in filing the counter affidavit in the interest of justice and further be pleased to take the counter affidavit on record.

Lucknow

Dated: April 10th, 1992

(V. C. VARMA)

Advocate

Counsel for the Applicant/

O.P. No. 1 and 2

T. C.

1643

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH, LUCKNOW.

Counter Affidavit On Behalf of Opposite Parties No. 102
In Registration No. 394/1990(L)

Kuber Nath . . . Applicant

V/S.

State of U.P. & Others . . . Respondents

Affidavit of B.L. Singh aged about 52 years
S/O Sri Shiv Pujan Singh (Deponent)

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

1- That the deponent is posted as Assistant
Conservator of Forests in the Office of Principal Chief
Conservator of Forests, U.P., Lucknow, and as such he is
fully conversant with the facts and circumstances of the
Case.

2- That the deponent has read and understood
the contents of the Original Application and its
Counter affidavit is being filed hereinafter.

3- That the contents of para-1 of the Original
Application are not admitted as stated in Original
Application.

4- That the contents of para-2 of the Original
Application need no reply.

002/00

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6- That the contents of para-3 of the Original Application are denied.

6- That the contents of para -4(1) of the Original Application are admitted.

7- That in reply to the contents of para-4 (1) of the Original application ,it is stated that when the applicant was posted as Managing Director, I.T.R. Co., Bareilly he committed serious irregularities for which he was chargesheeted on 19.1.83 under rule-8 of All India Services (discipline & Appeal) Rules 1959. The Enquiry Officer submitted his report on 13.7.83. After careful consideration, the applicant was exonerated from the charges levelled against him. It is provided under rule-6(2) of All India Services (Death-Cum-retirement benefit) Rules 1958 that "Where any departmental or judicial proceeding is instituted under sub-rule(2) or where a departmental proceeding is continued under clause(a) of the proviso there to against an Officer who has retired on attaining ~~the~~ the age of compulsory retirement or otherwise, he shall be sanctioned by the Govt. which instituted such proceedings; during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service

BUS

upto the date of retirement, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceeding and the issue of final orders there on. As admitted in para-4(ii) of the original application the A.C.U.P., allowed provisional pension vide P.P.O.No. 5908 dt. 8.4.83, which was maximum and gratuity was withheld, the final decision was taken by the Govt. on 20.10.87 on the enquiry report. The A.C.U. P. was informed by the Govt. on 4.12.87 that the Applicant has been exonerated and now his final pension & gratuity can be released. Now it is clear that there is no delay to settle the post retirement benefits. Whatever, delay happened, it was due to rules.

8- That in reply to the contents of para-4 (ii) of the Original application, it is stated that the gratuity was withheld due to disciplinary proceeding against the applicant, As already stated in para-7 of this affidavit during the course of departmental proceedings, no gratuity or death cum-gratuity shall be paid. Therefore, the question of payment of interest on gratuity does not arise. As regards the payment of interest on pension & dearness allowance, it is stated that full provisional pension was allowed to the applicant - 8 within three months from the date of retirement.

However, it is stated that there is no provision to allow the interest on delayed payment of pension and dearness allowance. Even then the applicant got full provisional pension within reasonable time.

9. That in reply to the contents of para-4(i) & o (viii) of the original application, it is stated that the averments of para-8 of this affidavit are reiterated.

10. That in reply to the grounds taken in para-5 of the original application, it is stated,

A. That the full provisional pension was allowed vide P.P.O. 8,4,83, therefore, there is no delay.

B. That the applicant himself mentioned he retired on 31.1.83 and gratuity was paid to him on 28.3.83, it means there is no delay. Although, the gratuity was not paid on this date.

C. That exoneration in the departmental proceedings is no ground to claim the interest.

D. That delay in finalisation of departmental proceedings has occurred due to procedural requirements and it was not deliberate as such no interest is payable.

E. That the representations were considered and there was no administration lapse.

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.. 5 ..

F- That rule 6(2) of All India Services (death-cum-retirement Benefit) Rules 1959 provide that during the course of departmental/judicial proceedings no gratuity shall be paid.

G- That the applicant belongs to Indian Forest Service, therefore, the G.O. mentioned do not apply in his case.

