

Central Administrative Tribunal
Gazette No. 9490
Date of 1989
Part of Receipt No. 121
Deputy Registrar

CIRCUIT BENCH, LUCKNOW

Registration No. 121 of 1989

APPLICANT(S) P. Ram

RESPONDENT(S) U.O.L

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

Particulars to be ExaminedEndorsement as to result of examination

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

12. Are extra copies of the application with Annexures filed ? *Y*

 a) Identical with the Original ?

 b) Defective ?

 c) Wanting in Annexures

 No. pages Nos ? *No*

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

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

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

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

17. Are the facts of the case mentioned in item no. 6 of the application ? *Y*

 a) Concise ?

 b) Under distinct heads ?

 c) Numbered consecutively ?

 d) Typed in double space on one side of the paper ? *Y*

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

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

dinesh/

121/90(CC) ①

①
12/4/90

Hon. P. S. Habib Mohammad, A.M.
Hon. J. P. Sharma, J.M.

②

Put up on 19.4.90 for
admission hearing.

Dr.

J.M.

P.I.D.

A.M.

②

19.4.90.

Lawyers on strike.

Case is adjourned to 11/7/90

③

11-7-90.

No setting. Adj. to 17/8/90. N
B.O.C.

④

17-8-90.

Shri R.B. Pandey for the applicant heard.

Admit.

Prayer for interim relief rejected.

Reed duplicate. ~~Issue notice to respondent to file resp~~
Dr. O.S. 100, T.M. Shri V.K. Chaudhary take notice for the
Chaudhary ~~addressee~~ respondents. Respondents to file resp
17/8/90 within one month. Applicant may

file rejoinder, if any, within a
fortnight thereafter.

Call on 5/10/90 before DR

Se

J.M.

DR

17/8

OR 121/90(L)

AS

27.7.92

D.R.

Applicant is present. But he did not file Rejoinder. He is directed to file Rejoinder by 12.8.92

Later on applicant files

Rejoinder Affidavit. Hence this case is listed before the Hon. Bench for final hearing on the date fixed. ✓

12-8-92

Mr. S. M. of D.M. adj
D.M. 10. S. J.

12-10-92

Mr. S. M. of D.M.
adj 20 20 10-92

C.A.R.A have
been exchanged.

S. F.O. 20/10/92

2nd sub. Mr. K. obayya, D.M.
D.M. Mr. S. N. Presed B.

19/10/92

19/10/92
J.M. AM

30-3-93

Hon. Mr. K. obayya - AM
Hon. Mr. S. N. Presed - J.M.

Judgement delivered
today.

J.M.

b
AM

121-902

24.5.91
D.R.

Both the parties
are absent today.
No counter has
been filed yet.

O.P. is directed to
file it. by 26/7/91.

26.7.91
D.R.

Applicant is present
in person O.P. is
absent today. O.P. to
file counter affidavit
by 24/9/91.

24.9.91

D.R. Applicant is
present in person. O.P.
is absent. Respondent
to file counter by 13/11/91.

13.11.91
D.R.

Both the parties are
present. counter to be
filed by O.P. on or
before 20/11/92.

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 121 of 1990

Versus

Union of India and 3 others Respondents

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

Hon'ble Mr. S.N. Prasad, Member (J)

(Hon'ble Mr. S.N. Prasad, Member (J))

The applicant has approached this tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer for quashing the impugned order of termination dated 29.9.1989 (Annexure-1) on the ground that the impugned order passed by the respondent no. 4 is illegal and invalid in as much as the respondent no. 4 is not competent authority to pass the impugned order. It has further been stated that after working as Extra Duty employee for more than 15 years, the applicant was selected and was appointed on the post of Mail man as per appointment letter dated 24.1.1989 (Annexure-2) and subsequently, the respondent no. 4 passed another appointment order dated 24.1.1989 on the basis of which the applicant joined his duties (Vide Annexure-3) and had been working satisfactorily, but due to ~~injury~~ caused to him, the applicant proceeded on medical leave on 16.9.89 upto 30.9.89 and on 1.10.1989 and 2.10.89 due to Sunday and Gandhi Jayanti, the applicant availed holiday and on 3.10.89 when the applicant went to join his duties, he came to know that his services have been terminated on 29.9.89 prior to the date of his sanction of leave. It has further been stated that the services of

Contd.. 2/-

:: 2 ::

the applicant have been terminated by the respondent no. 4 treating him as temporary employee under rule 5(i) of CCS ~~Temporary Service Rules 1965~~ temporary employee Rules 1965, but the termination order is quite illegal as the status of the applicant is to hold the post in the department is that of quasi-permanent status and the services of the applicant cannot be terminated without holding enquiry and as such the impugned termination order be quashed and the applicant be re-instated on the post of Mail man alongwith all service benefits including pay alongwith seniority etc. on the said post.

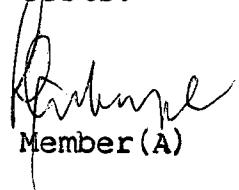
2. The respondents in their counter-affidavit have inter-alia, contended that during the period of his joining till 15.9.89 ~~in a continuous~~ period of 212 days; the applicant remained absent without prior information dislocating government's works of extreme public utility and as such the purpose for which the applicant was appointed as temporary Mail man was frustrated and as such the services of the applicant being temporary government servant were terminated under rule 5(i) of CCS (Temporary service) Rules, 1965. It has further been contended that the respondent no. 4 is the competent authority by whom the impugned termination order (Annexure-1) was passed, as the appointment letter was issued by this very respondent no. 4 and as such the impugned termination order was passed validly, properly and there is no illegality therein, as the impugned order was passed with one month notice, which was served on the home address of the applicant on 4.10.89. Thus, in view of the above circumstances the applicant is not entitled to any relief.

3. The controversy in this case appears to be about the absence from duty of the applicant. The applicants' contention is that he has applied for medical leave ~~and was not sanctioned~~ ²²² ~~and was not sanctioned~~. The respondents however, denied

:: 3 ::

the contention of the applicant and according to them this is the case of unauthorised absence. The applicant had preferred an appeal on 8.11.1989, but not to the proper authorities and as such he was directed by respondent no. 3 to file proper appeal. It would appear that the applicant has preferred an appeal on 1.1.1990 (Annexure-6), but the same has not been disposed of. In these circumstances, we are of the view, the application can be disposed of with a suitable direction to the respondents to dispose of the appeal filed by the applicant taking into consideration all the pleas raised by the applicant in his appeal. The appellate order should be a speaking order and if the copy of the appeal is not readily available with the department, the same may be obtained from the applicant and expedite the case. The applicant also may furnish a copy of the appeal dated 1.1.1990 (Annexure-6) within a period of 15 days from the date of communication of this order and thereafter the appeal may be disposed of within a period of three months by the appellate authority/the member (Administration) Postal Services, Post Board, New Delhi. The application is disposed of as above with no order as to costs.


Member (J) 30.3.93


Member (A)

Lucknow Dated: 30.3.1993

(RKA)

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: 24-11-1994

Cause Title O.A. 121

1970(4)

Name of Parties.

Parashu Ram ----- Applicant

versus
Union of India ----- Respondents.

