

Central Administrative Tribunal

Lucknow Bench

Cause Title

CA 110(90)(L)

1993

Parties

Hukam Chand Applicant.

FOR S.I. 3

U.O. 4

Respondents

Part P.C.

Sl.

Description of Documents

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N.P. 4
col 5

am

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 40 of 1990

Hukum Chand Applicant

Versus

Union of India & Others Respondents

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

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

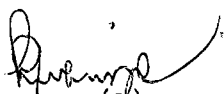
(By Hon'ble Justice U.C.Srivastava,V.C.)

The applicant who was appointed as Extra Departmental Agent on 27.2.1990. He was promoted as orderly/peon in the month of September, 1987 in the office of Superintendent of post office. He was placed under suspension on 23.12.1987 as he was convicted for a period of 10 years under section 376, 504 and 506 by the Session Judge. The applicant was bailed out and the criminal appeal is pending, as ~~such~~ the applicant has been convicted, he was dismissed from service vide order dated 31.5.1988 and after exhausting all the departmental remedies, the applicant has approached the tribunal. The learned counsel for the applicant has contended that as under the rules, the applicants' conviction having been stayed, of course, the respondents should oblige and recall the dismissal order and keep him back in service. There is difference between conviction and sentence. It is only sentence which was stayed and the applicant was bailed out subsequently, as such the respondents were within right to dismiss the applicant from service. Even otherwise, we have also found that the crime which is said to have been committed by him was heinous and as such we do not find any ground to set aside the dismissal order and reinstate the applicant. However, in case, the applicant is exonerated or is acquitted by the High Court. He can even thereafter approach the department for re-instatement. With these observation, the applica

AS

:: Q ::

application stands disposed of finally. No order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 24.2.1993

(RKA)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 40 of 1989 9061

APPLICANT(S) Hukim Chandel

RESPONDENT(S) UOI

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ?
2. a) Is the application in the prescribed form ?
b) Is the application in paper book form ?
c) Have six complete sets of the application been filed ?
3. a) Is the appeal in time ?
b) If not, by how many days it is beyond time?
c) Has sufficient case for not making the application in time, been filed ?
4. Has the document of authorization/ Vakalatnama been filed ?
5. Is the application accompanied by B.D./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?
c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents been filed and pagging done properly ?
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?

yes

yes

yes

yes

yes

yes

yes

yes

yes

NO

A-1

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
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) Under 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,

Yes

Yes

No

Yes

Yes

NA

Yes

Yes

Yes

dinosh/

disposition 40/1990 (L)

Hokum chand

Applicant -

vs.

Union of India & others Opp parties.

(183)

21.2.90

Hon Justice K. Nalk. VK

Hon Mr. K. Obayya .. AM.

On the request of applicant-counsel Sri. Alwadeh
Kumar Adv. the case is adjourned to 13.3.90 for
admission.

AM

VK

13.3.90

Hon. Mr. D.K. Agarwal, JM

Hon. Mr. K. Obayya, AM

On the request of the
applicant, the case is adjourned
to 1.6.90 for admission.

AM

JM

1-6-90

Case not reached. adjourn
to 6-7-90. B.O.C.

6-7-90

No sitting. adjourn to
30/7/90. B.O.C.

30-7-90

No sitting. Adj. to 26/9/90.

B.O.C.

26.9.90

due to sudden demise of Hon'ble
Chief Justice of India Mr. S. S. Mukherji
The case is adjourned to 4.10.90

O.A. 40/90

9/8/91

D.R.

(H)

counsel for the
applicant is present
He did not file R.A.

Applicant to file

Rejoinder by 25/10/91
J/R

25.10.91

D.R.

Both the parties are
present. S-i D. Chandra
supply to copy of
counter to applicant
Hereafter applicant
will file Rejoinder
by 13/12/91. J/R

13.12.91

D.R.

counsel for O.P. is
present. Applicant to
file Rejoinder by

10/3/92. J/R

10.3.92

D.R.

Applicant is present.
He is further ordered
to file Rejoinder by
26/5/92. J/R

(X5)

ORDER SHEET

O.A. 40/90 (L)

NO OF 19

VS

Sl No	Date	Office report	Orders
-------	------	---------------	--------

04/02/93

D.R. None is present for the
Parties. Applicant to file R.A.
on the ~~date~~ date fixed.
List this case on 24/2/93
from F.H.

at
SFH
23/2/93

(146)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH:
LUCKNOW

O.A. NO. O.A.No. 40/90 199 (L)

I.A. NO. _____ 199 (TL)

Date of Deceasion 24.2.93

Hukum Chand

Petitioner.

Advocate for the
Petitioner(s)

V E R S U S

Union of India & Others

Respondent.

Advocate for the
Respondents

E O R A M

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

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

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

Vice-Chairman / Member

Gen.

C.

Date of

Date of

1-2-90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT, LUCKNOW.

Deputy Registrar

Claim Pet. No. 40 of 1990

Hukum Chand, son of Sri Ganesh Prasad,
resident of village and P.O. Machhrehta,
District Lakhimpur Kheri.

.....Applicant

Versus

1. Union of India through Secretary,
Ministry of Communication, New Delhi.
2. The Director of Postal Services,
Lucknow Region, U.P., Lucknow.
3. Superintendent of Post Offices,
Kheri Division, Lakhimpur Kheri.

.....Respondents.

Claim Petition under Section 19 of the
Administrative Tribunals Act, 1985,

DETAILS OF APPLICATION:

1. Particulars of the applicant:
 - i. Name of applicant: Hukum Chand.

1/2/90

Attested
by
Adv.

Noted for
21/2/90

14-10

- (ii) Name of father : Sri Ganesh Prasad
- (iii) Designation & Office : Ardali/Peon
in which employed. Group 'D'
Divisional Office
Postal Services,
Kheri.
- (iv) Office address : Ardali/Peon
Group 'D'
Divisional Office, Postal
Services, Kheri
- (v) Address for Service : Hukum Chand
of all notices: S/o Ganesh Prasad
Resident of
Village & Post
Machhrehta, District
Lakhimpur, Kheri

(2) Particulars of the respondents:

- (i) Name and /or designa-: Union of India
tion of the Supdt. of Post
respondents. Offices.
- (ii) Office address of :1 Union of India
the respondents. through Secre-
tary, Ministry
of Communication
New Delhi.
2. The Director of
Postal Services
Lucknow, Region
U.P., Lucknow
3. Superintendent
of Post Offices
Kheri Division,
Lakhimpur-Kheri
- (iii) Address for service: 1. Union of India
of all notices. through Secretar-
Ministry of
Communication,
New Delhi.
2. The Director

30/11/44
Attested
[Signature]

A/10

- 3 -

of Postal Services,
Lucknow, Region, U.P.
Lucknow.

3. Superintendent of Post
Offices, Kheri Division
Lakhimpur, Kheri

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

The application is against the following order:-

- (i) Order No. Notice No. B-4/Humum Chand.
- (ii) Date - 4.5.1988
- (iii) Passed by - Superintendent of Post Offices,
✓
Kheri
- (iv) Subject in brief- Dismissal from Service.

4. Jurisdiction of the Tribunal:

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

5. Limitation:

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

6. Facts of the case:

The facts of the case are given below:-

- (i) That the applicant started his career
as a Branch Post/Master/Extra Department
Agent of Machhrehta on 27.2.1970 and

3/5/88
Attested
by
A. M.

