

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, *Land/Forces* BENCH

OA/TA/RA/CP/MA/PT 427/90 of 20.....

R.K. Phulkar

.....Applicant(S)

Versus

O.O. F. Corp.

Respondent(S)

INDEX SHEET

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7 -	Power	A66 to A76
8 -	M.C. No. 345/91/R.A.	
9 -	Final order, Jud. off. 26-11-93	
10 -	CA. F. order sheets	

Certified that the file is complete in all respects.

Accredited and destroyed

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Deputy Bench, Lucknow
Date of receipt 27.12.90
Date of filing 27.12.90

Registration No. 427 of 1989 C (L)

J. K. Shukla
Deputy Registrar

27-12-90

APPLICANT(S) B. K. Shukla

RESPONDENT(S) U.C.I.

Particulars to be examined Endorsement as to result of examination

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

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	5 Sets
12. Are extra copies of the application with Annexures filed ?	
a) Identical with the Original ?	
b) Defective ?	
c) Wanting in Annexures	
Nos. _____ pages Nos. _____ ?	
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	
14. Are the given address the registered address ?	Yes
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	Yes
16. Are the translations certified to be true or supported by an Aftidavit affirming that they are true ?	Yes
17. Are the facts of the case mentioned in item no. 6 of the application ?	No 4
a) Concise ?	
b) Under distinct heads ?	
c) Numbered consecutively ?	
d) Typed in double space on one side of the paper ?	Yes
18. Have the particulars for interim order prayed for indicated with reasons ?	No
19. Whether all the remedies have been exhausted.	No

dinesh/

Put up before 10 AM
End 27/12

27/12/90

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

.....

Original Application No. 427 of 1990

Ram Kishore Shukla Applicant

Versus

Union of India & others Respondents

Hon'ble Mr. S.N. Prasad, Judicial Member
Hon'ble Mr. V.K. Seth, Admn. Member

(By Hon. Mr. V.K. Seth, Admn. Member)

In this application the applicant has approached this Tribunal under section 19 of the Central Administrative Tribunal Act 1985. The applicant who is an Auditor in the office of Superintendent Local Audit Office, Armed Force Medical Supply Depot (S.L.A. AFMSD), Lucknow, has prayed for quashing of the order dated 9.11.90 passed by Controller Defence Accounts, Lucknow (who is respondent No. 3) treating the period from the 19.7.90 to 10.8.90 as 'Dies-non' without pay and allowances.

2. The respondents in their Counter affidavit have inter alia contended that A.F.M.S.D., Lucknow is a high security Defence Formation and for security reasons a Register is maintained and after location of the office of the S.L.A. inside A.F.M.S.D. ~~xxx~~ instructions were issued on 26.6.90 that the members of office of S.L.A. have to comply the security requirements and have to sign on the security register. It is also asserted that on 19.7.90 ~~xxx~~ the members of the S.L.A. refused to sign and in concerted manner the security register ~~xxx~~ wilfully stopped attending the office from that date. It is further stated that after his explanation was called for on 20.7.90, the applicant has managed to obtain the medical certificate dated 24.7.90 subsequently to cover up his absence, and he

put the date 21.7.90 below his signature on the medical certificate. The applicant on the other hand asserts that he was well present in the office on 19.7.90 and 20.7.90 and had been on leave on 21.7.90 to 10.8.90 on Medical grounds. It is also asserted that there was no security register prior to 19.11.90.

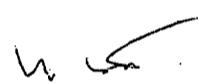
3. We have carefully considered the records of the case and the arguments of the learned counsel for the parties.

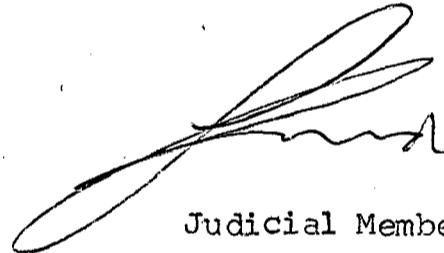
4. It is noticed that in para 6 (c) of the O.A. the applicant has referred to his representation dated 20.11.90 addressed to Controller Defence Accounts, Lucknow (who is respondent No. 3) and his representation dated 8.12.90 addressed to respondent No. 2 and he has also attached copies of the representations as Annexures A-7 & A-8 to his petition. Neither in their Counter affidavit nor during the course of hearing the receipt of these representations has been denied by the respondents. It is only mentioned in the Counter affidavit that the applicant has not exhausted the alternative remedy available to him. It is noticed that the applicant has approached this Tribunal on 27.12.90 while the representation to the Controller General of Defence Accounts, New Delhi (respondent No. 2) was submitted only on 8.12.90, thus, allowing the respondent insufficient time to take a decision in the matter which is against the spirit of Section 20 of the Administrative - Tribunal Act.

5. In view of the foregoing we are of the view that it would meet the ends of justice if suitable direct are issued in the matter to the respondents to decide the representation of the applicant. We accordingly direct respondent No. 2 namely Controller General of Defence

Accounts, New Delhi to take a decision on the representation of the applicant dated 8.12.90 by means of a speaking order. For this purpose he may obtain a fresh copy of the representation dated 8.12.90 from the applicant if the one submitted earlier is not readily traceable in his office. Further respondent No. 2 is directed to take a decision on the representation by means of a speaking order within a period of 2 months from the date of its receipt. If the applicant is still aggrieved by the decision of respondent No. 2 he will be free to approach this Tribunal again by means of a fresh Original Application.

6. In the facts and circumstances of the case there will be no order as to costs.

W 
Admn. Member


Judicial Member

Girish/-

Lucknow; Dated : 26/11/93

11/11/93
Hon. Mr. S. N. Prasad, J.-M.

Hon. Mr. V.K. Seth, A-M

Shri R. e. Rao, learned
Counsel for the applicant
and Shri K. e. Sinha,
learned Counsel for the
respondents, are present.
Heard learned Counsel
for the parties. Judgment
reserved.

W. T. S.
A. M.

J. M.

By C.A. 427/90

5-9-91

Hon Mr D.K. Agarwal, J.M
Hon Mr K. Bhagya, J.M

Shri Q.C. Rai for Applicant.

Smti K.C. Sinha counsel for opposite
parties does not appear. M.P. 345/91 is
a memorandum on behalf of the applicant
to decide the case ~~ex parte~~. The said memo-
Petition is dated 27-6-91. However as no
Affidavit dated 5-7-91 is available on
record, we do not consider it proper
not to take it on record & to counter
Affidavit already filed, though its
copy has ^{not} been served on the applicant
or his Counsel before filing the
same. Let it be served now within
2 weeks, hereof. Agarwals may be
filed within 5 weeks.

M.P. 271/91 is an application
on behalf of the respondents to
vacate the interim order. However, the
Counsel does not appear to address
us on the grounds for vacating the
order. Therefore, the interim order
shall continue till further orders
to list this case before D.R
on 26-11-91 for completion
of pleadings and thereafter
to list for hearing.