PART-A

<u>Sl.No.</u>	<u>Description of Documents</u>	<u>Page</u>
1-	Check-List	A - A1 ✓
2-	Order Sheet	A2 - A5 ✓
3-	Final Judgement (30-3-93)	A5 - A7 ✓
4-	Petition Copy	A8 - A22 ✓
5-	Annexure	A24 - A32 ✓
6-	Power	A23 ✓
7-	Counter Affidavit	A33 A41 A42 ✓ A51
8-	Rejoinder Affidavit	_____

PART -B

B52 B94

1 - Check list A1+A51=A52.

By this I certify that the above documents are fully processed and ready for consignment to record room.

Part -C

Certified that no further action is required. The case is fit for consignment to record room.

Winded out/destroyed

Section Officer

Court Officer

Incharge

M. S. (G)
P. J. (G)
S. C. (G)

Signature of Deal
Assistant.

(RN)

B. 24/11/94

Central Adminis...
Circuit Bench, Lucknow
Date of Filing 9-4-90
Date of Receipt 9-4-90
Deputy Regd.
A 78

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

O.A. No. 121 of 1990(L)

Parashu Ram

... Applicant

Versus

Union of India & others

... Respondents

I N D E X

1. Memo of Application	1-13
2. Annexure No. 1 Copy of impugned order of termination dated 29.9.1989	14
3. Vakalathama	15
4. Postal Order No. 602, u/4112 for Rs 50/-only.	Dated 5/4/90

Place: Lucknow

Dated: 5/4/90

Raju/-

R.B. Pandey
(R.B. Pandey)
Advocate
Counsel for the applicant

Note for
12/4/90

Raju
to an
Applicant
9/4/90

Central Administrative Tribunal
Circuit Bench at Lucknow
Date of filing 29.9.1989
Date of Receipt by Post 29.9.1989
Deputy Registrar (L)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A. No. 121 of 1990(L) AA

PARASHU RAM,
Aged about 36 years,
Son of Sri Chandrika Prasad,
Resident of H.No. 468/116Ka
Collector Ganj (Dali Ganj),
Lucknow.

... Petitioner/
Applicant

Versus

1. Union of India through its Secretary,
Post and Telegraph Department,
Central Secretariat, New Delhi.
2. Chief Post Master General,
U.P. Circle,
Lucknow.
3. Senior Superintendent,
R.M.S. 'O' Division,
Lucknow.
4. Sub Record Officer,
R.M.S. 'O' Division,
Faizabad.

... Opp. Parties/
Respondents

APPLICATION UNDER SECTION 19
OF THE TRIBUNALS ACT, 1985

DETAILS OF APPLICATION

1. Particular of the order against which the Application is made:-

The above said application on behalf of the applicant is being preferred against the impugned order of termination dated 29.9.1989 which has been

(2)

passed by Opposite Party No. 4 without assigning any reason or giving protection under Art. 361(2) of the Constitution of India, while in fact the impugned order has been passed in stigmatory manner. A copy of the impugned order dated 29.9.1989 is filed herewith as ANNEXURE No.1 to this application.

2. Jurisdiction of the Tribunal:-

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

2. Limitation:-

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

4. Facts of the case:-

The facts of the case are as follows;

T 225213
S/awards

Stamp
2

1. That the Opposite Party No. 3 has constituted a selection committee for appointment of suitable candidates on the post of Mailman who conducted an examination in which the petitioner appeared and qualified the same. It is also stated that in view of the selection dated 20.1.1989 the applicant was selected and placed at sl. no. 3 and by virtue of this appointment against a clear and existing vacancy the petitioner was posted under Opposite Party No. 4. A copy of the selection/appointment dated 20.1.1989 is annexed herewith as ANNEXURE No.2 to this application.

(3)

2. That before this appointment it is also necessary to include that the petitioner was working as Extra Duty (E.D.) employee since more than 15 years continuously and in view of the selection mentioned above he got regular appointment as a suitable and qualified candidate for the appointment of Mailman. Thus it is crystal clear that this was the clear and substantive appointment after testing of the suitability of the applicant.

3. That in pursuance of the above said selection/appointment letter (filed as Annexure No. 2 to this application) the humble applicant as stated has been sent under Opposite Party No. 4 and the said Opposite Party No. 4 in consequent of Annexure No. 2 passed another appointment order on dated 24.1.1989 and the applicant started to resume his duties satisfactorily as Mailman. A copy of appointment order issued by Opposite Party No. 4 dated 29.1.89 is also annexed herewith as ANNEXURE No. 3 to this application.

4. That by perusal of Annexure No. 2 & 3 it is crystal clear that actual appointing authority of the applicant is Opposite Party No. 3 and Opp. Party No. 4 only posted the applicant in his command. Thus in all respect the power of appointing authority as well as punishing authority shall be exercised by Opposite Party No. 3. In this particular case the impugned order of termination has been passed by Opposite Party No. 4 which is also illegal and beyond jurisdiction.

Opposite Party No. 3
Opp. Party No. 4

(4)

5. That as already stated in above paragraphs of this application the humble applicant very satisfactorily without any inefficiency or unsuitability was working on the post of Mailman subsequently in the month of March, 1989, the petitioner on his personal grievance and also in view of the injury sustained due to accident he prayed for transfer from Faizabad to Lucknow and this application was preferred by the applicant making request for transfer to Opp. Party No. 3. Though on this application the Opposite Party No. 3 vide his order dt. 12.4.1989 wrote a letter to Opposite Party No. 4 stating that the name of the applicant for transfer will be considered at suitable time and with this remark the application of the applicant has been kept in abeyance.

6. That the injury sustained in the left leg of the applicant resulted further that the applicant on 16.9.1989 proceeded on medical leave up to 30.9.89 and on 1.10.1989 and 2.10.89 due to Sunday and Gandhi Jayanti the petitioner availed holiday and on 3.10.1989 he joined under Opposite Party No. 4. During this period the petitioner has also furnished his application along with medical certificate duly signed by the appropriate medical officer.

7. That when on 3.10.1989 the petitioner came to join under Opposite Party No. 4 he also came to know that his services have been terminated on 29.9.89 prior to the date of his sanction of leave. It is also informed to petitioner that his termination

(5)

order has been sent to his home address at Lucknow.

8. That the petitioner thereafter received the order of termination at his home address on 4.10.1989 and subsequently on 8.11.1989 he preferred an application to Opposite Party No. 3 with request that the impugned order of termination is illegal and the same may be set aside, and to accept the joining report of the applicant but nothing has been done in this regard. A copy of the application preferred by applicant on dated 8.11.1989 which has also been received by the office of Opposite Party No. 3 on same day is filed herewith as Annexure No. 4 to this application.

9. That in view of the impugned order it is stated that the services of the applicant has been terminated treating temporary employee under rule 5(1) to C.C.S Rule (Temporary Service) Rules, 1965. In this regard, it is also stated that the applicant got a clear appointment against the existing vacancy, as such his status to hold the post in the department is similar as an employee having quashi status in the department. This very material aspect has not been considered by the Opposite Party No. 4 passing the order beyond jurisdiction.

*Temporary
Sipalwal
S. S.*

10. That it is settled view of law that service of any incumbent can be terminated simplicitor on the basis of another stigma or misconduct without providing protection of enquiry in view of Art. 311(2) of the Constitution of India. The said

(6)

privileges of the Constitution are applicable for temporary incumbent also if stigmatory order has been passed.