A-12

- 4 -

continued to work in such capacity till 14.9.1987 when he was promoted and appointed as the Ardali/Peon in the Office of Superintendent of Post Offices, Kheri Division, Kheri and was placed on regular establishment. The applicant was abruptly placed under suspension by an order dated 23.12.87 purporting to have been passed in terms of sub-rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 on the ground of conviction of the applicant for 10 years u/S. 376, 504 and 506 I.P.C. by Sessions Judge, Kheri. Thereafter a questionnaire was obtained against a number of questions on 3.5.1988 and then a show-cause notice of dismissal dated 4.5.1988 was served which was suitably replied on 19.5.1988. Thereafter by order Notice No. B-4/Hukum Chand, the services of the petitioner were dismissed against which an appeal was preferred to Director of Postal Services, Lucknow Region, U.P., Lucknow, on 29.9.1988, on the ground that he was wrongly convicted and Crl. Appeal No. 768/1987 was pending in High Court, Lucknow. The Director of Postal Services rejected the said appeal on ^{12.11.1988} 1.2.1989 and the copy of the said order was served on the applicant on 7.2.1989, hence this petition.

7. Relief Sought:

In view of the facts mentioned in para 6

3/11/89
Attested
[Signature]

P-13

above, the applicant prays for the following reliefs:-

- (i) That the order of dismissal dated 31.5.1988 passed by the learned Superintendent of Post Offices, Kheri Division, Kheri, may kindly be quashed;
- (ii) That the order of the rejection of the appeal dated ~~12.11.1988~~ 1.2.1989 passed by the Director, Postal Services, Lucknow may kindly be quashed.
- (iii) Cost of the claim petition be awarded to the applicant against the opposite parties.

8. Interim Order, if prayed for:-

Pending final decision on the application, the applicant seeks issue of the following interim order:-

That the applicant may be given suspension allowance during the pendency of the case.

9. Details of the remedies exhausted:-

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc. i.e. he filed an appeal against the order

Attested
by

7-12

dated 31.5.1988 in Notice No. b-4/Hukum Chand passed by Superintendent of Post Offices, Kheri Division, Lakhimpur -Kheri, dismissing the applicant from his services under rule 10(2) of Central Civil Services, Classification, Control and Appeal Rules, 1965 on 29.9.1988 which was rejected on 12.11.1988/ 1.2.1989.

10. Matter not pending with any other court etc:

The applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particular of Bank Draft/Postal Order in respect of the application fee.

1. Name of the bank on which drawn.
2. Demand Draft No.

or:

1. Number of Indian 8 02 40 9849 Postal Order.
2. Name of the issuing Post Office.

Copy to
attested
by

A-18

3. Date of Issue of 1-2-90
Postal Order.
4. Post Office at which payable

12. Details of Index:

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

13. List of enclosures:

1. Photostat copy of Charge Report.
2. Show Cause Notice of Dismissal.
3. Reply to Show Cause Notice.
4. Photostat copy of order of dismissal.
5. Photostat copy of appeal.
6. Photostat copy of Postal Receipt.
7. Photostat copy of Order of Dismissal.
8. Photostat copy of letter dt. 31.10.89.

Verification

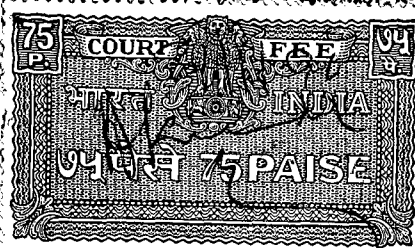
I, Hukum Chand, son of Sri Ganesh Prasad, aged about 46 years, working as Dak Pal, resident of village and Post Machhrehta, do hereby verify that the contents of paras 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Attested
By *[Signature]*

Lucknow, dated
January ,1990

[Signature]

Applicant.

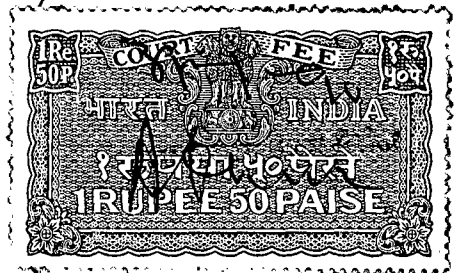
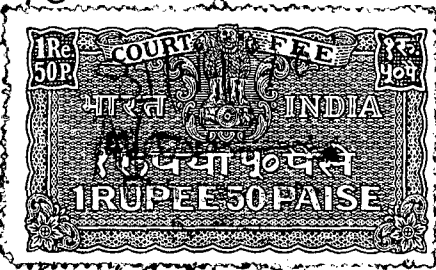
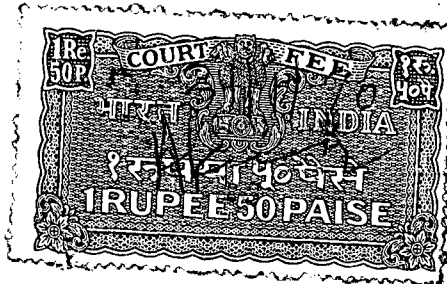


Central Administrative
Tribunal, Lucknow
वकालतनामा

A-16

Petition No.

of 90



Hukum Chand

Applicant
वादी (मुद्दे)

U. O. 1-8085

Respondent
प्रतिवादी (मुद्दाअलेह)

नं० मुकदमा

सन् १९

पेशी की ता०

१९ ई०

ऊपर लिखे अभियोग में अपनी ओर से

AVADHESH KUMAR

एडवोकेट

VISHANDUTT PARYAM ADVOCATE

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं
इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व
जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें 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 मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष
(फरीकसानी) का दाखिल किया रुपया अपने या हमारे हस्ताक्षर युक्त (वस्तुस्थिति)
रसीद में 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
पर स्वयं या अपने किसी पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी
में एक तरफा मेरे खिलाफ फैसला हो जाता है तो उसकी जिम्मेदारी मेरे वकील
पर न होगी। इसलिये यह वकालतनामा लिख दिया कि प्रमाण रहे और समय
पर काम आवे।

हस्ताक्षर

Signature

साक्षी (गवाह)

साक्षी (गवाह)

Accepted

LKO. Dated 28/1/90

COUNSEL FOR

Applicant

A-171

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW CIRCUIT, LUCKNOW.

Claim Petition No. 40 of 1990

Hukum Chand

....Applicant

Versus

Union of India and others.

...Opposite parties

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Lucknow; Dated

January , 1990

(Avadhesh Kumar)
Advocate

Counsel for the Applicant

WS U.O.-1. 20RS

चार्ज रिपोर्ट

Post Office Khairatabad
PIN-502701

दिनांक 15.

के अदली दय

प्रमाणित किया जाता है कि श्री हुकुम चन्द द्वारा आज दिनांक 15.9.87 को अपराह्न, मण्डलीय कार्यालय में, डाक अफीमक, छी के अदालती प्यून का कार्यभार ग्रहण कर लिया गया है म० नं० प० हे बी-4/मुप-ओ/87 दि० 28-8-87 के अनुसार

ॐ नमो भगवते वासुदेवाय
भार्याही कर्मचारी

प्रतिलिपि:-

- 1- पोस्टमास्टर जीरी
- 2- डाक निरीक्षक, गोला जीरी
- 3- कर्मचारी
- 4- कार्यालय प्रति

Attested
By  Admin.
3/11/90

Hukum Chand

Annexure No. 2

कार्यालय डाक अधीक्षक, खीरी मण्डल, खीरी - 262 701

ज्ञापन सं० बी-4/ हुकुम चन्द

दिनांकित : खीरी : 04-05-1988.