H- That the gratuity was withheld due to pendency of disciplinary proceeding. Provided under the rules. The delay was not deliberate it was bonafide. Therefore, the judgement cited not applicable.

11- That the contents of para-6 of the Original application need no reply.

12- That the contents of para -7 of the Original application need no reply.

13- That in reply to the contents of para-8 of the original application, it is stated that in view of averments made in paras 7 to 9 of this affidavit the applicant is not entitled for the reliefs claimed and the original application is liable to be dismissed with cost.

14- That the contents of para-9 of the original application need no reply.

15- That the contents of paras 10, 11 & 12 of the original application need no reply.

... 6/—

(1218)

o o o

16. That it is pertinent to mention that the application has been filed before this Hon'ble Tribunal but Union of India has not been impleaded as opp. party. The original application is liable to be dismissed on the ground of non joinder of necessary party.

Lucknow
10/4/92

Deponent

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras. 1 to 2 of this affidavit are true to my personal knowledge and those of para 7 (partly) 11, 13 and 16 are believed to be true on the basis of legal advice and those paras. 3 to 6, 7 (partly), 8, 9, 10, 12, 14 and 15 are believed to be true on the basis of records.

No part of it is false and nothing material has been concealed. So help me God.

Lucknow.
10/4/92

Deponent

Identification

I Identify the deponent who has signed before me.

Advocate

T. C. 2

S.N.6

(1)

ब अदालत श्री मान Before the central Adalat
Tribunal Lucknow

वादी मुद्दई

O. No 146 of 1992 C.

प्रतिवादी मुद्दालय का कालतनामा
Parvesh Kumar

F.F. 25.5.92
29/5/92

Union of India & others

वादी मुद्दई
प्रतिवादी मुद्दालय

नं० मुकदमा सन 19 पक्षी की तारीख

19 ई०

उमर लिखे मुकदमा में अपनी ओर से भी

रडवोकेट

Shri D. R. Singh
Rly Advocate
(Aveth Bar Association High Court
Lucknow)

महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा इकरार करता हूँ। लिखें देता हूँ। इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेरवी व जवाब देडी व प्रश्न करेगा अन्य कोई कागज दाखिल करें या लौटा दें हमारी ओर से डिक्ली जारी करावें और रुपया वसूल करेगा सुलझनामा इकवाल दावा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करे या मुकदमा उठाये या कोर्ट में जमा करें या हमारी या विपक्ष फ्रीकमानी का दाखिल किया रुपया अपने या हमारे हस्ताक्षर युक्त दस्तखती रसीद से लेवेगा पंच नियुक्ति करें वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं भी यह कहता हूँ। कि मैं हर पेशी स्वयं या किसी अपने फेरकार को भेजता रहूंगा अगर मुकदमा अदम पेरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरी वकील पर न होगी।

filed today

25/5/92

इसलिये यह कालतनामा लिख दिया कि प्रमाण रहें और समय पर काम आवें।

साक्षी गवाड _____
दिनांक _____ महीना _____

हस्ताक्षर [Signature]
साक्षी गवाड _____
नाम अदालत _____
नं० मुकदमा _____
नाम फ्रीकन _____

Accepted on
behalf of Respondent
D.R. Singh 25/5/92
Rly Advocate

PRAYER

WHEREAS, it is humbly prayed that this Hon'ble Tribunal may kindly be pleased to condone the delay in filing the counter affidavit in the interest of justice and further be pleased to take the counter affidavit on record.

Leo.
10/4/92

(V. G. VARMA)
Advocate
Counsel for the Applicant/
O.P. Nos 1 and 2

A

X

IN THE COURT OF THE DISTRICT JUDGE
MADRAS DISTRICT, MADRAS.

Case No. 12345 of 1967 in the office of District Justice No. 222
In the matter of No. 12345/1967

Under No. . . . Applicant
V/s.
State of T.P. & others . . . Respondents

Deponent of D. J. Singh aged about 32 years
D/O of late Rajan Singh
(Deponent)

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

1. That the deponent is posted as Assistant
Conservator of Forests in the office of Principal Chief
Conservator of Forests, T.P., Madras, and as such he is
fully conversant with the facts and circumstances of the
case.