AS

JM -

JP
JM

Sl. No.	Date	Office Report	Orders
	27.6.91 <u>S.R.</u>	<p>Department's file is present. Counter has not been filed by Ad. C/R till today. He is directed to file it by 9/8/91.</p> <p>Later on Applicant Sri R.K. Shukla is present and he moved an application M.P. No. 345/91(c) for ex parte hearing. Hence, this case is to be listed before the Hon. Bench on 9/8/91 for orders.</p> <p style="text-align: center;">✓</p>	
	<u>9.8.91</u>	<p>NO sitting adj. to 5.9.91</p> <p><u>OR</u></p> <p>CA filed along with application for condonation of delay duly supported and post to the applicant for ex parte.</p> <p>HP 345/91 filed of 4/c for the applicant for ex parte.</p> <p>Sfo</p> <p style="text-align: center;">4/9</p>	<u>A</u>

Date

25.8.92

Hon'ble Mr. Justice V.C. Sivastava, V.C.
Hon'ble Mr. K. Obayya, A.M.

List this case day after
tomorrow i.e. 27.8.92.

B
A.M.

L
V.C.

27.8.92

Case not reached,
Adj'th. 21/1/92.

Case is
S. & F.H.

8
20/10/92

21-10-92

Hon'ble Mr. K. Obayya, A.M.
Hon'ble Mr. S.N. Basu, J.M.

Shri K. C. Sinha, Ad.
counsel for the respondents,
is not present. List
this case on 24-11-92
for hearing.

J.M.

B
A.M.

24.11.92

No hearing of P.M. adj
to 25-1-93

2-1-93

3-1-93

SPW

5-2-93

Case not reached adj
to 5-2-93

Case not reached adj
to 26-3-93

04 427/93

26.3.93

No sitting of D.B. adjourned
16.4.93

16.4.93

OR
SFY

FFN

OPP/PL

OR

CALL/PL

FFN

OPP/PL

No sitting of D.B. adjourned
to 28.5.93.

E

28.5.93

Hon. Mr. S. N. Basu A.M.

Hon. Mr. B. K. Singh, A.M.

Case called out. Hon. R. C. Rai
Learned counsel for applicant
is present. None responds on
behalf of respondent. Hence the
case to proceed ex parte
against the respondent. Not
thus, case for immediate
hearing and disposal on 8.7.93

OR
CALL/PL
FFN

JM

OR

CALL/PL

FFN

OPP/PL

8/7/93 Hon. Mr. B. K. Singh, A.M.
Parties were called out. None responds.
Pleadings are complete in this case.
List this case on 16/7/93 for final
hearing and disposal.

B
A.M.

OPP/PL
CALL/PL
FFN
OPP/PL
16.7.93

requesting therein ~~not~~ to withhold the recovery of Pay and Allowances for the period 19.7.1990 to 10.8.1990 till a final decision from the Respondent no.2 C.D.D.A. New Delhi.

(a) That despite the applicant aforesaid representations dated 13.8.1990, 19.11.1990 and 8.12.1990, the respondent no.3 deducted the salary and allowances of the applicant for the period 19.7.90 to 10.8.1990 in his salary to be paid for the month of December, 1990.

(b) That being aggrieved the applicant is filing the present application for just and proper disposal of the case.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

i. Because the impugned order No.621/No.AN/1/1020D/Misc.Lko./Vol.II, dated 9.11.1990 from the office of Controller of Defence Accounts Lucknow is erroneous and baseless.

ii. Because there was no security register nor any such register was maintained hence there was no ~~ex~~ question of appending the signatures by the applicant and as such the charge levied against him is false and not maintainable.

iii. Because on 19.7.1990 and 20.7.1990 the applicant was well present in the office and also moved application before the respondent no.4, he can

Ram Nath Singh

never be treated an absentee.

iv. Because the applicant had been on leave (on medical ground) on account of his serious illness w.e.f. 21.7.1990 to 10.8.1990, he can never be treated an absentee for this period.

v. Because, the applicant submitted his leave application on 21.7.1990 and also submitted his fitness certificate on 13.8.1990 and joined and performed his duties thereafter, his leave w.e.f. 21.7.90 to 10.8.90 is presumed to have been sanctioned.

vi. Because, the leave w.e.f. 21.7.90 to 10.8.90 has neither been cancelled nor challenged in any manner, the proceedings treating him an absentee from the duty (from 19.7.90 to 10.8.90) is not only malafide and arbitrary but is also against the provisions established rules and natural justice.

vii. Because, the order dated 9.11.90 punishing the applicant without affording him the opportunity of hearing is erroneous and unjustified.

viii. Because, there is an error in the order apparent on the face of record and as such the impugned order No.621, dated 9.11.1990 is not a speaking order.

ix. Because the order dated 9.11.1990 is not

Ram Nath Singh

only erroneous on fact but is also illegal, invalid and not maintainable under law.

6. DETAILS OF THE REMEDIES EXHAUSTED:

The applicant declares that he has availed of the following remedies available to him under the relevant service rules, :-

- a. That the applicant on receiving the information and notice of the letter No. AN/I/1020D/Misc. Lko/dated 20.7.1990 gave a complete satisfactory reply dated 13.8.1990 but the same was neither considered nor was decided on merits.
- b. That instead of considering and deciding applicant's application/representation dated 13.8.1990, the respondent issued the order No. 621, dated 9.11.1990 and the applicant represented and submitted his explanation on 20.11.1990 requesting the respondent to settled his matter within a week.
- c. That no response was made by the respondent nor any action was taken by the respondent against the applicant's representation dated 13.8.1990 and 20.11.1990, the applicant by way of reminder represented the respondent no. 2 and 3 on 8.12.1990 with a request not to recover/deduct the salary-cum allowances of the applicant.

Panikkar, S. S.

Before the Central Administrative Tribunal,

(Circuit Bench- Lucknow.)

(Application U/s 19 of the Administrative
Tribunal , Act, 1985.)

Ram Kishore Shukla.

... Applicant.

Versus.

Union of India and others. ... Respondents.

I N D E X No. I

Sl.No.	Description of documents relied upon.	Page nos.
1.	Application.	1 to 10
2.	Impugned Order No.621, dated 9.11.1990.	11.
3.	Vakalatnama.	

Lucknow; Dated

27.12.1990.

Ram Kishore Shukla
Signature of applicant.

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 27-12-90
Date of Receipt by Past.....

J. Shri
Deputy Registrar
27/12/90

Before the Central Administrative Tribunal, 27-12-90
Circuit Bench Lucknow.

(Application U/s 19 of the Administrative Tribunal
Act, 1985.)

Ram Kishore Shukla, aged about 50 years,
son of Late Shri Rajni Kant Shukla, Resident
of Gram Haivetmau Maweyya, Post Utratia,
Lucknow.

.... Applicant.

Versus.

1. Union of India, through Secretary Finance-
Defence, New Delhi.
2. Controller General Defence Accounts, R.K.Puram-
New Delhi.
3. Controller Defence Accounts, Lucknow
4. Local Audit Officer (A), Lucknow.
5. Superintendent Local Audit Office, Armed Force-
Medical Supply Depot (S.L.A. AFMSD), Lucknow.