यतः श्री हुकुम चन्द "घ" श्रेणी कर्मचारी मण्डलीय कार्यालय, खीरी निमित्तबत्त १ को संक्षम न्यायालय ने धारा-376 भा० द० सं० के अन्तर्गत सिद्ध दोष उद्घराया है, और यतः उक्त श्री हुकुम चन्द के विरुद्ध विभागीय जांच में उनके व्यक्तिगत चुनवाई में लिये गये बयान तथा जांच की आख्या अत्र संलग्न है ।

यतः अधोहस्ताक्षरकर्ता अनन्तिम स्म से इस निष्कर्ष पर पहुँचे हैं कि श्री हुकुम चन्द सेवा में बनाये रखने के लिए उपयुक्त व्यक्ति नहीं हैं सेवा से बर्खास्त करने का उन्हें दण्ड देना प्रस्तावित किया गया है ।

श्री हुकुम चन्द को स्तद्वारा प्रस्तावित दण्ड पर अपना प्रतिपेदन प्रस्तुत करने का अवसर दिया जाता है परन्तु वह प्रतिपेदन जांच के दौरान प्रस्तुत किये गये साक्ष्य पर ही आधारित होना चाहिए, प्रस्तावित दण्ड पर जो प्रतिपेदन वह करना चाहेगा उस पर अधोहस्ताक्षरी द्वारा विचार किया जायेगा । ऐसा कोई भी प्रतिपेदन लिखित स्म में दिया जाय कि तथा इस दंग से भेजा जाय कि श्री हुकुम चन्द को यह ज्ञापन प्राप्त होने की तारीख से 10 दिन के अन्दर अधोहस्ताक्षरी को प्राप्त हो जाय ।

१ मे० रम० तिन्हा १
डाक अधीक्षक,
खीरी मण्डल,
खीरी-262 701.

प्रतिनीतिप:-

पंजीकृत
(पावरी किला)

1- श्री हुकुम चन्द "घ" श्रेणी कर्मचारी निमित्तबत्त १ मण्डलीय कार्यालय खीरी.

2- कार्यालय

3- अतिरिक्त.

6/5

Attested
Dary
Adv.
31/1/90

3-

92

श्री हुकुम चन्द "ध" श्रेणी कर्मचारी मण्डलीय कार्यालय खीरी के विरुद्ध
केन्द्रीय सिविल सेवा § 40(1)(a) § नियमावली-1965 के नियम-19
के प्रावधानों के अन्तर्गत की गयी व्यक्तिगत सुनवाई तथा जांच की आख्या ।

दिनांक 3-5-88 को उक्त श्री हुकुम चन्द के विरुद्ध व्यक्तिगत
सुनवाई का अवसर देकर जांच की गयी, जांच से यह तथ्य स्पष्ट है कि
वे ग्राम मछेठा डाकघर-मछेठा थाना- पसंगवा के निवासी हैं, उनके विरुद्ध
सत्र न्यायालय लखीमपुर- खीरी में सत्र परीक्षण सं० 44/1986 के अन्तर्गत
धारा- 376, 504 एवं 506 भा०द०वि० के अन्तर्गत मुकदमा चला था,
उन्होंने यह तथ्य भी स्वीकार किया कि उक्त मुकदमा में न्यायालय ने
उन्हें तथा सह अपराधी श्री बच्चा को माननीय न्यायाधीश ने सख्त से
परे सिद्ध दोष पाकर 10 वर्ष सश्रम कारावास का दण्ड दिया है । उक्त
मुकदमा दिनांक 8-12-87 को सायंकाल 7-00, 8-00 के बीच उक्त
श्री हुकुम चन्द तथा मछेठा निवासी पंचगं व बच्चा के साथ उसी ग्राम
की निवासीनी श्रीमती गुड्डी के साथ बलात्कार के आरोप में चला ।
मुकदमे के दौरान पंचगं की मृत्यु हो गयी तथा उनके विरुद्ध मुकदमा खेद
हो गया शेष दो अभियुक्तों के विरुद्ध न्यायालय ने विचारण किया । अपने
बयाव में इस परीक्षण के दौरान दि० 3-5-88 को श्री हुकुम चन्द ने उक्त
वाद रीजिश के कारण चलाना बताया, उनके अनुसार उनके शाखा पोस्ट-
मास्टर होने के कारण तथा पंचगं के ग्राम प्रधान होने के कारण
श्रीमती गुड्डी की रीजिश थी और इसी रीजिश के कारण श्रीमती गुड्डी
ने यह झूठा मुकदमा इस्तगारा दायर करके चलाया । उनका यह कथन
उचित नहीं प्रतीत होता, काफी लम्बे समय तक उनके शाखा पोस्टमास्टर
रहने के बाद इस पद के प्रति श्रीमती गुड्डी का कोई वाद उत्पन्न होता
है क्यों कि घटना के समय कोई ऐसा अवसर नहीं था जिससे इस पद के
प्रति किसी ग्रामवासी को प्रतिस्पर्धा होती । अतः उनके द्वारा कथित
स्पष्टीकरण मान्य नहीं है विद्वान चतुर्थ अपर न्यायाधीश लखीमपुर-खीरी
ने सत्र परीक्षण सं० 44/1986 में दिये गये दिनांक 18-12-87 के अपने
निर्णय में श्री हुकुम चन्द को अन्य सह अपराधी के साथ धारा - 376
भा०द०सं० के अन्तर्गत शंका से परे दोषी सिद्ध पाया है तथा 10 वर्ष
का सश्रम कारावास की सजा दी उक्त परीक्षण विचारण के दौरान
न्यायालय समस्त सम्बद्ध साक्षियों के पूर्ण अवलोकन, परीक्षण तथा
विचारण किया और तत्पश्चात् उक्त दण्डादेश पारित किया, अतः
उनके विरुद्ध आरोप सिद्ध है ।

प्रधान श्री हुकुम चन्द 'ध' त्रेणी, साइनाजीवा
सीतापुर की 6.

प्रश्न-1. आप किस ग्राम, अवध- तथा भाग क्षेत्र के
रहेवाले हैं?

उत्तर मैं ग्राम महेन्द्रा जिला पर महेन्द्रा पोता पाराग्या
का रहेने वाला हूँ। हुकुमचन्द

प्रश्न-2. दि. 8. 12. 1982 को आप किस पद पर तैनात थे?

उत्तर दिनांक 8. 12. 82 को मैं महेन्द्रा शाखा जिला पर
के शाखा जिलापाल के पद पर कार्य कर रहा था।

प्रश्न-3. महेन्द्रा निवासी पंचम तथा बच्चा से आपका
क्या सम्बन्ध है?

उत्तर महेन्द्रा निवासी पंचम से मेरा कोई सम्बन्ध नहीं
है गाँव के रिश्ते से भाई लगते थे पट्ट्या से भी
मेरा कोई सम्बन्ध नहीं है गाँव के रिश्ते से
पट्ट्या लगते हैं। हुकुमचन्द

प्रश्न-4. दि. 8. 12. 1982 को साथ 7 व 8 के बीच आपके
महेन्द्रा निवासी पंचम व बच्चा के साथ उसी
गाँव की निवासी श्रीमती गुड्डा के साथ बलात्कार
किया यह आरोप आप पर है। इसके बारे में क्या
कहना है?