2. That the deponent has read and understood
the contents of the original application and the
counter affidavit in being filed hereafter.

3. That the contents of para 1 of the original
application are not correct as stated in original
application.

4. That the contents of para 2 of the original
application need no reply.

cc/10

into the date of retirement, or if he was under
 suspension on the date of retirement, into the date
 immediately preceding the date on which he was placed
 under suspension but no gratuity or death-benefit
 retirement gratuity shall be paid to him until the
 completion of such proceeding and the facts of final
 order shall be as admitted in paragraph (11) of the
 original application the A. T. P., followed provisional
 pension with P. P. No. 5223 at 2.6%, which was granted
 and gratuity was withheld, the final decision was given
 the Govt. on 20.12.57 on the earlier report, the
 by the Govt. on 2.12.57 that
 the final

It is stated that there is no provision to allow for interest on delayed payment of certain of the above-mentioned items. Therefore, the applicant has full responsibility for interest within reasonable time.

It is in reply to the contents of paragraph 10 (a) of the original application, it is stated that the accounts of paragraph 10 of this affidavit are correct.

It is in reply to the grounds stated in paragraph 10 of the original application, it is stated:

1. That the full provisional status was allowed vide P.O. No. 5045, therefore, there is no delay.

2. That the applicant himself mentioned the interest on Rs. 2000 and probably was told to him on Rs. 2000, it is stated there is no delay. Although, the grounds are not valid on this date.

3. That circumstances in the departmental proceedings are no ground to claim the interest.

4. That delay in finalization of departmental proceedings has occurred due to procedural requirements and it was not deliberate as such no interest is payable.

5. That the representations were made early and there was no administrative lapse.

12. That the provisions of 411 Public Services (Control) Ordinance 1973 provide that during the absence of Government/Judicial proceedings no probation shall be given.

13. That the applicant belongs to Public Services, therefore, the S.O. mentioned do not apply in his case.

14. That the priority has withheld due to tardiness of disciplinary proceedings. Provided under the Rules. The delay was not deliberate so was beneficial. Therefore, the judgment does not apply.

15. That the contents of para-6 of the original application need no reply.

16. That the contents of para-7 of the original application need no reply.

17. That in reply to the contents of para-8 of the original application, it is stated that in view of para-7 to 9 of the original application the applicant is not entitled for the relief claimed and S/O original article of is liable to be dismissed.

18. That the contents of para-9 of the original application need no reply.

19. That the contents of para-10, 11 & 12 of original application need no reply.

20 This is to certify that the
contents of this report are true and correct
and that the information has been obtained in
the original condition to which it is enclosed on
the ground of non disclosure of necessary matter.

Lucknow
10/4/92

Signature

Identification

I, the above named person do hereby certify
that the contents of this report are true and correct
and that the information has been obtained in
the original condition to which it is enclosed on
the ground of non disclosure of necessary matter.
of legal advice and other matters
to be true on the basis of reliable

In witness whereof I have hereunto set my hand and
the seal of the Government of India at Lucknow
this 4th day of October 1922.

Lucknow, 10/4/92

Signature

Identification

I hereby certify that the contents of this report
are true and correct and that the information has
been obtained in the original condition to which it is enclosed on
the ground of non disclosure of necessary matter.

T. C. ✓

Signature

In the Central Administrative Tribunal.

Circuit Bench, Lucknow.

OA No. 394 of 1990(L)

M.P. No. 250/91 (2)

Kuber Nath

.. Applicant

and

State of U.P. & others.

.. Respondents

APPLICATION FOR CONDONATION OF DELAY.

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

1. That State of U.P. (Opposite party No. 1) made payment of final gratuity and pension on 28.3.88 and 30.6.88 respectively though the applicant had retired from service as Addl. Chief Conservator of Forests on 31.1.83.
2. That on account of so much belated payment the applicant approached the State of U.P. (Opposite party No. 1) for payment of interest on both the items of gratuity and pension and was assured that the matter would be looked into sympathetically and payment of interest made to the applicant.
3. That during the period from 30.6.88 to 27.7.89 the applicant called on Sachiv, Van Vibhag, Uttar Pradesh Shasan, Lucknow a number of times and was assured ^{for} timely/early payment of interest.