... Respondents.

DETAILS OF APPLICATION:

1. This application has been made against
the order passed by Controller Defence Account,
Lucknow (Respondent No.3) No. Part II OO No. 621,
dated 9.11.1990 Sub: Discipline Dad Estt.
2. That the applicant declares that subject

Santhosh Kumar

matter of the order against which he wants redressal is within the jurisdiction of this Tribunal at Lucknow.

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

4. FACTS OF THE CASE: The petitioner most respectfully begs to submit as follows:

(A) That the applicant is working as Auditor in the office of S.I.A. A.F.M.S.D., (Respondent no.3), at Lucknow, and his A/C No. is 8296831.

(B) That on 19.7.1990 at about 10 A.M. when the applicant was working in the office, Mr. Dwivedi Subedar alongwith 3 Jawans entered into the office and after assaulting and abusing the applicant, took him (applicant) before Mr. K.M.N. Kaul Brigadier who also behaved in the same tone and turned the ~~xx~~ applicant out of the campus.

(C) That the applicant immediately reported the matter to the C.D.A., Lucknow (respondent no.3) through respondent no.4 but no suitable and proper action was taken on that day.

(D) That on 20.7.1990 also the applicant met with the respondent no.4 and submitted an application requesting him to transfer the applicant to some other place so that he may work there respectfully and honestly. This effort of the applicant also

Pls. Note

(E). That as aforesaid the applicant for both the days i.e. on 19th and 20th July, 1990 did not absent from the office and also intimated his presence before the respondent no.4.

(F) That unfortunately at the time of returning home from the office on 20.7.1990 the applicant got sudden attack of nervous shock and he fell down on the road unconscious. He was brought home and Medical treatment was immediately given to him. The doctor advised him to take complete rest and treatment.

(G) That the applicant from 21.7.1990 to 10.8.1990 remained on bed but send his application for the leave on the medical ground and on 13.8.90 when he joined the office he submitted his fitness certificate.

(H) That the applicant on 13.8.1990 came to know that vide letter No. AN/I/1020D/Misc. Lko., dated 20.7.1990 from the office of C.D.A. Lucknow that he has been chargesheeted for not complying the security instructions of signing the security register to record the time of arrival and departure in the office and absented in the office ~~even~~ on 19.7.1990 and onward.

(I) That the applicant on 13.8.1990 submitted his explanation against the aforesaid two false charges levied against him.

Ram Nath Shukla

(J) That despite applicant's explanation submitted on 13.8.1990 no heed was paid on it and no opportunity was given to the applicant to be heard and no hearing was given to him for justifying his explanation.

(K) That the applicant received the impugned order No. Part II OO 621/, dated 9.11.1990 from the office of C.D.A., Lucknow mentioning therein " that the ~~per~~ applicant had adopted agitational approach against appending his signature on the Security Register and absented himself during period 19.7.90 to 10.8.1990 un-authorisedly in consert as such his absence for the period 19.7.90 to 10.8.1990 has been treated as 'DIES-NON' without pay and allowances for the acts of above misconduct".

(L) That the applicant on recieving the above letter No.621, dated 9.11.1990 submitted his reply on 20.11.1990 mentioning therein that no such security register was ever maintained in the office and he never refused nor appended to signe on such register and further his absence mentioned therein is also erroneous and incorrect.

(M) That the applicant specifically mention that he was well present in the office on 19th and 20th July, 1990 and had been on leave from 21.7.90 to 10.8.1990 on Medical grounds.

(N) That the applicant also by way of representation cum-reminder informed the respondent on 8.12.90

Ramchandra Singh

Before the Central Administrative Tribunal,
(Circuit Bench), Lucknow.

O.A. Case no. 427/1990.

Ram Kishore Shukla ...

..Petitioner.

Versus

Union of India and others...

..Respondents.

Fixed for 21.10.92

The petitioner most respectfully begs to submit

as follows:-

F.T

8/1/10

1. That on 25.8.1992 this Hon'ble Bench was pleased to order the respondent's counsel, Sri S.K.C.Sinha, Advocate, to produce "Security Register" for the period begining from 19th July, 1990 to 18th Nov. 1990, within 2 days and fixed 27.8.1992 for its perusal.
2. That unfortunately on account of heavy cause on 27.8.92 list the petitioner's case was not taken up/and the case was adjourned for today i.e. 21.10.92.
3. That the petitioner is moving this application for the sole reason that he has been charge-sheeted for not signing the security register

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during the period 19th. July onwards and as such the petitioner has specifically pleaded that there was no security register during the disputed period and hence there was no question of signing on the same on the other hand the respondents have been pleading that there was a security register and all officials except a few were signing the same.

4. That to set this controversy at rest this Hon'ble Bench was pleased to order the respondents to produce the aforesaid security register, but the respondents have not complied the orders of this Hon'ble Bench, till this day. It is therefore, most respectfully prayed that suitable orders be passed in the interest of justice.

Lucknow :Dated :

October 21st 1992.

R.K. Shukla
Petitioner.
Debasree ~~Advocate~~
Counsel for the Petitioner.

d. That despite the aforesaid representations by the applicant to the respondents, the respondents took no fair and proper action in the matter and the C.D.A., Lucknow (respondent no.3) prepared the Payable of the applicant showing therein the deduction of pay and allowances for the period 19.7.90 to 10.8.1990 showing a ~~Milk~~ amount to be paid to the applicant in the salary of December, 1990.

e. 2 That by the aforesaid act the applicant is fully confident that the respondent have decided his matter finally and the order No.621, dated 9.11.1990 is being executed.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant further declares that he had not previously filed any application, writ-petition or suit regarding the matter in respect of the order No.621, dated 9.11.1990 passed against the applicant by the office of C.D.A.Lko (respondent no.3) before any court or any other authority or any other bench of Tribunal nor any such application or suit is pending before any of them.

8. RELIEF SOUGHT:

Wherefore, it is, most respectfully prayed that the order No.621/No.AN/I/1020D/Misc.Lko/Vol-II, dated 9.11.1990 passed by C.D.A., Lucknow (respondent

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no.3) be declared illegal, invalid and be quashed directing the respondent not to treat applicant as 'DIES-NOW' and not deduct/recover the salary and allowances of the applicant for the period from 19.7.1990 to 10.8.1990.

9. INTERIM ORDER, IF ANY PRAYED FOR:

It is, most respectfully prayed that the salary and the allowances for the period beginning from 19.7.1990 to 10.8.1990 be not recovered from the salary of the applicant till final decision on the present application.

10. That the applicant shall present the application personally and will have the hearing through his counsel at the time of the admission of the case.

11. POSTAL Order No.B 02 437678, dt. 21.12.1990.

12. LIST OF ENCLOSURES:

1. Applicant's application dated 19.7.1990.
2. Applicant's application dated 20.7.90.
3. Postal Receipts dt. 20.7.1990.
4. Application for leave dt. 21.7.90 on Medical grounds.
5. Applicant's application dated 13.8.1990.
6. Letter No.AN/I/1020D/Lko-Misc. from the office of C.D.A., Lucknow, dated 20.7.1990.
7. Letter No.621, dated 9.11.1990 from the office of C.D.A. Lucknow.