उत्तर जी माना जी शाखा जिलापाल होने के कारण रडिकल
और अग्रिम प्रधान होने के कारण रडिकल मेशन
कर दिया मैं शाखा जिलापाल था और हुकुमचन्द
(कमरा)

आरं पंचम गो. पुषान थ | — उषुमय
उ. 5. 88

प्रश्न - 5 सेशत कोर्ट, मे श्री म्ही गुड्डो के साथ
बलात्कार के गुर्मे मे आपपर मुकदमा नम्बर

उत्तर 44/1986 चला जा। इसके बारे मे क्या कहना है?
उपपदना मेर रियलाय चला पा। उषुमय
उ. 5. 88

प्रश्न 6: इस मुकदमे मे विद्वान व्याघ्राधीश के आपकी
और बच्चा को सदेह है पर सिद्ध दोष पाया
10 वर्ष सज़ा का रावास की सज़ा दि. 18.12.87
को दी? यह सही है या गलत?

उत्तर यह सही है। उसे सजा दी गयी है।
इस सजा के विरुद्ध मैं न एपिल कोर्ट जाऊँगी
लखनऊ के च मे अपील को है। - उषुमय
उ. 5. 88

Recorded in my presence by the
J.S. of his own volition.

श्री. मा. रजि.
सहा. जज (30)
रजि.
3.5.88.

3.5.88
Sd/-
Magistrate 1st Class
File No 262/701

Alister
Dany
Adv.
3/11/90

Hukum Chand vs U.O. 1. 2008
Annexure No. 3

The Superintendent of Post Offices,

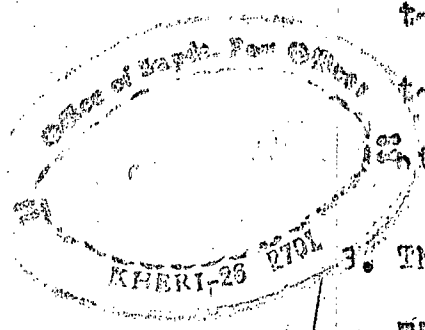
Kheri-Division, Kheri.- 262701

Reply against show cause notice dated 4.5.88,
wherein dismissal from service is proposed
to be inflicted.

Sir, *

With profound respect I beg to submit as follows:-

1. That I was abruptly placed under suspension by an order dated 23.12.1987, purported to have been passed by your honour in terms of sub-rule (2) of Rule 10 of the Central Civil Services (Classification Control and Appeal) Rules, 1965. Thereafter a questionnaire had been issued against me and my answers were obtained against a number of questions contained in the said questionnaire on 3.5.1988.
2. That after obtaining the answers the show cause notice dated 4.5.1988, under reply, was communicated to me on 6.5.88 by registered post, requiring me to submit my reply within 10 days from the date of its receipt.
3. That very unfortunately for certain reasons beyond my control I could not be in a position to make any submission within the time allowed and was constrained to move an application dated 14.5.88 to your honour by registered post under postal receipt no. 539 dated 14.5.88. Therein it was submitted that the relevant papers had been misplaced and for want of the same it was little feasible for me to make any reply and it was also prayed therein that I be granted a further period



of one week to trace out the papers and to submit my reply. Orders passed thereon, if any, have not so far been communicated to me. However, I beg to submit my reply against the show cause notice, in continuation of the said application dated 14.5.1988, as under:-

4. That the whole proceedings initiated against me with the order dated 23.12.1987 imposing suspension strictly speaking are not in conformity with the provisions of Central Civil Services (Classification Control and Appeal) Rules, 1965. In this regard it may merit particular attention that no rule of the Rules called The Central Civil Services (Classification, Control and Appeal) Rules empowers the authority concerned to place under suspension an employee with retrospective effect.

That it is all the more unfortunate that your honour's order dated 23.12.1987 placed me under suspension with retrospective effect on 18.12.1987 which is badly opposed to Rule-10 of the said Rules, which are statutory in nature having the force of law.

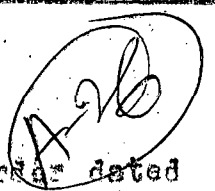
That the suspension made operative with a retrospective effect also utterly disregards the dictum of law as laid down by the Supreme Court and the High Courts from time to time. Needless to emphasise that imposition of the suspension with retrospective effect is beyond jurisdiction and is likely to suffer from contagion of caprice, malefide and flagrant violation of the relevant rules. It may not be impertinent to add that in view of the settled dictum of law conformant of every power or discretion itself implies

3. -8- 1985
that it should have been exercised bonafidely and strictly in accordance with the relevant law and the rules keeping in mind that equality of law is the first essential on which the whole Constitutional system is based in India and there is no room whatsoever for capricious exercise of powers.

That issuance of the questionnaire and obtaining my answer against the questions on 3.5.1988 does in no way amount to according personal hearing as alleged. There is reason to feel that the relevant statutory rules in this regard have been misconstrued and misapplied to my great prejudice.

That there is yet another gloomy aspect involved in the impugned suspension as also the show cause notice, under reply. In this regard it may crave particular attention of all concerned that I had been very unfortunately implicated in the criminal case falsely due to enmity of certain affective and influential persons of the locality. I am confident that ultimately the truth will definitely prevail and I will be exonerated and exculpated.

That I was convicted by the court of Sessions on 18.12.1987. Feeling myself aggrieved against the judgment and order of the learned trial court I preferred an appeal ^{Criminal Appeal No. 768 of 87} in the Hon'ble High Court, Lucknow Bench, Lucknow and was also ordered by the Hon'ble court to be released on bail on 24.12.1988.



That it is disappointing that the order dated 23.12.1987 imposing the suspension was passed by your honour after I had been ordered on 22.12.88 by the Hon'ble court to be released on bail. In this context it is very material and weighty and may again merit special consideration that in normal course in a criminal appeal ^{when} bail is granted to the appellant or the convicted person the order appealed against and execution of the sentence is suspended in view of specific provisions of Section 389 of the Code of Criminal Procedure, 1973. As such the order imposing suspension was passed when the conviction and sentence had been actually suspended or were not operative at all. Now when the conviction and sentence are suspended no proceedings can be taken as in point, erroneously holding the person concerned to be convicted and sentenced.

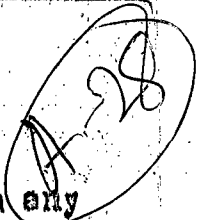
That apart from it, it also appears to have escaped notice that according to dictum of law an appeal is, actually speaking, a continuation of the original proceedings. As such the conviction and the sentence passed by the trial court cannot be held conclusive pending decision of the appeal preferred against the conviction and sentence passed by the trial court. It is nothing but an irony of my fate and conspiracy of my evil stars that such very material considerations appear to have been completely ignored by your honour's Goodself before proceeding to impose suspension and again before issuing the show cause notice with a proposal therein to inflict the highest punishment of dismissal from service.

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That I beg leave to submit very respectfully that the observation of the Hon'ble Supreme Court as made in Tulsī Ram Patel's case, a very significant case, recently also appears to be brushed aside either or misconstrued. The Supreme Court has observed that the disciplinary authority, must, however, bear in mind that the conviction on a criminal charge does not automatically entail dismissal, removal or reduction in rank of the concerned government servant. The requisite order has to be passed by the disciplinary authority concerned having decided which of these three penalties is required to be imposed.

That in view of entirety of the facts and circumstances mentioned above it is little justified, rather appears to be erroneous that your honour has presumed ^{me} to be not fit to be retained in public service in exercising your powers under Rules -10 and 19 of the (C.C.S. & A) Rules.