11. That through out service of the petitioner as stated was full of satisfaction without any inefficiency or unsuitability. None of the complaint has ever received or adverse entries have been communicate to petitioner. Thus it is crystal clear that regarding the service as Mailman none of the unsuitability or inefficiency has been found.

12. That by perusal of the entire record, it is crystal clear that the Opposite Party No. 4 under malafide intention issued the impugned order of termination only due to reason that the petitioner proceeded on medical leave and did not resume his duties w.e.f. 16.9.89 to 30.9.89. and prior one day i.e. on 29.9.89 the impugned order has been passed in such hurry mood under malafide intention, but to nothing. Thus the impugned order passed on the basis of bad intention in view of simplicitor is not sustainable in the eyes of law as in passing the impugned order the stigma is caused.

*Temporary
Appointed
S. S.*

13. That the applicant was initially proceeded on medical leave which was due to injury as such the impugned order without any reason and rhyme is punitive and suffers from illegal lacunas.

14. That many juniors have been retained in service and there is no adverse record of the petitioner to show the unsuitability on his own part.

(7)

ultimately without any reason and rhyme the services of any incumbent cannot be terminated by any of the authority in arbitrary manner. That this impugned order of termination has been passed by such an officer who is not empowered and the impugned order is totally beyond jurisdiction.

16. That in view of the representation i.e. Annexure No. 4 when the Opposite Party No. 3 also did nothing then the humble petitioner on dated 28.11.1989 further invited the kind attention of Opposite Party No. 3 made a request that he may be reinstated and allowed to perform the job as Mailman.

16. That subsequently on 28.12.1989 the Opp. Party No. 3 gave a reply to applicant saying with that under rule 5(8) the said appeal lies to Member of Administration Board, New Delhi. A copy of the reply given by Opposite Party No. 3 dated 28.12.89 is also filed herewith as ANNEXURE No. 5 to this application.

17. That the humble applicant taking reliance of law passed by Opposite Party No. 3 on dated 28.12.1989 preferred an appeal to the Member (Administration) Postal Services, Post Board New Delhi (The authority within the control of Opposite Party No. 1) In this connection it is also stated that the applicant feeling that the appellate authority is Opposite Party No. 2, as such the copy of the same appeal was also preferred to Opposite Party No. 2 on dated 1.1.90. Under this application

102972/81

Sup. Com. 1/2

(8)

the applicant reiterated all the legal and factual position and clearly said that due to malafide intention for availing the medical leave the Opp. Party No. 4 became highly prejudice and passed the order of termination without any foundation. On the said appeal dated 1.1.90 which is still pending both the authorities i.e. Opposite Party No 1&2. A copy of the appeal/representation dated 1.1.90 is annexed herewith as ANNEXURE No. 6 to this application.

18. That by perusal of the legal and factual position, it is crystal clear that there is no unsuitability on the part of the applicant as Mailman. Apart from this if foundation of termination based without any material then it amounts a simplicitor termination without making any enquiry. Thus it is crystal clear that the termination order against the petitioner has been passed in stigmatic manner without providing any opportunity of hearing. As such the impugned order is violative of Art. 311(2) of the Constitution of India and totally bad in law.

19. That in accordance with rule neither the applicant was allowed one month salary or notice in lieu thereof and the impugned order of termination has been passed in stigmatic manner while the applicant was availing medical leave and the several representation in this regard has also not been considered. As such the impugned order is illegal, amounting as punishment and violating Art. 311(2) of the Constitution of India.

*reinstated
S. P. A. S.
Date*

A19

20. That in accordance with settled view of law it is not necessary to show whether the impugned order costs stigma or not. By its perusal if this Hon'ble Tribunal found that the case of termination any how costs stigma attaching misconduct the termination order is bad. The service record is therefore satisfactory without any adverse communication. As such it is proved herewith that the impugned order is void by misconduct or stigma and it is totally bad in view of other decisions of this Hon'ble Tribunal read with many guidelines of the Supreme Court on the same issue.

5. Grounds for relief with legal provisions:-

i. Because there is no unsuitability inefficiency on the part of the applicant pertaining to performance as Mailman during his entire service.

ii. Because neither any complaint nor adverse material has ever communicated to the applicant.

iii. Because 15 years previous service considered by Opposite Party No. 3 and the applicant got appointment in regular capacity against the substantive vacancy being a suitable candidate.

iv. Because the appointment was made by Opposite Party No. 3 by conducting duly selection committee. As such the termination order by Opposite Party No. 4 is bad and beyond jurisdiction.

v. Because the Opposite Party No. 4 is only

22/2/19
S. J. A. 19
S. J. A. 19

A 18

(10)

immediate officer under whom the applicant was posted by Opposite Party No. 3, As such the appointing authority for the applicant shall be only Opp. Party No. 3.

vi. Because the impugned order of termination is founded by stigma attaching to misconduct or misdemeanour.

vii. Because the applicant was on medical leave w.e.f. 16.9.89 to 30.9.89 and during this period his service has been terminated which is bad in law.

viii. Because without any inefficiency or unsuitability, if the termination order has been passed then the protection of Art. 311 of the Constitution is must for every employee which has not been given. As such in the case of the applicant Art. 311(2) of the Constitution of India has been violated utterly.

ix. Because many juniors have been retained and without any reason and rhyme the services of the applicant has been terminated in punitive manner.

x. Because the Opposite Party No. 4 only under malafide intention acted against the applicant beyond jurisdiction.

xi. Because neither one month notice, nor one month salary in lieu thereof has been given to the applicant

AA

(11)

xii. Because the applicant occupied the lien on the post as employee of quashi temporary manner.

xiii. Because none of the authority has considered the representation and appeal of the applicant as yet.

xiv. Because the act of Opposite Party No.4 utterly violated the provisions of natural justice and the impugned order deserves to be set aside.

6. Details of remedy exhausted:-

The applicant declares that he has availed all the remedies available to him under the relevant rules etc.

(i) Against the impugned order of termination dated 29.9.1989 the applicant firstly preferred his representation dated 8.11.1989 (Annexure No.4) to Opposite Party No.3 and thereafter on 28.11.89 the applicant again reminded the same which was replied by Opposite Party No.3 on 28.12.1989(Annex.5) and inspite to decide the matter on merits, the said Opposite Party No 3 directed to Applicant to prefer an appeal to higher authorities which also did by the applicant on dated 1.1.90 vide Annexure no.6 to the application.

*Trasg/PT
Sgnd/PT
Sgnd/PT*

7. The matter is not previously filed or pending with any other court;

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in support of this application has been made before any court

A 29

(12)

or any other authority or any other bench of the Tribunal nor any such application, writ petition, or suit is pending before any court of law.

8. Relief sought:-

In view of the facts and grounds mentioned in para 4&5 of this application the applicant prays for following reliefs;

(A) That this Hon'ble Tribunal may be pleased to quash the impugned order of termination dated 29.9.1989 contained as Annexure No.1 of this application by declaring its null and void and the applicant be reinstated on the post of Mailman along with all service benefits including pay and allowance seniority etc. on the said post.

(B) That any other and further relief which this Hon'ble Tribunal deems fit and proper may also be awarded in favour of petitioner along with cost.