Ramchandra Salle

Xo

- 10 -

8. Applicant's letter dated 20.11.1990 to C.D.A., Lucknow.

9. Applicant's Letter dt. 8.12.1990 address to the respondents No. 2 and 3.

10. Pay- Bill for 12/90 S.L.A AFMSD, Lucknow showing applicant's salary to be paid for 12/90.

Lucknow; Dated
27-12, 1990.

for R.K. Shukla
Applicant.

VERIFICATION.

I, R.K. Shukla, son of Late Sri Rajni Kant Shukla, aged about 50 years, working as Auditor in the office of S.L.A. AFMSD, Lucknow, Resident of C/o Ram Ratan Pandey village Havait-Mau, Mawayya, Post Utratia, Lucknow, do hereby verify that the personal contents of paras 1, 4, 6, 7, 10, 11, 12 are true to my knowledge and paras 2, 3, 5, 8 and 9 are believed by me to be true on legal advise and I have not suppressed any material fact.

Lucknow; Dated
27-12-1990.

for R.K. Shukla
Applicant.

OFFICE OF THE CONTROLLER OF DEFENCE ACCOUNTS, LUCKNOW

PART II OO NO.621

DATED: 5/11/90

SUB: DISCIPLINE DAD ESTT.

Ganjupur and
Rajpal

R/9

The individuals, named below, had adopted a national approach against appending their signatures on the Security Register of the Formation and absented themselves, during the period as noted against their names un-authorisedly in concert, as such, their absence for the period as noted against their names has been treated as 'DIES-NO', without Pay and Allowances for the acts of above misconduct, by the Competent Disciplinary Authority.

ABSENCE	
FROM	TO
1. Shri N.C.Pandey, SA A/c no.8307361	19/7/90 10/8/90
2. Shri Patri Singh, SA A/c no.8300439	19/7/90 31/7/90
3. Shri R.K.Shukla, SA A/c no.8296831	19/7/90 10/8/90
4. Shri J.P.Tewari, Clk A/c no.0313164	19/7/90 31/7/90
5. Shri Murli Dhar, Clk A/c no.8304211	19/7/90 31/7/90
6. Shri K.B.Kureel, Clk A/c no. 8313011	19/7/90 28/7/90

NO. AN/I/I020D/MISC-LKO/VOL II
DT. 9/11/90

AO (ADMIN)

Copy to:-

1. The CCDA (P) Alld-2 copies.
2. SLA, AFNSD Lko-2 copies. - One copy of Pt. II OO may be handed over to the individual concerned.
3. LAO (a) Lucknow
4. All Gps in 'AN' Section
5. PC file of the individuals
6. Service Book of the individuals concerned
7. ACR Dossiers of the individuals concerned.

AO (ADMIN)

Ganjupur, CM
Rajpal

अदालत श्रीमान्

Central Administrative Tribunal

Lucknow Bench Lucknow

महोदय

(वादी) अपीलान्ट

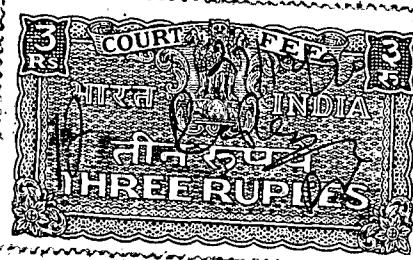
R. K. Shinde

श्री

प्रतिवादी रेस्पार्डन्ट

का

वकालतनामा



R. K. Shinde

दी (अपीलान्ट)

Union of India
Jdinesh

नं० मुकदमा

सन्

पेशी की ता० २७/१२/१९९०

ई०

ऊपर लिखे मुकदमा में अपनी ओर से

Ramchandra Khan

Advocate ५१५/१० Saree M. Khan

वकील

Lucknow

महोदय

एडवोकेट

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

accept
R. K. Shinde
By
H. S. Khan

Ramchandra Khan
Hastakshar

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

२७

महीना

१२

सन् १९९०

ई०

X
6/6/

Before the Central Administrative Tribunal,

Circuit Bench Lucknow.

Application U/s 19 of the Administrative Tribunal

Act, 1985.

Ram Kishore Shukla. ... Applicant.

vs.

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

I N D E X NO.2

Sl.No.	Description of documents.	Page Nos.
	relied upon.	

1.	Applicant's Application dt. 19.7.1990.	1
2.	Applicant's Application dt. 20.7.1990.	2
3.	Postal Receipt dt. 20.7.90.	3.
4.	Application for leave dt. 21.7.90 on Medical grounds.	4.
5.	Applicant's application dt. 13.8.90.	6 - 6.
6.	Letter No. AN/I/1020D/Lko. Misc. from the office of C.D.A. Lko. dt. 20.7.90.	7
7.	Applicant's letter dt. 20.11.90 to C.D.A.Lko.	8.
8.	Applicant's letter dt. 8.12.90. address to the resp't. no. 2 and 3.	9 - 10.
9.	Pay-Bill for 12/90 SLA AFMSD, Lko, showing applicant's salary to be paid for 12/90	11.
10.	Postal Order No. B 02 437678, dt. 21.12.90, for Rs.50/- in the name of the Registrar CAT Allahabad.	12.

rk. Yakat

Lucknow, Dated

27.12.1990.

Ram Kishore Shukla
Applicant's signature.

U.P.C.

TO G.O.C. on C
H.Q. Command
G. & A R. K. G. G.
New Delhi

3 -

3 -



Time on
Date

(દુર્ઘરી કાલાંગ)

A IV

સુવાની

રાજ્યાંગરાજ્ય નિપંત્રણ નાથદય
લાલબાળ

૫

૧/૧૦

નિવદ્ધ પદ્ધ નિવદ્ધ પાત્ર ભૂતી નાની રાજ્યાંગ
A/c ૮૨૯૬૮૩૧ કાંચારી S.L.A.F.M.S.D.Lko.
ધૂરાંગાંગ કાંચાંગાંગ દોં ઇલ્લો વિદ્યાર્થી નાની રાજ્યાંગ
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નાની નાની

गदा रक्षा लोका निष्ठा कं राजा

आर्यो द्वितीय

४३ फ़ैसली

उच्चासापम् द्वादश

ପାଇବା । - ସମ୍ମାନଶାସନ ପାଇବାର

विवेदन परम् तिथि शास्त्रे न विवेदन॥ परम् विवेदन गो. १०. ११

३३ राजीदलोक ४०-४१-४२ को १८.१.१९८५ को एक दिन दो बजे बाद
मिले रहा परेका ॥ आजकली तो लग्नमन्त्र आवाहन के बाह्य अवृत्ति
को देखने के लिए लग्नमन्त्र के लिए लग्नमन्त्र के लिए लग्नमन्त्र के लिए

॥ त्रिलोकी २६।

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四〇九

$N = \overline{VII}$

निवेदन प्रक्रिया के प्रायो 3114 के द्वारा द्वितीय Part II or na
621 द्वारा 2-9-19 के सम्बन्ध में निचले लिखित नियम
आवश्यक था यहाँ तु प्राप्त कर रहा है।

(१४) मृदु रुक्ष की उपरोक्त लिखित पत्रोंके में लगाया गया अंकारा
निराशारोगी।

(२) प्रदूषिति प्राची ने अपनी अपनी Security Registration करवाई।
अरेन से इनकार नहीं करता है।

(2) यहाँ तक S.I.A AFMS Staff के लिए सन् १९८८ के ११. ११. १० तक security Register, S.I.A AFMS Lucknow के अधिकारी द्वारा बनाये गये रखाये गये।

१ दिसंबर २०-११-१०

20/11/90. Two Desmognathus
Redden
Dr

ମାଲଦୀପ
ପାମାଲଦୀପ ୨୦୧୮
ଅକ୍ଟୋବ୍ର ୨୨/୯/୨୩୭

25. 26. 27. 28. 29. 30. 31.