-2-

4- That ultimately the applicant submitted representation dated 27.7.89 (Annexure-2 to the application dated 4.12.89) to the Sachiv, Van Vibhag, Uttar Pradesh, Lucknow ^{and} submitted reminder dated 19.12.89.

5. That Joint Sachiv, Van ~~Vibhag~~ Anubhag-I, Uttar Pradesh Bhasan, referred the case regarding payment of interest to the Chief Conservator of Forests, U.P. Lucknow vide letter No. 12092/14-1-89-400(3)/88 dated 30.12.89 (Annex-4 to the application dated 4.12.90) and endorsed copy thereof to the applicant for information.

6. That the applicant submitted reminder dated 5.1.90 and also representation dated 16.4.90 to the Hon'ble Forest Minister, U.P. Bhasan, Lucknow but there had no response.

7. That the applicant once again sent reminder dated 22.8.90 to the Sachiv, Van Vibhag, U.P. Bhasan, Lucknow but was not ^{has} favoured with any reply.

8. That having no other efficacious and alternative remedy the applicant ultimately filed the present case in the Central Administrative Tribunal on 4.12.90.

9. That the delay in not filing the written representation between the period 30.6.88 to 27.7.89 has been caused due to the assurances and promises made to the applicant by the opposite parties.

10- That in the circumstances
in the interest of justice it is ^{prayed} above and
that the delay made in making ^{earlier} written representation/ may kindly be condoned.

P R A Y E R

WHEREFORE, it is most respectfully prayed that
the delay caused in making the written represent-
ation/ application may kindly be condoned by the
Hon'ble Central Administrative Tribunal.

Applicant.

Dated: Lucknow
April 29, 1991.

T. C.
D. B. Singh
B. 3, 5th St. Adarsh
C O M P L E X, SECTOR 'B'
Lucknow-226004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIVILIT BENCH, Lucknow

OA No. 394 of 1990(L)

Kuber Nath

.. Applicant

and

State of U.P. & others.

.. Respondents.

A F F I D A V I T

I, Kuber Nath aged about 65 years s/o Sri Lurshi Lal Gupta, retired additional Chief Conservator of forests U.P. resident of C-21, 2-Parik, Lammagar Extension, Lucknow do hereby solemnly affirm and state as under :

1. That the deponent is the applicant in the present case and is fully conversant and acquainted with the facts ~~deponed~~ mentioned in the accompanying application for condonation of delay.
2. That the contents of paras 2,3,8,9 are true to the personal knowledge of the deponent and those of paras 1,4,5,6, & 7 are true on the basis of records and contents of para 10 is based on legal advice tendered to the deponent which he believes to be true

Deponent.

Dated: Lucknow
April 29, 1991.

Verification.

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this affidavit are true to my personal knowledge; nothing material has been concealed and nothing is wrong so help me God.

Signed and verified this the 25th April, 1991 at
in the presence of High Court of Judicature at Allahabad
Lucknow Bench, Lucknow.

Deponent.

Dated: Lucknow
April 25, 1991.

I hereby identify the deponent who
has signed before me.

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

Circuit Bench, Lucknow.

Misc. Application No. of 1991

In re

O.A. No. 394 of 1990 (L)

Kumar Nath,
Additional Conservator of Forests, U.P. (Retd).

.. Applicant.

Versus

State of U.P. & others.

.. Respondents.

APPLICATION REGARDING NON FILING OF REPLY BY THE
RESPONDENTS. Filed for 29.1.92

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

1. That application in the above case was presented on 4.12.90 and was adjourned on a number of dates due to non sitting of the Hon'ble Tribunal.
2. That on 23.4.91 admission was considered and it was ordered that application for condonation for delay may be moved, consequently application for condonation for delay was submitted on 29.4.91.
3. That it was on 8.5.91 that the delay was condoned and notice was issued to the Respondents for filing Counter Affidavit within six weeks, thereafter the Applicant was to file Rejoinder Affidavit within two weeks and then the case was ordered to be fixed immediately for fixing final hearing.

- 4- That no counter affidavit was filed by the respondents within stipulated period of 6 weeks; however, 25.7.91, 25.9.91 and 6.11.91 were fixed allowing the respondents to file their Counter Affidavit but no counter affidavit has been filed till to-day
- 5- That it has become necessary and imperative to approach the Hon'ble Tribunal so that the application may not ^{be} ^{ed} allow to linger on indefinitely.