9. Interim order if any prayed for:-

Pending final decision, on the application the applicant seeks the following interim order;

That this Hon'ble Tribunal may be pleased to issue a suitable direction/order to Opposite Parties that the applicant be allowed to work as Mailman under Opposite Parties 3 & 4 after restraining the operation of the impugned order dated 29.9.89 contained as Annexure No.1 of this application in the interest of justice pending disposal of the

(13)

10. The humble applicant wants oral hearing through his counsel.

11. Particular of Postal order:-

Postal order No. 802 41411 Dated
for Rs 50/- only. 5/4/90

VERIFICATION

I, Parashu Ram, Aged about 36 years, Son of Sri Chandrika Prasad, Resident of H. No. 468/116, Ka Collector Ganj (Daliganj), Lucknow do hereby verify that the contents of paragraphs 1 to 11 are true to my personal knowledge except para-5 which is true on the basis of legal advice received and that I have not suppressed any material facts.

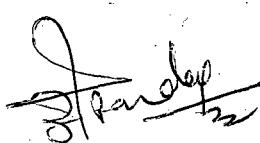
Application is being provided vide notification No. A-A.T11019/44/87 dated 11th October, 1988.

राधाराम

SIGNATURE OF THE APPLICANT

Place: Lucknow

Dated: 5/4/90


(R.B. Pandey)
Advocate,
Counsel for the applicant

A 22

(14)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A.No. (1990) 615

Parashu Ram ... Applicant

Versus

Union of India & others ... Opp. Parties

Annexure No. 1

DEPARTMENT OF POSTS INDIA
OFFICE OF THE SUB RECORD OFFICER RMS(O) DIVISION
FAIZABAD

MEMO No. SRO-1178 IGD/Misc./Parashu Ram/1989-90
Dated Fzd. 29.9.1989

In pursuance of the Proviso to SubRule(1) of Rule-5 of the Central Civil Services(Temporary Service) Rules, 1965, I.A.N.Dwivedi, SRO RMS 'O' Divn. Faizabad, hereby terminate forthwith the services of Shri Parasu Ram Mailman RMS 'O' Divn. Faizabad and direct that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service, or as the case may, for the period by which such notice falls short of one month.

Actual Time/Army

Signature

Copy to:-

Sd/-A.N. Dwivedi,
Sub Record Officer,
R.M.S. Divn. Faizabad
(Appointing Authority)

1. Shri Parasu Ram, Mailman C/O SRO RMS 'O' Dn. Faizabad.

ब अदालत श्रीमान

In the Hm C.A.T. Lucknow Bench.

[वादी] बर्पीलाल

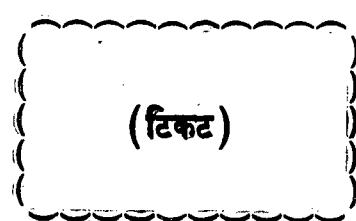
महोदय

प्रतिवादी [रेस्पान्डेन्ट]

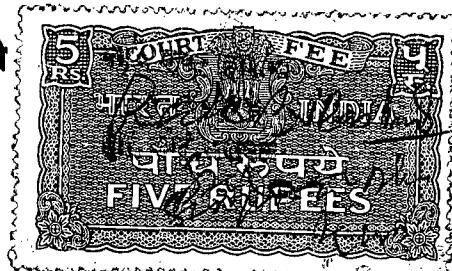
श्री

का वकालतनामा

23



वादी



बनाम

मुकदमा नं०

सन्

पेशी की ता०

१६

ई०

उपर लिखे मुकदमा में अपनी ओर से थी

R. B. Pandey Bar

567/21 B Brand raper jail

बकील

महोदय

Road Lucknow

एडवोकेट

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

हस्ताक्षर परव्युराम

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

२५/२०

महीना

सन् १६ ई०

24/2

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH AT LUCKNOW

O.A.No. 121 of 1990(L)

Parashu Ram

... Applicant

Versus

Union of India & others

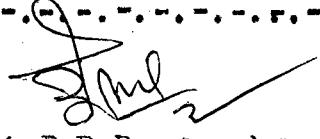
... Respondent

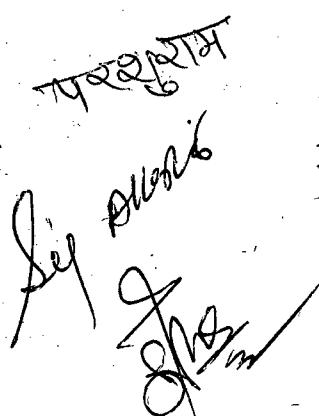
I N D E X

1. Annexure No. 2	1-2
Copy of selection letter dt. 20.1.89	
2. Annexure No. 3	3
Copy of letter dt. 28.12.89	
3. Annexure No. 4	4
Copy of appointment order dt. 24.1.89	
4. Annexure No. 5	5
Copy of application dt. 8.11.89	
5. Annexure No. 6	6-8
Copy of appeal dated 1.1.90	

Place: Lucknow

Dated: 5/4/90


(R.B. Pandey)
Advocate,
Counsel for the applicant


Parashu Ram
R.B. Pandey
Advocate
Counsel for the applicant

इन दि ऑनरेक्युल सेन्ट्रल एडमिनिस्ट्रेटिव द्रिव्युल
सरकिट बैच एट लखनऊ ।

ओ० ए० न०

आ०फ 1990 एल०

परसुराम

... वादी

बनाम

यूनियन आ०फ इच्छिया

... प्रतिवादी

संलग्नक संख्या- 2

भारतीय डाक विभाग

कायलिय प्रवर अधीक्षक, रेल डाक सेवा "ओ" मण्डल लखनऊ-226019
ज्ञान संख्या-बी-1/14-सी/भर्ती परीक्षा/च०श्री/89, लखनऊ
दिनांक: 20.01.1989

इस कायलिय को समसंघयक अधिसूचना दिनांक
10.10.88, 13.12.88 एवं 11.1.89 के क्रम में अधिसूचित किया
जाता है कि मण्डल के पूर्णकालिक एवं अंशकालिक मर्जदूरों से ली
गयी चतुर्थ श्रेणी ट्रैटेस्ट केटेगरी० में भर्ती हेतु जो परीक्षा दिनांक
20.1.89 को सम्पन्न हुई उसमें निम्नलिखित अभ्यर्थी सफल हुए हैं
उन्हें उनके नाम के सामने अकित इस मण्डल की अधीनस्थ इकाइयों
में आवंटित किया जाता है:-

परसुराम

1/10/1/e
सूची

प्रधान अभियेष्ट अधिकारी/समस्त उप अभियेष्ट अधिकारी/
निरीक्षकगण को एतद्वारा यह आदेश दिया जाता है कि वे अपनी
इकाइयों में आवंटित अभ्यर्थियों को नियुक्त सम्बन्धी समस्त
औपचारिकताएं पूर्ण करके अंकितम्ब नियुक्ति आदेश जारी करें।

ब्र०स० अभ्यर्थी का नाम, अनुक्रमांक जाति इकाई जो आवंटित
पद एवं कार्यस्थल किये गये हैं