That it may not be out of place or far from relevancy to submit very respectfully that I initially started my career as a Branch Postmaster/Extra Department Agent of Machchhechha on 27.2.1970 and continued to work in such capacity till 14.9.87 when I was promoted and appointed as the peon in the office of the Superintendent of Post Offices Kheri Division Kheri and placed on regular establishment by dint of sincere devotion to duty, honesty and efficiency on my part, which may be verified from the service record. The record will reveal that my work and conduct have remained entirely satisfactory throughout and no complaint



Whatsoever has been made ant against me from any level or any quarter. Needless to emphasise that very unfortunately such material facts appear to have escaped notice of your honour's goodself to my great prejudice.

That I am confident that your honour will be pleased to accord due appreciation to the respectful submissions made above and after duly probing into the facts and circumstances will be pleased to reach a definite conclusion that the impugned suspension followed by the proposal of infliction of the highest punishment of dismissal from service are not in conformity with the relevant statutory rules, the mandates of Article 311 of the Constitution as also the elementary canons of natural justice and fair play.

That after dispassionate consideration of the facts and circumstances your goodself will be pleased to hold that the impugned proceedings during pendency of the appeal when the conviction and sentence passed by the learned trial court is not conclusive ^{nor operative} is premature and accordingly the show cause notice is warranted to be withdrawn and I may be reinstated in service after revocation of the suspension order dated 23.12.1987, pending disposal of the appeal.

That the respectful reply is submitted against the notice praying judicious consideration as the matter involves the questions of livelihood. The source of livelihood comes within the meaning of fundamental rights as enshrined in the Constitution of India and such a valuable right may not be destroyed acting on erroneous presumptions or assumptions.

7.

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For due consideration and justice I shall feel
extremely beholden to your honour.

Yours faithfully,

303742

(Hukum Chand)

R/o V. & P.O. Machhehchha,
District Lakhimpur-Kheri.

Dated:- 19/5/1988.

Attested
by
31/11/90

Annexure 4

महाराष्ट्र हाईकोर्ट

कार्यालय अधीनस्थ डाकघर, बी.सी. मण्डल, बी.सी. 26270।

सामान संख्या-बी-4/मुद्रासंख्या

दिनांक, बी.सी., 31.5.88

प्रति

श्री हुकुम चन्द "घ" श्रेणी कर्मचारी, मण्डलीय कार्यालय बी.सी. को सहायक न्यायालय के द्वारा 376, 504, 506 मांडवों के अंतर्गत सिद्ध दोष ठहराते हुए 10 वर्ष का सजा कारावास की सजा सुनाकर दिनांक 13.12.87 को जेल भेज दिया गया। अतः श्री हुकुम चन्द को इस कार्यालय के समक्ष प्रार्थना दिनांकित 23.12.87 के द्वारा दिनांक 18.12.87 से केन्द्रीय सिविल सेवा प्रवर्गीकरण नियंत्रण एवं अपील नियमावली 1965 के नियम 10(2) के अंतर्गत मिलान्वित कर दिया गया था। दिनांक 3.5.88 को अपोहरताहरी द्वारा मामले की व्यक्तिगत सुनवाई कर्मचारी से ली गई। इस कार्यालय के सहायक न्यायालय दिनांकित 4.5.88 के द्वारा जांच रिपोर्टों के बारे में अपना कारण बताओ सूचना देकर अध्यावेदन 10 दिवस में प्रस्तुत करने का अवसर दिया गया। कर्मचारी डा. प्रतिवेदन दिनांक 20.5.88 को इस कार्यालय में प्राप्त हुआ।

यतः अध्यावेदन देखा एवं पाया कि कर्मचारी ने दो बातों पर जवाब दिया है। प्रथम मिलान्वित पूर्व प्रमाणी नहीं हो सकता है, द्वितीय क्रिमिनल अपील के दौरान दण्ड लम्बित रहता है। इस मामले में मिलान्वित केन्द्रीय सिविल सेवा प्रवर्गीकरण नियंत्रण एवं अपील नियमावली 1965 के नियम 10(2) के अंतर्गत या तो प्रतिपक्ष या जेल कस्टडी के प्रारम्भ से प्रमाणी माना जाता है। अतः दिनांक 23.12.87 को आदेश पूर्णतः विधिपूर्वक एवं वैध है। क्रिमिनल अपील के दौरान अभियोग परीक्षण के फलस्वरूप दिया दण्ड लम्बित रहता है पर केन्द्रीय सिविल सेवा प्रवर्गीकरण नियंत्रण और अपील नियमावली 1965 के नियम 19 के अंतर्गत कार्यवाही लम्बित नहीं रहती। अतः अध्यावेदन में कोई तथ्य दण्ड न देने के लिए ऐसे नहीं हैं जो मान्य हों।

एवं यतः श्री हुकुम चन्द "घ" श्रेणी मण्डलीय कार्यालय बी.सी. को आवश्यक आरोप पर अपील द्वारा 376, 504, 506 मांडवों के अंतर्गत सिद्ध दोष ठहराया गया है।

यतः यह समझा जाता है कि उक्त श्री हुकुम चन्द "घ" श्रेणी मण्डलीय कार्यालय बी.सी. का आवरण जिससे उसके दोष सिद्ध हुई हैं, संतुष्ट है जिसके कारण लोक सेवा में उसका और अधिक बनाये रखा जा अन्यायपूर्ण है।

अतएव अपोहरताहरी, एतद्वारा श्री हुकुम चन्द उपरोक्त को सेवा से बर्खास्त करता है।

निदेशिका संख्या

अधीनस्थ डाकघर, बी.सी.

मण्डल, बी.सी.-26270।

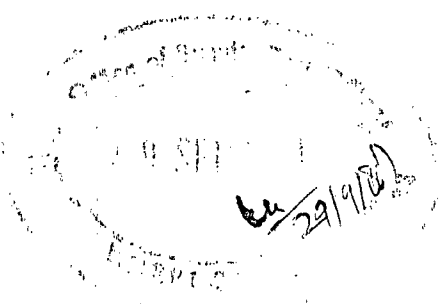
Attested
Adm
31/1/90

प्रतिनिधि:-

अधीनस्थ डाकघर, बी.सी.

1. कर्मचारी
2. पोस्टमास्टर, बी.सी.
3. व्यक्तिगत प्रभावली
4. वरिष्ठ पंजिका
5. दण्ड पंजिका
6. कार्यालय प्रति
7. अतिरिक्त प्रति।

-14- (P3)



Hukum Chand, resident of village and Post Office Mchhecha
District Lakhimpur-Kheri.

.....Appellant

Versus

Superintendent of Post Offices, Kheri Division,
Lakhimpur-Kheri.

.....Respondent

Appeal against the order dated 31.5.1988
in Notice no.B-4/Hukum Chand) passed by
S.P.O.s. Kheri Division, Lakhimpur-Kheri,
removing the appellant from his services under
Rule 10(2) of Central Civil Services,
(Classification, Control and Appeal) Rules, 1965

Sir,

The above named appellant most respectfully
shows as under:-

1. That though the appellant is on bail in a criminal
case and as he has sent his detailed reply of notice
dated 4.5.88 on 19.5.88, the learned S.P.O.s. Kheri Dn.
Lakhimpur-Kheri has removed appellant from his service
vide the impugned order dated 31.5.1988. *Ann-1-e 2*
2. That being aggrieved by the order of the S.P.O.'s Kheri
Division dated 31.5.88 the appellant prefers this
appeal before your honour inter-alia on the following:-

G R O U N D S

a) Because the learned S.P.O.s. Kheri Dn. has wrongly inter-
preted the rules and has removed the appellant from
his service, against law, facts and merits of the
case.

b) Because the learned S.P.O.s. Kheri Dn. has wrongly
reached on conclusion that during pendency of criminal

-15-

(43)

mentioned above shall not be pending.