ପାଠ୍ୟକ୍ରମ

To

The C.D.A.
AFMSD Lucknow

A-VIII/9

Through Proper Channel

Sir,

Most respectfully I enclose herewith a photocopy of C.D.A. Lucknow Pl- II O.O no. 621 dated 9-11-90 and present full facts to the best of my knowledge and appeal to your goodness to intervene and get the above Pl-II O.O. cancelled. Since the C.D.A. Lucknow has not so far taken any action to my application dated 20-11-90 (a photocopy enclosed). The full facts stand as below :-

1. That from 19-7-90 to 10-8-90 I have been treated as an unauthorised absence by the C.D.A. Lucknow. The above period has been declared 'Dies Non' without pay and allowances.

2. That it would reveal from my application Dated 20-11-90 that I have never hesitated/ refused signing on Security Register while passing in / out of the gate of AFMSD Lucknow from the time I have been posted with S.L.A & MSD Lucknow in my previous tenure in 1983 and also in the present one from 1987 to the date of above Pl- II O.O. i.e. 9-11-90. The fact is that no such register was ever maintained by the said Foreman. In case there was any such register the same will contain the signatures of previous staff and S.L.A. and the present staff and S.L.A. which, it is humbly requested, may please be perused and shown to me as well.

3. That even after the issue of C.D.A. Lucknow letter bearing no. AN/1/1431/ Security Dated 26-6-90 no such register for recording signature and time of arrival and departure was opened whereas on my part I had noted the instructions contained therein for compliance obediently. Before levelling charge against me the aspect as to what steps the formation and office administration had taken on maintenance of security register, was required to be found out through statutory enquiry wherein I could also get opportunity to state facts and prove myself innocent.

4. That I fell sick on 21-7-90 in support of which I have submitted Medical Certificate from 21-7-90 to 10-8-90. I rejoined my duties on 13-8-90 (11-8-90 & 12-8-90 being 11th Saturday and Sunday). Unforeseen absence due to sickness from 21-7-90 to 10-8-90 is a circumstance over which I could exercise no control. Such absence, under no rule can be treated as ' Dies Non ' without pay and allowances. I may also add here that I was referred to any one for 2nd Medical Opinion.

5. That office documents will prove, if looked into, that on 19-7-90 I was very much present in the office of the S.L.A. AFMSD Lucknow from 9.30 A.M. to 10.00 A.M. when I was dragged out forcibly, Govt. papers were

snatched away from my hands and table, unparliamentary words were hurled on me. I went to the L.A.O. (A) Lucknow who is my next higher boss and stated the facts. The then L.A.O. (A) Lucknow simply kept me waiting till 5.00 P.M. when office closed. The L.A.O. (A) Lucknow had noted my presence on a sheet of paper Dated 19-7-90 for his record.

6. That, similarly, on 20-7-90 also I was not allowed to enter my office. I again approached the S.A.O. (A) Lucknow in his office. He took my attendance for 20-7-90 also on the previous day's paper. At about 2.00 P.M. the L.A.O. (A) Lucknow advised me to go to office and start work after begging pardon from O.C. of ... Lko. when I requested for the said advice in writing the L.A.O. (A) asked me to wait till C.D.A. returns from tour. This day also, therefore, cannot be treated as ' Dien Non'.

7. That in regard to facts stated in above paras kindly also reperuse my applications dated 19-7-90, 13-8-90 and 20-11-90, copies of which are enclosed. My application dated 20-7-90 has already been addressed to you. These applications have not been given due consideration by my worthy C.D.A. Lucknow.

8. That without any feeling of prejudice against any body and without any view to casting aspersions on anyone, I beg your permission to point out regrettably that every formation is unhappy with the audit staff and is generally suspicious about the audit staff by nature and also by deed. This case presents a crystal example of it and also needs effective judgement about the roll of S.L.A. and L.A.O. in the present context to protect me from insult and injury.

9. That I most humbly request you kindly to consider the circumstance under which the instructions contained in C.D.A's letter Dated 26-6-90 were not got implemented and to enquire as to who was negligent. In my applications referred to above I have already brought out the true facts - may it not be in good language, that I never refused to sign on Security Register. On 19-7-90 and 20-7-90 I did attend office in time and was present the whole day, reported to L.A.O. (A) also. Therefore I should be treated present on 19-7-90 and 20-7-90. I was unnecessarily harassed and insulted. My applications dated 9-7-90; 20-7-90, 13-8-90 & 20-11-90 were not given any consideration. The views of S.L.A., L.A.O. (A) C.O. AFMSD and the view of other staff in my office as per official record may kindly be perused which give smell of conspiracy against me and the real guilty in this episode may kindly be found out and punished to avoid recurrence of such happenings in future and the punishment thus awarded to me withdrawn.

Thanking you,

Yours faithfully

R.K. Shukla
(R.K. Shukla)
A/c no. 8296831
Senior Auditor
O.C.S.L.A. AFMSD, Lko.

Dated : 8-12-90.

True copy
Delhi
by

Copy to the C.D.A. Lucknow
with request to withhold
recovery of pay and allowances on
this account till a decision is received from the
C.G.D.A., New Delhi.

Before Central Administrative Tribunal,
Circuit Bench, Lucknow.

M. P. No. 345/91 (L) *(L)*

R.K. Shukla

----- Applicant

Versus

Union of India

----- Opp. Party

O. A. No. 427/1990 (L)

Fixed for: 27.6.1991

Sir,

The above-noted Petition was filed before your honour on 27.12.1990 and 6.3.1991 was fixed for Counter Affidavit. As no Counter Affidavit was filed on 6.3.1991, and 16.4.1991 was fixed for Counter affidavit.

On 16.4.1991 too no Counter affidavit was filed and an other opportunity was granted to the Opposite Party for filing the Counter Affidavit on 27.6.1991. No Counter Affidavit has been filed today.

It is therefore, expedient in the interest of justice to proceed ex parte against the Opposite Party.

P. R. A. Y. S. R.

WHEREFORE, it is most humbly and respectfully prayed that orders to proceed ex parte be passed in the interest of justice.