1. श्री पारस नाथ	ओ-7 अन्यजाति	प्रधान अभियेष्ट कायलिय "ओ" मण्डल लखनऊ
2. श्री रमेश कुमार	ओ-10 अन्यजाति	उप अभियेष्ट कायलिय, पंजाबाद
3. श्री परसुराम	ओ-13 अन्यजाति	"
4. श्री प्रद्युम्न कुमार	ओ-19 अन्यजाति	निरीक्षक ओ- द्वितीय उप- मण्डल, पंजाबाद

नोट: उपरोक्त चयनित कर्मचारियों को नियुक्ति करते समय कृपया यह सुनिरचित कर लें कि किसी भी कर्मचारी के विरुद्ध किसी प्रकार का कोई विभागीय मामला लिम्बत न हो।

₹ ०/-

प्रवर अधीक्षक
रेल डाक सेवा "ओ" मण्डल,
लखनऊ - 226019

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषितः

1. प्रधान अधिकारी/स स्त उप अधिकारी/अधिकारीगण, रै0डा० सेवा "ओ" मण्डल।
2. समस्त सहायक अधीक्षक/निरीक्षकगण/प्लेटफार्म निरीक्षक, रै0डा० सेवा "ओ" मण्डल।
3. उप अधीक्षक बिलगत लखनऊ रै0डा०व्य०, लखनऊ ।
4. समस्त संघीय सचिव चतुर्थ श्रेणी कर्मचारी संघ।
5. पोस्टमास्टर जनपर, उत्तर प्रदेश परिमण्डल, लखनऊ।
6. कार्यालय एवं अधिकारिक प्रति।

प्रधान

② 1/2020/11/2
रुपमा

A 27

(3)

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

O.A.No. of 1990(L)

Parashu Ram

...Applicant

Versus

Union of India & others

...Opp. Parties

Annexure No.3

Office of the Sub Record Officer, Faizabad

In pursuance of SSRM'O' Div. Lucknow Memo

No. B-1/14-C/Rectt-Exam/Group D/89/LKO dated 20.1.89

Sri Parashu Ram son of Sri Chandrika Prasad resident
of Mohalla Collector Ganj, House No. 468/116'Ka'
Daliganj Thana Hasain Ganj, District Lucknow is
hereby appointed as Temporary Mail Man in the unit
of SRO Faizabad w.e.f. 24.1.1989 F.N.

Charge report should be submitted to all
concerned.

429274
Q. 11
Q. 11
Dated:

Sd/-Amarnath Dwivedi
SRO RMS'O' Div
Faizabad.

Copy to:-

1. SSRM'O' Div. Lko
2. HRO, MO I/C RMS'O' Div. Lucknow
3. Sri Parashu Ram
4. P. F. of Official Concerned.
5. Spair.

A 201

इन दि आँनरेकुल सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल
सरकिट बैच एट लखनऊ ।

ओ०ए० न०

आँफ १९९० एल०

परशुराम

... वादी

बनाम

यूनियन आँफ इण्डिया

... प्रतिवादी

सलामकर्सौख्या- ४

सेवा में,

श्रीमान प्रवर अधीक्षक
रेल डाक व्यवस्था, और प्रखण्ड-लखनऊ ।

महोदय,

निवेदन, यह है कि प्रार्थी परशुराम मेल मैन एक्शन
एस०आर०ओ० फैजाबाद में २४.१०.८९ से कार्यरत है प्रार्थी शारीरिक
परेशानी से अस्वस्थ्य रहे से तारीख १६.१०.८९ से ३०.१०.८९ तक
मेडिकल लीव पर था तथा ता० १०.१०.८९ को रेविमार और ता०
२ अक्टूबर को गांधीजयन्ती पड़ जाने के कारण प्रार्थी ता० ३०.१०.८९
को डियूटी पर गया उस वक्त श्रीमान श्री उपअधिकारी अधिकारी
फैजाबाद द्वारा यह मालूम हुआ कि आप को डियूटी नहीं दी
जायेगी आपके घर रजिस्ट्री ता० २९.१०.८९ को फैजाबाद से भेज दी
गयी है ता० ४.१०.८९ को एस०आर०ओ० फैजाबाद से भेजी गयी
रजिस्ट्री द्वारा मालूम हुआ कि रूल फाइव लगा के विभाग से सेवा
समाप्त कर दी गयी है ।

श्रीमान से प्रार्थना है कि रूल फाइव लगा के विभाग से
सेवा समाप्त कर दी जाए और प्रार्थी के समझ से खेसा कोई प्राविधिक
लीव पर नहीं हो चाहिए ।

अतः श्रीमान जी से सादर अनुरोध है कि प्रार्थी को
डियूटी देरे की कृपा करें आपकी महान कृपा होगी प्रार्थी आपका
जीवन भर आभारी रहेगा ।

प्रार्थी,

दिनांक: ८.११.८९

६०/- परशुराम मेल मैन
रेल डाक व्यवस्था,
और प्रखण्ड-फैजाबाद ।

A 29

इन दि आनरेबुल सेन्ट्रल एडमिनिस्ट्रेटिव द्रिव्युल

सर्किट बैच एट लखनऊ

ओ० ए० न०० आफा १११०० एल००

परशुराम

--- वादी

बनाम

यूनियन आफ इण्डिया

--- प्रतिवादी

संलग्नक संछया-५

=====

प्रेषक,

अधीक्षक,
रेल डाक व्यवस्था ओ मण्डल
लखनऊ २२६००९

सेवा में,

श्री परशुराम,
एक्स मैलमैन,
४६८/११६क कले कटरगंज, डालीगंज,
लखनऊ

पत्रांक वी-२/विविध/ग्रुप डी/पीएम/८४ दिनांक २८-१२-८९

आपकी अपील प्रार्थना पत्र दिनांक २८-११-८९

इस लिये लौटाया जा रहा है कि जप अपना अपील नियम
५०८० के अनुसार मेम्बर एडमिनिस्ट्रेशन पोस्ट बोर्ड नईदिल्ली
को एहस करें।

Alka १८
Signature

संलग्नक
५ अपील

५०१-अधीक्षक
रेल डाक व्यवस्था ओ मण्डल
लखनऊ २२६०१९

A 30

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW (6)

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

Parashu Ram

... Applicant

Versus

Union of India & others

... Opp. Parties

Annexure No. 6

To,

The Member(Administration),
Postal Services,
Post Board
New Delhi.

Sub:- Appeal against illegal termination order
dated 29.9.89 passed by S.R.O. R.M.S.'O'
division, Faizabad.

Sir,

The applicant most respectfully beg to
submit as under;

1. That the applicant after rendering the
meritorious services in the department as daily
wages employee got selected as permanent mailman
in the department in regular capacity.

2. That for the appointment on the post
of Mail man an examination was conducted by Senior
Superintendent RMS 'O' Div. Lucknow. The applicant
was duly selected, passed and examination and got
appointment in regular capacity vide order dated
20.1.1989.

3. That on the basis of above said examination
the applicant was released on dated 21.1.1989 from
Lucknow and proceeded for Faizabad the new place of
posting.

A. 39
(7)

4. That in compliance of above said orders of the S.R.O.R.M.S. Din, Faizabad made appointment of the petitioner in regular capacity vide their order dated 24.1.90 on the post of mailman.

5. That in view of the appointment order dated 24.1.1989, the applicant has joined on the post of Mailman under S.R.O. 'O' Division RMS Faizabad.