3. Because the learned S.P.O's Kheri Dn. has decided the proceedings against the appellant against the mandates of Article 311 of the Constitution of India and principles of natural justice and fair play.
4. Because the learned S.P.Os Kheri Dn. ought to have suspended the appellant during the pendency of criminal appeal, as the appellant is on bail, but he has removed the appellant from services illegally which is quite contrary to the standing orders and rules of the Central Government.
5. Because the order of the learned S.P.Os Kheri Dn. is too severe and against fundamental principles of postal services.
6. Because in the case of like nature the persons against whose Criminal Appeal against their convictions is pending have been only suspended from their services till disposal of the Crl. Appeal. Equity of law is the first essential of the rule of law upon which the whole constitutional system is based in India.
7. Because the learned S.P.Os Kheri Dn. ought to have held that as appellant has filed criminal appeal no 768/87 in the Hon'ble High Court, Lucknow and is on bail since 21.12.1988, as such his conviction is suspended and appellant's services shall be continue till disposal of appeal.
8. Because the S.P.Os Kheri Dn. has passed his order on- 23.12.87 (suspension order) though the appellant was bail at that time, as he was released on bail on 22.12.88 by the Hon'ble High Court and in view of sec- 389 of the Code of Criminal Procedure, 1973 when bail is granted to the appellant or the convicted person- the order appealed against and execution of the sentence is suspended.

-16-

A30

9. Measure the order of the learned S.P.O.s Kheri Dn. is based on mere conjectures and surmises and is liable to be set aside.

Therefore, it is respectfully prayed that order dated 31.5.1988 passed by the learned S.P.O.s Kheri Division, Lakhimpur-Kheri may kindly be quashed and the appellant be ordered to be reinstated in service till disposal of his criminal appeal or in alternate his suspension be ordered to be continued in place of removal.

Attested
By Adv
341198

Appellant

337144

(Gurum Chand)

Annexure 1

1. A copy of order Through his counsel
dated 31.5.88.

2. B. photocopy of
order dated 31.5.88.
29/9/1988.

Advocate, Lakhimpur-Kheri



17-

Attested
by John
3/11/90

10-
Annexure No 7

भारतीय डाक विभाग
कार्यालय निदेशक डाक सेवाएँ, लखनऊ क्षेत्र लखनऊ -226007

ज्ञापन संख्या: निडाल/एपीपी-204/88-89/13

दिनांक नवम्बर 12, 1988

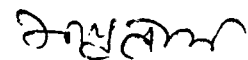
=====

प्रस्तुत अपील श्री हुसूम चन्द्र वर्ग "घ" कर्मचारी तीरी ने अधीक्षक डाकघर खीरी के सेवा निष्काशन आदेश संख्या बी-4/ हुसूम चन्द्र दिनांक 31-5-88 के विरुद्ध दायर किया है। अपीलार्थी ने अपनी अपील दिनांक 29-9-88 को प्रस्तुत किया है जबकि इसके लिए निर्धारित समय मात्र 45 दिन है। यद्यपि अपील समयोपरान्त प्रस्तुत की गई है और इसी आधार पर निरस्त करने योग्य है तथापि मैं इसके गुण दोष पर विचार कर अपना निर्णय देना चाहूंगा। स्तदर्थ मैं समय के अन्तर्गत अपील न दायर करने को क्षमा करता हूँ।

2- अपीलार्थी के विरुद्ध मामले का संक्षिप्त विवरण इस प्रकार है। दिनांक 8-12-82 को अपीलार्थी ने ग्राम पंचम-ब मछेछा के निवासी पंचम व बच्चा के साथ उसी ग्राम की निवासिनी श्रीमती गुइडी के साथ साथ 7-00 व 8-00 बजे के बीच बलात्कार किया। यह मुकदमा न्यायालय में चला और अपीलार्थी को 10 वर्ष का सश्रम कारावास की सजा सुनाई गई। तत्पश्चात् अनुशासनिक अधिकारी ने के०के०से० {वर्गीकरण, नियंत्रण एवं अपील} नियम 1965 के नियम 19 के अन्तर्गत कार्यवाही कर अपीलार्थी को सेवा से निष्कासित कर दिया। अतः यह अपील प्रस्तुत की गई है।

3- मैंने मामले से सम्बद्ध सभी अभिलेखों का भली प्रकार अध्ययन किया है। अपीलार्थी का यह कहना है कि उसे न्यायालय में दायर की गई अपील तक निलम्बित रखा जाना चाहिए। ऐसा कोई नियम के०के०से० {वर्गीकरण, नियंत्रण एवं अपील} नियम 1965 में नहीं है। अतः अपील की प्रार्थना न केवल निरस्त करने योग्य है अपितु नियमानुसार भी नहीं है। अपीलार्थी को दिया गया दण्ड उचित है और उसमें हस्तक्षेप का औचित्य मैं नहीं पाता हूँ।

4- अतएव स्तद्वारा मैं अपीलकर्ता की अपील अस्वीकार करते हुए अधीक्षक डाकघर खीरी मण्डल के उपरोक्त ज्ञापन द्वारा प्रदत्त दण्ड की पुष्टि करता हूँ।



॥ मनु प्रताप सिंह ॥

निदेशक डाक सेवाएँ, लखनऊ क्षेत्र
लखनऊ -226007

प्रतिलिपि

संबंधित कर्मचारी को।

2-4: अधीक्षक डाकघर खीरी को।

5-6: क्षेत्रीय कार्यालय की पत्रावली में।

डी००७/८०००७

भारतीय डाक विभाग
DEPARTMENT OF POSTS INDIA

कार्यालय/Office of the

सेवा में,

श्री हुकुमचंद

८/० श्री डोमण प्रताप सिंह एडवोकेट

लाहौर - सिरी

पत्रांक- जी-५/हुकुमचंद/४१-१० दि० ३०.१०.४१

विषय- आपकी अपील दि० २९.१.४८ को सम्बन्ध

में निर्णय न दिया जाना

संदर्भ- आपका पत्र दि० २५.१०.४१

उपरोक्त सम्बन्ध में आपको सूचित करना है कि आपकी अपील दि० २९.१.४८ का निर्णय निर्देशांक डाक सेवायें वसन्त ऋतु क्षेत्र, वसन्त ऋतु को पत्रांक RDL/APP- २०५/४८-४९/१३ दि० १.२.४९ को द्वारा लिया जा चुका है जिसकी निर्णय की प्रतिलिपि आपको इस कार्यालय को समस्त व्यवस्थापक दि० १३/४९ को द्वारा प्रतिलिपि लेकर वितरित भी जा चुकी है।

M. M. K.

- 19. A36

Annexure No-8

डी.पी. 7/507-7

भारतीय डाक विभाग
DEPARTMENT OF POSTS INDIA

कार्यालय/Office of the

सेवा में,

श्री हुकुमचंद

सुपरिन्टेंडेंट ऑफ पोस्ट ऑफिस

Post Division 232 701

व/० श्री उमेश प्रताप सिंह सडवोकेट

काखेटेट - रबेरी

पत्रांक- बी-4/हुकुमचंद/89-90 दि० 21.10.89

विषय- आपकी अपील दिनांक 29.9.88 को सम्बन्ध
में निर्णय न लिया जाना

संदर्भ- आपका पत्र दि० 28.10.89

उपरोक्त सम्बन्ध में आपको सूचित
करना है कि आपकी अपील दि० 29.9.88 का
निर्णय निर्देशक डाक सेवाये एखनक क्षेत्र एखनक के
पत्रांक RDL/App-204/88-89/13 दि० 1.2.89 को
द्वारा लिया जा चुका है जिसकी निर्णय की प्रतिलिपि
आपको इस कार्यालय को समसंख्याक पत्रांक दि० 7/89
के द्वारा प्रतिलिपि लेकर विहारीत भी जा चुकी है।

Mamlikar

POSTAL-153 Post/87-23-87-23-87-23-87

3/4
A-57

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

Misc. Application No. M.P. No. 122/91(4) of 1990

on behalf Respondents.