Lucknow

Dated: 27th June, 1991

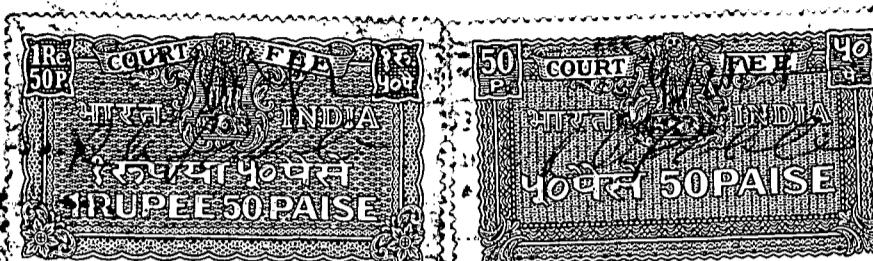
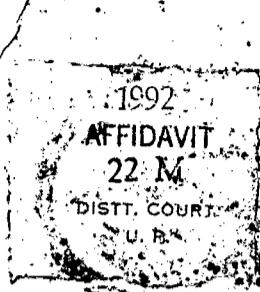
R.K. Shukla

APPLICANT

P. R. A. Y. S. R.
27/6/91

Before the Central Administrative Tribunal ,
(Circuit Bench), Lucknow .

O.A. No. 427 of 1990(L).



Ram Kishore Shukla ...

... applicant .

Versus

Union of India & others...

... Respondents.

Fixed for 4.8.92.

Rejoinder Affidavit .

I, Ram Kishore Shukla , aged about 52 years, Son of
late Sri Rajni Kant Shukla , resident of gram Haivetmau
Mawayya , Post Utrathia, Lucknow, take oath and state the
following on solemn affirmation:-

1. That the deponent is applicant and is fully conver-
sant with the facts of the case.
2. That despite repeated orders of the Hon'ble Court,
the respondents did not file the counter affidavit
within time and later on despite repeated orders
did not supply the true copy of the counter affidav-
it, within time, hence its filing and supplying
the copy to the applicant in office under
compulsion without prior sanction of this Hon'ble

R.K. Shukla

Court is illegal and as such the counter affidavit filed is liable to be returned treating the as same as not filed.

3. That all the contents mentioned in the main petition are reiterated by the petitioner and contents contrary to the same mentioned in the counter affidavit are wrong and denied.

4. That the contents of para 1 of the counter affidavit ,needs no reply.

5. That the contents of para 2 of the counter affidavit needs no reply.

6. That the contents of para 3 of the counter affidavit needs no reply.

7. That the contents of para 4 of the counter affidavit , needs no reply.

8. That the contents of para 5 of the counter affidavit is wrong and denied. There has no security register during the disputed period and the deponent has been mentioning since the start of the case that there was no security register and allegation

R.K.Sharma

Before Central Administrative Tribunal,
Circuit Bench, Lucknow.

M. P. No. 345/91 (L) *✓*

R.K. Shukla

----- Applicant

Verga

Union of India

----- Opp. Party

O.A.No. 427/1990 (L)

Fixed for: 27.6.1991

Sir,

The above-noted Petition was filed before your honour on 27.12.1990 and 6.3.1991 was fixed for Counter Affidavit. As no Counter Affidavit was filed on 6.3.1991, and 16.4.1991 was fixed for Counter affidavit.

On 16.4.1991 too no Counter affidavit was filed and no other opportunity was granted to the Opposite Party for filing the Counter Affidavit on 27.6.1991. No Counter Affidavit has been filed today.

It is therefore, expedient in the interest of justice to proceed ex parte against the Opposite Party.

P R A Y S R.

WHEREFORE, it is most humbly and respectfully prayed that orders to proceed ex parte be passed in the interest of justice.

Lucknow

Dated: 27th June, 1991

R.K. Shukla

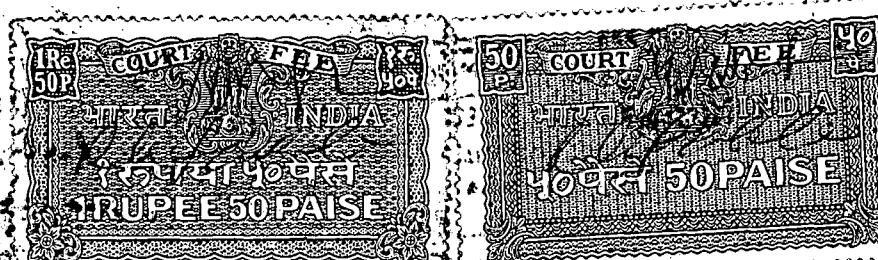
APPLICANT

Rekha
Dossal
27/6/91

Before the Central Administrative Tribunal ,
(Circuit Bench), Lucknow .

O.A. No. 427 of 1990(L).

1992
AFFIDAVIT
22 M.
DISTT. COURT
U.P.



Ram Kishore Shukla ...

... applicant .

Versus

Union of India & others...

... Respondents.

Fixed for 4.8.92.

Rejoinder Affidavit .

I, Ram Kishore Shukla , aged about 52 years, Son of
late Sri Rajni Kant Shukla , resident of gram Haivetmau
Mawayya , Post Utrathia, Lucknow, take oath and state the
following on solemn affirmation:-

1. That the deponent is applicant and is fully conversant with the facts of the case.
2. That despite repeated orders of the Hon'ble Court the respondents did not file the counter affidavit within time and later on despite repeated orders did not supply the true copy of the counter affidavit, within time, hence its filing and supplying the copy to the applicant in office under compulsion without prior sanction of this Hon'ble

R.K.S.
Shukla

compulsion without prior sanction of this Hon'ble

Court is illegal and as such the counter affidavit filed is liable to be returned treating the as same as not filed.

3. That all the contents mentioned in the main petition are reiterated by the petitioner and contents contrary to the same mentioned in the counter affidavit are wrong and denied.
4. That the contents of para 1 of the counter affidavit ,needs no reply.
5. That the contents of para 2 of the counter affidavit needs no reply.
6. That the contents of para 3 of the counter affidavit needs no reply.
7. That the contents of para 4 of the counter affidavit , needs no reply.
8. That the contents of para 5 of the counter affidavit is wrong and denied. There has no security register during the disputed period and the deponent has been mentioning since the start of the case that there was no security register and allegations

R.K. Shrivastava

8/10

that security register was maintained prior to 19.11.1990 is wrong and denied. The respondent has a strict burden of proof and is duty bound to prove that fact by producing the alleged security register, in Court for a just and proper disposal. It is not out of point to mention that the photo stat copy of a rough note written in the hand writing of Sri K.P. Singh, S.L.A., Lucknow, proves the allegations of the deponent. Photo stat copy is enclosed as R.A. - 1.