6. That during the span of service the petitioner/applicant had rendered a very satisfactory service without any unsuitability or inefficiency on their own part and none of the unsuitability has found on the part of applicant during service.

7. That the applicant had proceeded on medical leave with effect from 16.9.1989 to 20.9.89. This leave was sanctioned and the applicant has furnished the medical leave application duly supported by certificates. It is also stated that prior to joining of the applicant from medical leave, 1 day before i.e. 29.9.89 the services of the petitioner/applicant have been terminated without any reason or grounds while juniors retained.

*Accepted
A. 39
Date 10/10/89
Signature*

8. That the applicant against the above said termination order preferred an appeal to Senior Superintendent RMS 'O' division, Lucknow but vide and order dated 28.12.89 the Superintendent RMS 'O' Div. Lucknow gave a reply, directed to prefer the appeal to New Delhi hence this appeal to your honour.

(8)

9. That the termination order against the applicant is punitive, beyond jurisdiction, based on stigma, and totally bad in law.

P R A Y E R

It is, therefore, most respectfully prayed that your honour may kindly be quashed the order of termination dated 29.9.1989 after summoning the records of the applicant from S.R.O. Faizabad and applicant be reinstated on the post of Mailman with all service benefits.

Thanking you.

Yours faithfully,

Dated 1.1.1990

Sd/- Parashu Ram
T.No. 2811 Ex-Mailman
486/116Ka Collector Ganj Daliganj
Lucknow.

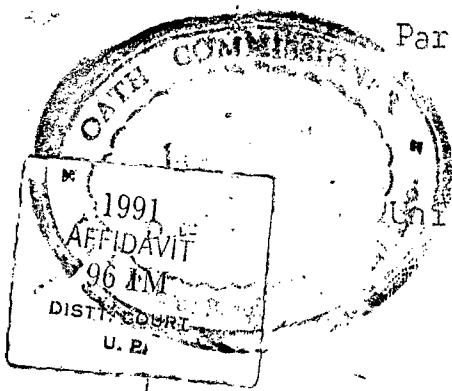
Copy to Chief Post Master General, U.P.
Circle, Lucknow.

Almora TIC
S. No. 1

AB3
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

C.A. NO. 121 of 1990 (L)

12. F. 31-3-92

 Parsu Ram

... Applicant

-versus-

Union of India and others .. Opposite parties

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE PARTIES.

I. R. K. Rastogi aged about 49 years, son of Shri an
B.D. Rastogi at present posted as Senior Superintendent, R.M.S. (O) Division, Lucknow do hereby solemnly affirm and state as under:-

1. That the deponent is the opposite party no. 3

in the above mentioned application and he has been authorised to file this counter affidavit on behalf of all the opposite parties.

2. That the deponent has read and understood the contents of the application and he is well conversant with the facts of the case and the facts deposed to herein under in reply thereof.

3. That before giving parawise comments, it is necessary to give brief history of the case as detailed below:

*S.T.
DS
24/11/92*

(a) That the applicant working as Casual labour on daily wages was approved as temporary regular Mailman on 20.1.1989 with the appointment on 24.1.1989 with his 1st posting as Mailman at SPO Faizabad.

(b) That the date of his 1st joining till 15.9.89 in a period of 212 days he remained absent without prior information dislocating Government work of extreme public utility. The requirement that a Government servant will perform duty as and when required was not fulfilled and as such when the applicant was not available for


duty his services were no longer considered necessary and terminated by the SRO, RMS, 'C' Division, Faizabad vide Memo No.1178/CA/Misc/P.Ram/89-90 dated 29.9.1989 under Sub rule (1)

of Rule 5 of the CCS (Temporary Services) Rules, 1965.

(c) That the above Memo of termination was delivered to the applicant on 4.10.1989.

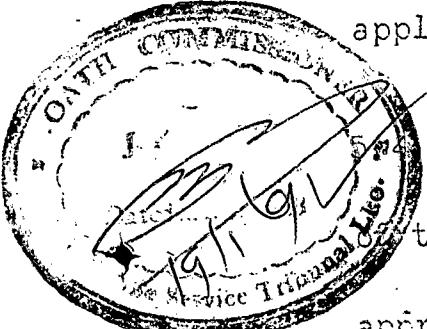
4. That in reply to the contents of para 1 to 3 of the application are formal and it is submitted that in the case of termination notice under Rule 5(1)(a) of CCS(Temporary Service) Rules there is no need to assign any reason for the service of such notice.

5. Parawise comments are as under:-

5.1 That the contents of para 4(1) of the application are not disputed. ABY

5.2 That in reply to the contents of para 4(2) of the application it is submitted that the applicant worked as Casual Labour on daily wage basis for about 10 years as his started working as outsider from 9.5.1979. The working of the applicant during his tenure as outsider was satisfactory, but on and from the date of his regular appointment he did not work satisfactorily and absented from duty without information.

5.3 That the contents of para 4(3) of the application need no comment.


That in reply to the contents of para 4(4) of the application it is submitted that only the approval was done by the Departmental Promotion Committee but appointing authority of the applicant is the Sub Record Officer, Faizabad who issued appointment letter dated 24.1.1989. Therefore, the Sub Record Officer is also his appointing & punishing authority.

5.6 That the contents of para 4(5) of the application are not admitted.

5.7 That the contents of para 4(6) of the application are incorrect as stated, hence denied.

and in reply it is submitted that since no
medical certificate with leave application
was received in the office of the deponent,
therefore the question of applicant being on leave
from 16.9.1989 does not arise.

5.8 That in reply to the contents of para
4(7) of the application it is submitted that
the termination orders were sent at his all
possible address but the orders were served
on him where he was available. As he was
residing at Lucknow without taking station leave
permission.

5.9 That in reply to the contents of
para 4(8) of the application it is submitted that
the application dated 3.11.1989 from the appli-
cant was returned to him for representing
his case to the appropriate authority ie. Member(Adm)
Postal Board New Delhi as required under Rule 5(8)
of CCS (Temporary Services) Rules, 1965. He has
not exhausted the departmental channel and as such
his application is liable to be dismissed.

5.10 That in reply to the contents of para
4(9) of the application it is submitted that the
applicant's appointment was as quite temporary

and were liable to be terminated under CCS(TS) Rules before completion of 3 years service by the appointing authority. A 37

5.11. That the contents of para 4(10) of the application are denied as the contention of the applicant is not correct because services of any temporary Government servant can be terminated under Rule 5 of CCS(TS) Rules.

5.12. That the contents of para 4(11) of the application are admitted.

5.13. That the contents of para 4(12) of the application are denied. Action was accurately taken up by the competent authority.

5.14. That the contents of para 4(13) are not admitted.

5.15. That the contents of para 4(14) of the application are not admitted. The services of the applicant were terminated by competent authority under Rule 5 of CCS(TS) Rules.

5.16. That in reply to the contents of para 4(15) of the application it is submitted that there was no jurisdiction of opposite party no.3 to interfere in the case of Rule 5 notice and he was advised to represent his case to

Member (Adm) R&T Board. The contention of
the applicant ~~is not the basis~~ is incorrect.