In

Case No. 0. A. No. 40 of 1990 (1)

Hukam Chand

..... Applicant.

versus.

Union of India & Others..... Respondents.

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the written reply on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the parawise comments from the respondents, the draft-reply was sent to the department for vetting.
2. That the approved written reply has been received and is being filed without any further loss of time.
3. That the delay in filing the written reply is bonafide and not deliberate and is liable to be condoned.

WHEREFORE, it is prayed that the delay in filing the written reply may be condoned and the same may be brought on record on which the respondents shall ever remain grateful as in duty bound.

Lucknow :

Dated :

D. Chandra

(Dr. Dinesh Chandra)

Counsel for the Respondents.

A38

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

COUNTER-AFFIDAVIT ON BEHALF OF RESPONDENTS.

In

O.A.No.40 of 1990(L)

Hukum ChandApplicant.

Versus

Union of India & Others..... Respondent.

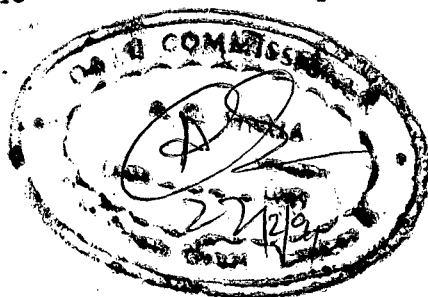
I, Daya Ram, aged about 53...years, son of Late Shri Bachchi Ram, Superintendent of Post Offices, Kheri Dn., Lakhimpur Kheri, do hereby solemnly affirm and state as under;

1. That the deponent has read the application filed by Shri Hukum Chand and has understood the contents thereof. He is well conversant with the facts deposed hereinafter and is swearing this affidavit on behalf of all the respondents.
2. That it will be worth while to give a brief history of the case as under :-

-: BRIEF HISTORY OF THE CASE :-

Shri Hukum Chand who was working as orderly peon in the office of the deponent applied for leave on 18-12-87 but he did not turn up on duty thereafter. He, however, informed

Contd...2/-



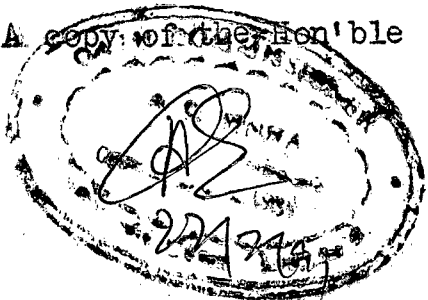
// 2 //

vide his application dtd.23-12-87 that he was awarded 10 yrs. imprisonment under section 376, 504, 506 I.P.C. by the District Session Judge, Kheri. He was arrested on 18-12-87 and sent to jail on the same day. Now he is on bail. On receipt of his application dtd.23-12-87 Shri Hukum Chand was placed under suspension w.e.f. 18-12-87.

The deponent called Shri Hukum Chand on 3-5-88 for personal enquiry. Thereafter, a show cause notice was issued to him vide Memo No.B-4/Hukum Chand dtd.4-5-88. Shri Hukum Chand submitted his defence statement dtd.19-5-88. After considering his statement, Shri Hukum Chand was dismissed from service vide Memo No.B-4/Hukum Chand dtd.31-5-88. He appealed against the order of dismissal to the Director Postal Services, Lucknow who rejected his appeal vide Memo No.RDL/APP 204/88-89/13 dtd.12-11-88 which was delivered to the applicant on 7-2-89.

The applicant filed an application before this Hon'ble Tribunal which was rejected under O.A.No.192/89(L). The said application was disposed of on 18-10-89 with the direction for the respondents to decide the appeal dtd.29-9-88. In case the applicant is still aggrieved with the order of appellate authority passed in pursuance of the aforesaid direction given by us, the applicant will be at liberty to lodge his claim petition before us within four months from the date.....

A copy of the Hon'ble Tribunal's order dt.18-10-89 is being



Slb

Contd...3/-



filed as Annexure.R-1. The applicant did not disclose the fact that he had received the decision on his appeal on 7-2-89.

It is also submitted in this connection that as per rule 116 of P&T Man.Vol.III and G.I.C.S.(Deptt. of Personnel) O.M.No.37/3/74-AVD III dtd.19-9-75, an order with a view to imposing a penalty on the Govt. servant on the ground of conduct which had led to his conviction on a criminal charge should be issued, issue such an order without waiting for the period of filing an appeal or if an appeal has been filed, without waiting for the decision in the first court of appeal. The order of dismissal passed by the deponent was in conformity with the provisions of the said Rule. The applicant has filed this application against the order of dismissal

-: PARA-WISE COMMENTS :-

3. That the contents of paras 1 to 6 need no comments. It is, however, clarified that order No.B-4/Hukum Chand dt.4-5-88 was in show cause notice and not an order of dismissal.
4. That the contents of para 6 are admitted. It is further submitted that the applicant was connected under Sec.376-I.P. and was sentenced to ten years imprisonment vide order dt. 18-12-87 of the Hon'ble Addl.District Judge, Lakhimpur Kheri. Departmental enquiry was also conducted into the matter and the applicant was served with a notice dt.4-5-88 to show cause why his services may not be terminated. After careful

Contd..4/-



A-41

consideration of his reply to the said show cause notice the applicant was removed from service vide order dt.31-5-88. The applicant preferred an appeal against the order of dismissal to the Director Postal Services, Lucknow which was rejected vide order dt.¹²⁻¹¹⁻⁸⁸~~4-2-89~~. The applicant was involved in a crime Law which was such as to render further retention in public service of the applicant prima facia undesirable. The said order of dismissal was passed keeping in view the provisions of Rule 19 of the C.C.S.(C.C.A.) Rules, 1965 and the departmental instructions contained in para 116 of the Post and Telegraphs Manual, Vol.III. Relevant extract of the said instructions are re-produced below:-

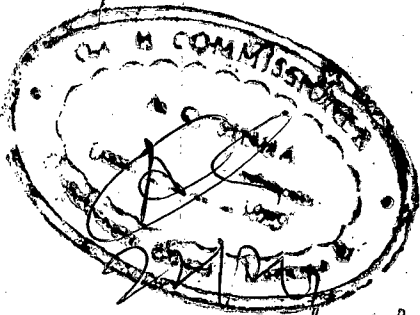
" On a case where a government servant has been convicted in a court of law for an offence which is such as to render his further retention in public prima-facia undesirable, action to dismiss, remove or compulsaraly retire him from service shall not pend

before the period for filing an appeal has elapsed, or, if ^{has been filed, before the appeal} appeal has been decided in the first court of Law. In other cases also i.e. where ^{here} extreme penalties are not warranted, the disciplinary authority shall issue

^{punishment} order immediately on receipt of a copy of the judgement....."