That the contents of para 6 of the counter affidavit is denied as alleged. It is not disputed that instructions were issued on 26.6.1990 in respect of security requirements and staff was directed to sign the security register but as there was no security register (as has been already mentioned above), the Supdt. L.A.O. (Sri K.P. Singh) intimated C.D.A. Lucknow that there is no security register (prior to 19.11.90) and if orders are passed, "Attendance Register" be kept there to fulfil the requirements of security register. The comments as referred above, may kindly be summoned

R.K. Singh

or the respondents be directed to produce , which
are supposed to be in the custody and ~~possession~~
possession of Sri S.P. Misra the then S.L.A., Lucknow
for a just and proper disposal of the case.

10. That the contents of para 7 of the counter
affidavit is wrong and denied as has been alleged.
The correct portion has been mentioned by the
deponent in his petition para 4(B) & (C) which is
correct and is reiterated . The respondents who
have been alleging about the maintenance of
security- register (^{main to} dt: 19-7-90) may produce the
same to end the controversy.

11. That the contents of para 8 and 9 of the counter
affidavit are wrong and denied . As already stated
above there was no security register, hence signing
on it or refusing to sign etc. is quite erroneous.

12. That the contents of para 10,11 and 12 of the
counter affidavit are wrong and denied. The correct
portion has been mentioned by the deponent in the
main petition(Para 4(B,C,D & E),dt: 27.12.1990.

13. That the contents of para 13 of the counter

R.K. Shukla

R.K.S.

affidavit is wrong and denied. The petitioner was actually ill and was not in a position to attend office on 21.11.90, which be intimated through his wife(Smt. Sarojni Shukla). Further the position of 19.11.90 and 20.11.90 is that the deponent attended the office which is evident ~~xxx~~ from the photo ^{filed earlier with main petition} stat copies ~~19.11.90 and 20.11.90~~ filed before ~~27.12.90~~

14. That the contents of para 14 of the counter affidavit needs no reply.

15. That the contents of para 15 of the counter affidavit has been wrong mentioned. All possible remedies were fully applied and were exhausted prior to filing of the petition of dt: 27.12.90.

16. That the contents of para 16 and 17 of the counter affidavit need no reply.

17. That the contents of para 18 of the counter affidavit is wrong and denied . Strict burden lies on the respondents to prove the fact of hearing and

R.K.Shukla

1. maintenance of a security Register on the disputed dates prior to 19.11.90. Full and elaborate reply has been given above in para 8,9 & 10.

18. That the contents of para 19 of the counter affidavit is denied as alleged. The facts mentioned by the deponent in para 4(C) are reiterated and contrary to it mention in para 19 of the counter affidavit are denied specifically.

19. That the contents of para 20 of the counter affidavit needs no reply.

20. That the contents of paras 21 to 30 of the counter affidavit are wrong because contents mentioned in paras 4(E), to 4(P) are correct ~~and~~ facts and contrary to these paras in the counter affidavit are denied. The Competent Administrative Authority as such has quite erroneously and illegally treated the deponent(petitioner) the alleged absence as "Dia non-

21. That the contents of para 31 of the counter affidavit is wrong ,vague and illegal. The grounds mentioned in the petition dated 27.12.90 are genuine,lawful and as such liable to be allowed with costs.

22. That the contents of para 32 of the counter affidavit is wrong and denied. As already stated above the deponent(petitioner) has fully and fully exhausted all remedies before filing the main petition.

23. That the contents of para 33 of the counter affidavit needs no reply.

24. That the contents of para 34 of the counter affidavit is wrong and is denied. The deponent (petitioner) is entitled for the reliefs claimed and is petition is with the ambits of law.

25. That the contents of para 35 of the counter affidavit is wrong and denied. All the facts mentioned by the deponent (petitioner) in paras 5 to 9 of the main petition dated 27.12.90 are correct and well proved by the documentary evidence filed by the deponent/petitioner. There is not only a *prima facie* case ,but, balance of convenience , equity and justice lies in favour of the deponent/petitioner and the petitioner shall suffer irreparable

R.K. Shrivastava

-ble loss and injury if the reliefs claimed by him are not awarded to him(deponent/applicant). The counter affidavit as such be rejected.

Lucknow :Dated :

August 4, 1992.

R.K. Shukla
Deponent.
(R.K. Shukla)

Verification

I, R.K. Shukla, the deponent do hereby verify that the contents of paras 1 to 25 of the rejoinder affidavit are true to my personal knowledge,

Signed and verified this the 4th. day of

August, 1992 in the Civil Courts Compound at

Lucknow .

Lucknow :Dated :

August 4, 1992.

R.K.Shukla
Deponent/applicant
(R.K. Shukla)

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

Par

No ALAO/3) Confidential

No Comment. Ofo the ALAO/AFM/4)

Par 2 Then is a recently registered in the office
of Room AT-1082 w/c 4/7/90 to 14/11/90

in which the entries of the Register of Persons
inclosed in the document offered by the
witnessed to be true, but your
Sri Ram Charan was on the mentioned
date 14/4/91 to 12/12/91.

Par 3 Sri P. S. Dhar was relieved from
his office on 4/3/91 made his office
with direction to report to the S. O. F. S. G.
Panjrao after concluding his duty and
left this office NO ALAO/3) Confidential
4/3/91.

Par 4 No Comment

W.M. 1/7/91 3/13/91 (For SII until 1/6/91)

2/3/91 2/3/91 2/3/91 2/3/91 2/3/91

1/6/91 2/6/91 2/6/91 2/6/91 2/6/91

1/3/91

3/6/91

Tc (A. D. S.)

Rekha D.

W.M. 2

8/91
RR
J. T. 9.8.91
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW ~~ALLAHABAD~~ BENCH

.....
MISC. APPLICATION NO. 371 /OF 1991 CL,

On behalf of respondents

In

REGISTRATION O.A. No. 427 OF 1990(L)

Ram Kishore Shukla ... Applicant

versus

Union of India and others ... Respondents

To

The Hon'ble the Vice Chairman and his
other companion Hon'ble Members of this Hon'ble
Tribunal.

The humble application of the abovenamed
applicants MOST RESPECTFULLY SHOWETH as under:

1. THAT the full facts have been disclosed in
the accompanying counter affidavit filed on
behalf of the respondents.

2. THAT in view of the facts and circumstances
stated in the accompanying counter affidavit,
it is necessary in the interest of justice
that the interim relief prayed by the petitioner

today
3
SFW
17/91

:: 2 ::

may kindly be rejected as the petition is devoid of merit and the applicant has failed to make out any *prima facie* case for grant of the same.

P R A Y E R

WHEREFORE, it is Most Respectfully
Prayed that this Hon'ble Court may graciously
be pleased to reject the interim prayer made by
the petitioner, as the petition is devoid of
merit and the petitioner has failed to make
out *prima facie* case for interference of this
Hon'ble Tribunal for grant of the same.


(K.C. Sinha)
Addl Standing Counsel, Central
Government

July
COUNSEL FOR THE RESPONDENTS/APPLICANT
February 5th, 1991

Allahabad.