P R A Y E R

WHEREFORE, it is prayed that the Hon'ble Tribunal may kindly order the application to be heard ex-parte without awaiting and allowing further time to the respondents to file their reply.

Counsel for the
APPLICANT.

Dated: Lucknow
Nov. 15, 1991.

Dec. 8

R. B. Singh, Advocate
CHITTAUR, SECTION 14

T.C.

R. B. Singh

R. B. Singh

Serial No 7

संख्या-को. डी. 1370/6-E

प्रेषक,

प्रमुख वन संरक्षक,
उत्तर प्रदेश, लखनऊ ।

सेवा में,

✓ डिप्टी रजिस्ट्रार,
केन्द्रीय प्रशासनिक अधिकरण,
लखनऊ बैच, लखनऊ ।

दिनांक: लखनऊ: जून 22, 91.

विषय :- श्री कुबेरनाथ, भारतीय वन सेवा सेवा निवृत्त बनाम भारत सरकार
रजि० न० ओ० ए० 394 आफ ~~लखनऊ~~ लखनऊ ।

संदर्भ :- आपका पत्रांक कैट/सी.बी./लखनऊ/जूडल/679, दि० 15.5.91.

महोदय,

कृपया उपरोक्त संदर्भित पत्र का अवलोकन करने की कृपा करें । जिसमें
मा० न्यायालय द्वारा उक्त वाद की सुनवाई की तिथि 24.6.91 निर्धारित की
उक्त के क्रम में आपसे चिन्वेदन है कि प्रश्नगत वाद में कम से कम चार
सप्ताह का समय देने का कष्ट करें ताकि शासन का पक्ष पुष्ट किया जा सके एवं
पर प्रतिकूल प्रभाव न पड़े ।

भवदीय,

डी० एन० एस० सुमन
वन संरक्षक प्रशासन,
उत्तर प्रदेश, लखनऊ ।

9/10
1/10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH : LUCKNOW.
Opp. Residency, Gandhi Bhavan, Lucknow.

.....

No. CAT/CB/LKO/Jud1/ 679-681

Date : 15.5.91

REGISTRATION O.A NO 394 of 1991

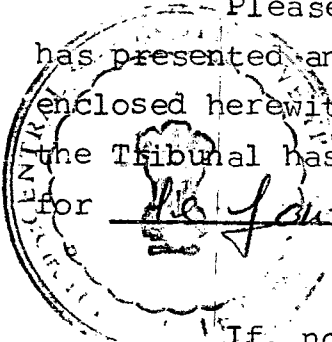
..... Kulver Nath Applicant(s)

VERSUS

..... Union of India RESPONDENT(S)

- ① State of U.P. through Secretary to Govt. U.P. Forests Deptt Civil Secretariat. LKO.
- ② The Chief Conservator of Forests U.P. LKO
- ③ The Accountant General U.P. Alld.

Please take notice that the applicant above named has presented an application a copy Petition here of is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 24 day of 6/91 for the case D.R.C.V.



If, no appearance is made on your behalf, your pleader or by some one duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence. Given under my hand and the seal of the Tribunal this 13 day of 5 1991


FOR DEPUTY REGISTRAR.

M. Panda/
Encl. Copy of Petition with court's order dt 8/5/91 passed there on.

Central Administrative Tribunal
Circuit Bench Lucknow.

O.A.NO. 394 of 1990(L)

Kuber Nath Applicant
Union of India & Others Versus Respondents

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

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

Dated: 8.5.91.

This application for condonation of delay is
condoned as the cause shown is sufficient.

Issue notice to respondents to show cause why
the petition may not be admitted. Respondents may
file reply within six weeks to which the applicant
may file rejoinder within two weeks thereafter.
D.R.(J) will fix the case immediately after the
counter and rejoinder are exchanged.

Sd/-

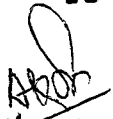
A.M.

Sd/-

V.C.

// True copy //

R.S.M.


Section Officer
Central Administrative Tribunal
Circuit Bench
LUCKNOW

Cheruby