Thus the order of dismissal from service of the applicant was perfectly legal.

Contd...5/-



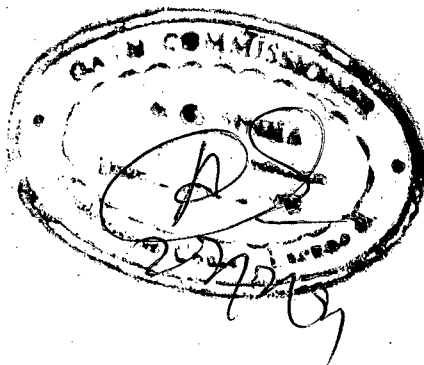
// 5 //



5. That in view of the submissions made in the above paragraphs, the reliefs sought for in para 7 of the application are not admissible. The application lacks merit and is liable to be dismissed with costs.

6. That in reply to para 8 of the application it is submitted that the applicant was arrested by the police on 18-12-87 and was sent to jail on the same day. As the applicant remained in jail for a period exceeding 48 hrs, he was deemed to have been suspended w.e.f. 18-12-87 in terms of sub rule (2) of Rule 10 of the C.C.S.(C.C.A.) Rules, 1965 and was ordered to remain under suspension until further orders vide order dt.23-12-87. On 31-5-88 the services of the applicant were terminated. Thus the prayer of the applicant for payment of suspension allowance during the pendency of the present case is not tenable and liable to be rejected.

7. That the contents of paras 9 to 13 need no comments.




Deponent.

Comtd...6/-

// 6 //

AUS

-: VERIFICATION :-

I, the above named deponant do hereby verify that the contents of paras 1 of this affidavit are true to my personal knowledge and those of paras 2 to 7 are believed by me to be true based on records and as per legal advise of my counsel. That nothing material facts has been concealed and no part of it is false, so help me God.

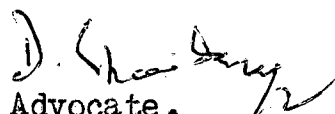
Signed and verified this the 22nd Feb day of 1991 within the court compound at Lucknow.

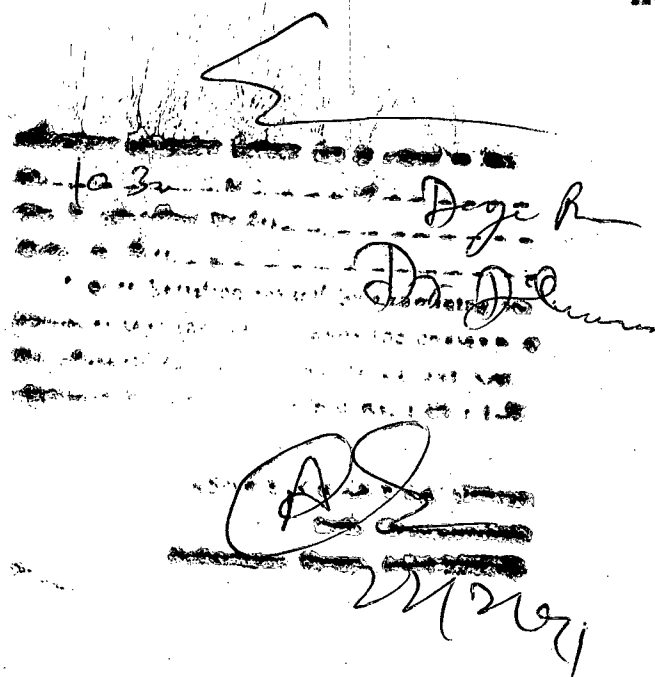
Lucknow.

Dated;- 22-2-1991


Deponant.

I identify the deponant who signed before me.


Advocate.



A-111

श्री The Central Administrative Tribunal का व
[Wind Band, Lucke

वकालतनामा

बादी (अपीलान्ट)

व Attest: C. S. Singh, Saini, C. S. वकील
महोदय
एडवोकेट

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 जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करे या लौटावे या हमारी ओर से डिबरी जारी करावे और रुपया वसूल करे या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसामी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अथवा मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

नाम अदालत
मुकदमा नं. .
नाम तफरीक

Rec'd
J. G. ...
H. ...

[illegible]

साक्षी (गवाह) साक्षी (गवाह) PIN-262 701

दिनांक... .. सहोना सन् १६ ई०

सवीकृत

(H)

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

Misc. Application No. M.P. No. 132/91(2) of 1990

on behalf Respondents.

In

Case No. O.A. No. 40 of 1990 (2)

Hukum Chand

versus.

..... Applicant.

Union of India & Others..... Respondents.

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the written reply on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the parawise comments from the respondents, the draft-reply was sent to the department for vetting.
2. That the approved written reply has been received and is being filed without any further loss of time.
3. That the delay in filing the written reply is bonafide and not deliberate and is liable to be condoned.

WHEREFORE, it is prayed that the delay in filing the written reply may be condoned and the same may be brought on record on which the respondents shall ever remain grateful as in duty bound.

Lucknow :

Dated :

(H) (Chandra)
(Dr. Dinesh Chandra)
Counsel for the Respondents.

A/ub
No. 56

Government of India
Central Ground Water Board
West Central Region
Swaminarayan College Bldg.,
Shah Alam Tolnaka
Ahmedabad 380 022.

Date: 17/4/90

TO

✓ The Deputy Registrar, CAT
Circuit Bench,
Gandhi Bhavan,
opp: Residency,
Lucknow.

Sir,

Please find enclosed the acknowledgement
received from Sh. S.C. Tiwari, Scientist 'C' in
connection with the court Notice No.40/1990 (L) dated
6.3.90.

Yours faithfully.

Encl: As above.

RC Jain
(R.C.JAIN)
SCIENTIST
For DIRECTOR

Sd/- Singh
AKG
2/5/90

9/17

(1)

A C K N O W L E D G E M E N T

Received Court Notice No.40/1990 (L) dated
6-3-1990 from the Deputy Registrar (J), Central
Administrative Tribunal, Circuit Bench, Lucknow, Lucknow.

Dated: 11.4.90.....

(Signature: S. C. Vaidya)

Place: Ahmedabad

NAME: S. C. Vaidya

DESIGNATION: Scientist - E

UPADHYAYA

2.4.1990

Dy. Registrar, CAT
Circuit Bench,
Gandhi Bhawan
Opp. Residency
Lucknow

No-56

S. E.-5

भारत सरकार सेवार्थ
On India Govt. Service

4/48

To,
The Deputy Registrar, C.A.T
Circuit Bench, Tanakhi Bhawan,
opp- Rickleby,

LUCKNOW

Dr
Despatcher,
Central Ground Water,
Swaminarayan College Board W.C.B.
Ahmedabad-380 022

बुद्धिमान अधीमान

[बादो अपीलान्त]

प्रतिवादी [रेस्पाडेन्ट]

महोदय

वकालतनामा

टिकट

बादो (अपीलान्त)

Hakum Chand

बनाम Munghu

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा ०.१८.५३ सन् १९९० पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री D. Jinesh Chandra

Adv. C. G. S. Standing Counsel

वकील

महोदय

एडवोकेट

Lucknow

नाम अदालत
मुकद्दमा नं०
नाम फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकुरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पंरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया लसूब करें वा सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होमा में यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पंरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पंरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

Hakum Chand

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०

स्वीकृत