5.17 That the contents of para 4(16) of
the application are not admitted.

5.18 That the contents of para 4(17) of
the application are not admitted.

5.19 That the contents of para 4(18) of
the application are denied for the reason
mentioned in foregoing para 4(17).

5.20 That the contents of para 4(19) of
the application are denied.

5.21 That the contents of para 4(20) of
the application are denied under rule 5 of CCS
(TS) Rules.

6.
5.22 That the contents of para 5(1) of
the application are denied as his services were
not required and as such terminated under Rule 5
of CCS (TS) Rules.

6.1 That the contents of para 5(ii) of
the application are not admitted.

6.2 That the contents of para 5(iii) of

the application are incorrect as stated, hence denied.

6.3 That in reply to the contents of para 5(iv) of the application it is submitted that the appointment was done by the opposite party no.4 (Sub Record officer, Faizabad) and he is empowered to terminate the services of the applicant under rule as SRO Faizabad is appointing authority of the applicant.

6.34 That the contents of para 5(v) of the application are incorrect as stated, hence denied. It is also submitted that the appointing authority of the applicant was the opposite party no.4 and he terminated the services of the applicant is rightly done.

6.5 That in reply to the contents of para 5(vi) of the application are denied.

6.6 That the contents of para 5(vii) of the application are incorrect as stated, hence denied and in reply it is submitted that no such information or medical certificate was sent by the applicant.

6.7 That the contents of para 5(viii) of the application are not admitted.

6.8 That the contents of para 5(ix) of the application are incorrect as stated, hence denied. A 30

6.9 That the contents of para 5(x) of the application are denied.

6.10 That in reply to the contents of para 5(xi) of the application it is submitted that one month notice was served on his home address of Lucknow on 4.10.1989.

6.11 That in reply to the contents of para 5(xii) of the application it is submitted that the applicant was purely temporary Government

servant.

6.12 That the contents of para 5(xiii) of the application are denied.

6.13 That the contents of para 5(xiv) of the application are not admitted.

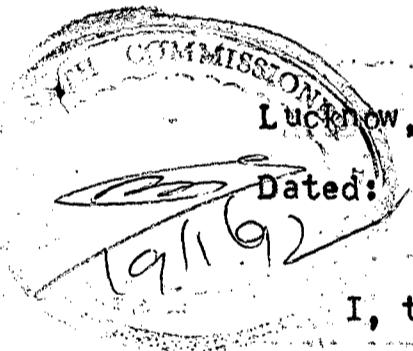
6.7 That the contents of para 6 of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant was not yet exhausted the remedies existing in the department.

7.1 That in reply to the contents of para 6(1) &

of the application it is submitted that the
applicant misrepresented and was replied to
represent to appropriate authority.

8. That the reliefs sought by the applicant
are not tenable in the eyes of law in view of the
facts and circumstances stated above.

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




Deponent.

SR. SUPERINTENDENT:
R. M. S. O'Donnell, Lko.

Verification.

I, the above named deponent do hereby verify
that the contents of para 1 & 2 of the affidavit are
true to my personal knowledge, those of paragraphs
3 to 7 of the affidavit are true on the basis of
records and information gathered and these of
paragraphs 8 & 9 of the affidavit are also believed
to be true on the basis of legal advice. No
part of this affidavit is false and nothing

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

A 42
O.A.No.121 of 1990(L)

Parsu Ram.

Re Applicant

Vs

Union of India & Others

Re Opp. Parties

REJOINDER AFFIDAVIT

1992
AFFIDAVIT
29/7/92
HIGH COURT
ALLAHABAD

F.T.
27-7-92
(P)

I, Parsu Ram aged about 37 years, S/o Sri Chandrika Prasad, r/o House No.468/118 Ka Collectorganj(Daliganj) Lucknow, the deponent do hereby solemnly affirm and state on oath as under :-

1. That the deponent is sole Applicant in the above mentioned Original Application. As such he is fully conversant with the facts deposed hereunder.
2. That deponent has read and understood the contents of the contents of Counter Affidavit/Written Statement filed on behalf of the opposite parties.
3. That the contents of paras 1 and 2 of CA/WS need no reply.
4. That in reply to contents of para 3(a) of the CA/WS



ज्ञान विजय

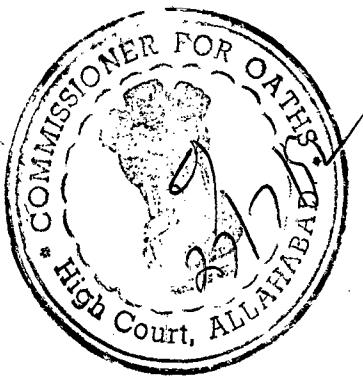
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it is submitted that Applicant was working as extra duty (ED) employee since more than 15 years continuously and in view of the selection dated 20.1.1989 the applicant got regular appointment as a suitable and qualified candidate for the appointment of Mailman.

5. That the contents of Para 3(b) of CA/WS as alleged are wrong and denied. The Applicant worked for 235 days as regular Mailman from 24.1.1989 till the date of termination satisfactorily and due salary was paid to him without interruption in the service. Even no ~~any~~ waring or adverse remark ~~was~~ given or communicated till the date of termination of the services of the deponent, as the facts and circumstances mentioned in para 5,6 and 7 of the O.A. the applicant was not at any fault. It is ^{Paint their} pertinent to ~~find~~ out before termination no ~~any~~ opportunity of hearing was given to the deponent.

6. That the contents of Para 3(c) of the CA/WS are admitted.

7. That the contents of Para 4 of the CA/WS as alleged are denied. The impugned order has been



100/100

A 431

passed in stigmatic manner without giving any reason while deponent's services were terminated on the basis of charge of misconduct (absence from duty). Before termination opportunity of hearing should be given according to principles of natural justice.

8. That the contents of para 5(1) of the CA/WS need no reply.

9. That the contents of para 5(2) of CA/WS as alleged are denied, in reply to para 4(2) of the OA it is reiterated as correct. The work and conduct of the Applicant remained satisfactory throughout. The deponent never absented himself from duty without ^{getting} ~~sanctioning~~ ^{ed} the leave and the leave was sanctioned by the competent authority.

10. That the contents of para 5(3) of the CA/WS need no comments.

11. That the contents of para 5(4) of CA/WS ~~are~~ as alleged are denied and in reply the contents of para 4(4) are reiterated as correct.

12. That none of the paras CA/WS has marked as para 5(5) and in the CA/WS para 5(6) has typed ~~as~~ ^{of} immediately after para 5(4) of CA/WS. Hence needs no comment.



12/2/13

A 45

13. That the contents of para 5(6) of the CA/WS as alleged are denied and in reply those of contents of para 4(5) of the OA are reiterated as correct.

14. That the contents of para 5(7) of the CA/WS as alleged are denied. In reply the contents of para 4(6) of the OA are reiterated as correct.

15. That the contents of para 5(8) of the CA/WS as alleged are denied. In reply the contents of para 4(7) of the OA are reiterated as correct.

16. That the contents of para 5(9) of the CA/WS as alleged are denied. In reply para 4(8) of the OA is reiterated as correct. It is relevant to mention here that the deponent submitted representation against the impugned order of termination dated 8.11.1989 to OP No.3. Subsequently opposite party no.3 gave a reply (Annexure 5 of the OA) on 28.12.89. The humble applicant taking reliance of law against the order passed by opposite party no.3 on dated 28.12.89 preferred an appeal to the Member(Admn) Postal Services Post Board, New Delhi, which is still pending undisposed off.

17. That the contents of para 5(10) of CA/WS as alleged



12/12/89

A 5/6

are denied and in reply the contents of para 4(9) ^{of OA} are reiterated as correct.

18. That the contents of ~~para~~ para 5(11) of the CA/WS as alleged are denied and in reply to contents of para 4(10) of the OA are reiterated as correct. The services of the Deponent were terminated in the garb of punishment on the basis of charge of misconduct. Thus opposite parties have violated the principles of natural justice.

19. That the contents of para 5(12) of the CA/WS need no ~~comment~~ reply.

20. That the contents of para 5(13) of the CA/WS are denied in reply to contents of para 4(12) of the OA are reiterated as correct.

21. That the contents of para 5(14) of the CA/WS as alleged are denied and in reply those of para 4(13) ^{of OA} are reiterated as correct.

22. That the contents of para 5(15) of the CA/WS as alleged are denied and in reply the contents of para 4(14) of the OA are reiterated as correct.

23. That the contents of para 5(16) of the CA/WS as alleged are denied and in reply contents of



42/2/85

para 4(15) of the OA are reiterated as correct.

24. That the contents of para 5(17) of the CA/WS need no comment.

25. That the contents of para 5(18) of the CA/WS ~~need~~ ^{are} not admitted and in reply para 4(17) of the OA is reiterated as correct.

✓ of CA/WS

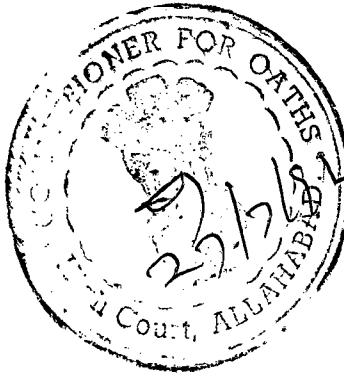
26. That the contents of para 5(19) as alleged are denied and in reply contents of para 4(18) of the OA ~~is~~ ^{are} reiterated as correct.

27. That the contents of para 5(20) of the CA/WS as alleged are denied and in reply the contents of para 4(19) of the OA are ~~are~~ ^{re} reiterated as correct.

28. That the contents of para 5(21) of the CA/WS as alleged are denied and in reply para 4(20) of OA is reiterated as correct.

29. That the contents of para 6 of the CA/WS are denied and in reply para 5(1) of the OA is reiterated as correct.

30. That the contents of para 6(1) of CA/WS are denied and in reply contents of para 5(II) of OA are reiterated as correct.



ALYAD

31. That the contents of para 6(2) of the CA/WS as denied. In reply contents of para 5(III) of the OA are reiterated as correct.

32. That the contents of para 6(3) of the CA/WS as alleged are denied and in reply para 5(IV) of OA is reiterated as correct.

33. That the contents of para 6(4) of the CA/WS as alleged are denied and in reply the contents of para 5(V) of OA are reiterated as correct.

34. That the contents of para 6(5) of the CA/WS as alleged are denied and in reply the contents of para 5(VI) of the OA are reiterated as correct.

35. That the contents of para 6(6) of the CA/WS as alleged are denied and in reply the contents of para 5(VII) of the OA are reiterated as correct.

36. That the contents of para 6(7) of the CA/WS as alleged are denied and in reply the contents of para 5(VIII) of the OA are reiterated as correct.

37. That the contents of para 6(8) of the CA/WS as alleged are denied and in reply the contents of para 5(IX) of the OA are reiterated as correct.

38. That the contents of para 6(9) of the CA/WS as correct.



14/26

A/49

as alleged are denied. In reply to para 5(X) of the CA/WS O.A. are reiterated as correct.

39. That the contents of para 6(10) of the CA/WS as alleged are denied and the contents of para 5(XI) of the O.A. are reiterated as correct.

40. That the contents of para 6(11) of the CA/WS as alleged are denied and the contents of para 5(XII) of the O.A. are reiterated as correct.

41. That the contents of para 6(12) of the CA/WS as alleged are denied and the contents of para 5(XIII) of the O.A. are reiterated as correct.

42. That the contents of para 6(13) of the CA/WS ~~are not admitted~~ and the contents of para 5(XIV) of the O.A. are reiterated as correct.



✓ R2/2021

43. That the contents of para 7 of the CA/WS as alleged are denied. In reply to contents of para 6 of the OA are reiterated as correct.

44. That the contents of para 7(1) of the CA/WS as alleged are denied. In reply to para 6(1) of the OA is reiterated as correct.

45. That the contents of para 8 of CA/WS are denied. The ground taken in the OA are tenable in the eye of law, in view of the facts and circumstances stated in OA.

46. That the contents of para 9 of the CA/WS are denied. OA filed by the Applicant ~~is liable~~ to be allowed with costs against the opposite parties and the impugned termination order is totally illegal, irregular and unconstitutional, is liable to ^{be} quashed.



Lucknow,

Dated: July 27, 1992.

Deponent.

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 46 are true to the best of my knowledge and nothing material fact has been concealed. No part of it is false. So help me God.

Signed and verified on this the 27th day of July, 1992
at Lucknow.

Deponent.

I, identify the deponent who has signed before me.

Ugrasen Singh
(UGRASEN SINGH)
Advocate,

Counsel for the Deponent

27th July, 1992

C. P. MISRA
Advocate Oath Commissioner
Allahabad High Court.
Lucknow Lucknow
No. 29-1362
Date 27/7/92

ब अदालत थीमान

[बादी अपीलान्ट]

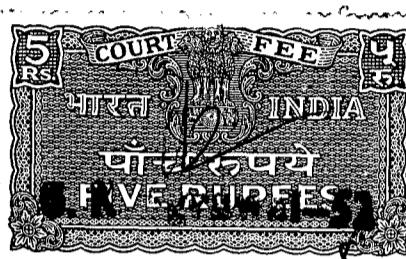
प्रतिबादी [रेस्पाडेन्ट]

Central Administrative Tribunal
Circuit Bench Lucknow

महोदय

Parashuram

वकालतनामा



(बादी अपीलान्ट)

Parashuram

बनाम Union of India and al
(प्रतिबादी रेस्पाडेन्ट)

O.A नं. मुकदमा 121 सम. 1990 पेशी की ता० 31-3- १९९०

अपर लिखे मुकदमा में अपनी ओर से थी Ugra Sen. Srinivas
वकील
राजनीति 3/5/24 V. V. K. Phad
महोदय
Gomti Nagar U/Co एडवोकेट

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 जबाबदेही व प्रश्नोत्तर करेंगे कोई कागज दाखिल करेंगे या लोटाव या हमारी ओर से डिपरी जारी करावें और रुपया बसूल करेंगे या मुलहनामा व इकबाल दावा तथा अयोल निवारानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकदमा उठावे या कोई रुपया दमा करेंगे या हारी विपक्षी (परीक्षासानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (हस्ताक्षती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा कोई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह मी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने परोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफा मेरे खिलाफ फँसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर परिणाम

31/3/92

साक्षी (गवाह) साक्षी (गवाह)

दिनांक महीना सन् १९ रु. ५०

स्वीकृत

Accepted
Ugra Sen Srinivas
Advocate