K.C. Sinha



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Registration No. REGD. NO. 427 OF 1990 (L) COUNTER AFFIDAVIT

On behalf of Respondents

In

Registration O.A. No. 427 of 1990 (L)

R.K. Shukla ... Applicant

versus

Union of India and others ... Respondents

Affidavit of Shri R.K.CHOUDHARY

aged about 37 years, son of Shri

HIRALAL

(Deponent)

I, the deponent abovenamed do hereby solemnly
affirm on oath as under: (Deponent)

1. I, the deponent is the Dy.CDA
in the Office of the Respondents and as such
he is fully conversant with the facts of the
case deposed to hereinafter, and also the deponent
has been authorised to file this counter affidavit
on behalf of the respondents.

Sworn and signed

2. THAT the deponent has read over and
understood the statements contained in

A.M.

:: 4 ::

paragraph of the application filed by Shri R.K. Shukla and the deponent is in a ~~position~~ position to reply the same.

3. THAT before giving parawise reply of the application, the deponent asserts following facts in order to facilitate this Hon'ble Tribunal in administering justice.

4. THAT the Office of the Superintendent Local Audit, Armed Forces Medical Stores Depot, Lucknow, where the applicant is serving (hereinafter referred as to A.F.M.S.D. Lucknow), is located within its premises since June, 1990.

5. THAT A.F.M.S.B. Lucknow is a high security Defence Formation and for security reasons a Register is maintained, but the Depot Authority had its gate wherein the staff member of Superintendent Local Audit A.F.M.S.D. besides their own employee are required to sign at the time of their entry and exit from the premises of the Depot.

6. THAT earlier in June, 1990, the Office

Sanctioned



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of the Superintendent Local Audit was located just out side of the premises of the Depot. But since the said accomodation was not considered proper, now the office of the Superintendent Local Audit has been located inside of A.F.M.S.D. and a clear instructions have been issued on 26-6-90 that the member of Office of Superintendent Local Office has to comply the security requirements and they have to sign on the security register. A photostat copy of the letter dated 26-6-90 issued by the respondent no.3 is filed herewith and marked as ANNEXURE-CA-I to this counter affidavit.

ANNEXURE-CA-1

7. THAT on 19-7-1990 the members of the Superintendent Local Audit Office refused to sign the security register in defience of the security arrangement and also wilfully stopped attending office from that date and they remained absent as per the details given below.
8. THAT since thereafter after refusing their signature on the security register and after absenting themselves the aforesaid persons went to the office of Local Audit Office(A) Lucknow



and

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i.e. respondent no.4 and complained to him that they have been insulted and manhandled by the A.F.M.S.D. Authority.

9. THAT on receiving the said complaint the matter was inquired by the respondent no.4 and itsix one Accounts Officer and it was found that there was no manhandling by the Depot Authorities. It was also revealed that after refusing to sign on the security register, the aforesaid persons sought an interview with the Commandant and they wanted to impress upon him that they may not be forced to sign on the security register.. After listening their statement, the Commandant A.F.M.S.D. specifically enlightened them about the importance of the security requirements and signing on the security register and it was also told to them to all these persons mentioned as S/Shri R.K.Shukla, N.C. Pandey, Patri Singh, J.P. Tewari, Murlidhar and K.B. Kureel , that in case they want to enter in the premises they have to put their signatures on the security register and unless

(Stamp)

High Court Allahabad

(Signature)

A/C

:: 7 ::

they sign on the security register, they shall not be allowed to enter into the premises.

10. THAT the respondents 4 directed the aforesaid persons to sign on the security register which has been maintained by A.F.M.S.D. at the gate and attend to the office work and maintained office discipline and decorum failing which they would be liable for disciplinary action, but the said direction was remained unheadd by the petitioner including the other persons mentioned above.

11. THAT the member of the office of respondent no.5 also sent an application to the office of respondent no.2 ignoring the norms of through proper ~~making~~ channel alleging therein that it is not the position for them to work fearlessly and ~~im~~partially being inside the premises of A.F.M.S.D.

12. THAT it is quite evident that the petitioner including other persons mentioned above wilfully and ~~inconscient~~ manner refused to sign on the

S. M. A. S.

security register defying the security instructions and absented themselves from the office from 19-7-90 onwards, without performing any official work in a agitational manner to bring the functioning of the office to a halt . The work of the Office of the respondent no.5 was got done by the respondent no.3 and 4 by diverting its staff during their absence.

13. THAT on 20-7-90 the explanation was asked and petitioner as well as other persons managed to obtain a medical certificate, subsequently to cover up their absence and to get better of the administration.

14. THAT the statements contained in paragraph 1 of the application need no comments.

15. THAT the statements contained in paragraph 2 of the application are not correct. It is further submitted that section 20 of the Administrative Tribunals' Act, 1985, specifically signifies that in case the



S. S. S. S. S.

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applicant has not exhausted remedy available to him through Departmental Channel, this Hon'ble Tribunal has got no jurisdiction to entertain such petitions, and as such, the declaration made to that effect is absolutely wrong and as such, the petition should be rejected on this count alone.

16. THAT the statements contained in paragraph 3 of the application need no comments.

17. THAT the contents of paragraph 4^(a) of the application are matter of record and as such, need no comments.

18. THAT the statements contained in paragraph 4(B) are not correct and as such are denied. It is further submitted that the applicant alongwith some office members of the staff refused to sign the security Register maintained at the gate of A.F.M.S.Depot, Lucknow on 19-7-90 the day from which the Depot Authorities strictly enforced the security requirement in respect of the staff of the

Sundar Singh

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S.I.A. Office. Therefore, they sought interview with the Deputy Comdt. & Comdt. to discuss the matter. They were informed that they have to comply with the security requirements and sign the Security Register, failing which they cannot enter the premises. Thereafter, they left the Dept in the huff as a protest against the Security requirements. That day they did not mark their presence in the Attendance Register maintained in the office of the S.L.A., AFMSD Lucknow. The statement of his being assaulted and absued by Subedar Dwivedi is not correct and the same appears to have been floated to embarrass the Depot Authorities. Further the applicant in his application dated 19-7-90 had mentioned that Subedar Dwivedi was with ^{some} 5 Jawans but in his F.I.R. dated 19-7-90 he had mentioned that Sub. Dwivedi was with 4 Jawans and in the application under consideration, he has now alleged that Sub. Dwivedi was with 3 Jawans.

Sanjivani

A photostat copy of the application dated 19-7-90 and photostat copy of the FIR dated 19-7-90 is filed as ANNEXURES-CA-2 and 3 to this counter affidav.t

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The contradiction about numbers of Jawans
idem indicates the imaginary nature of the
incident. Further allegation made in the
present application against Brigadier's alleged
misbehaviour was not mentioned in his application
dated 19-7-90.

It is therefore, evident that the individual
statement cannot be relied upon and appears to
have been made to cover up their acts of indisci-
pline and misconduct.

¶ 19. THAT the statements contained in paragraph
(C) of the application are not correct . It is
further submitted that on their reporting to
the L.A.O.(A) the L.A.O.(A) Lucknow rushed to the
A.F.M.S.D. Lucknow to investigate the matter.

On return after enquiry the L.A.O.(A) issued
instructions directing them to go back on their
office and sign the security register and attend
to their official work and maintain office discipline
and decorum as the allegations made by them were
found incorrect and baseless vide his instructions



S. S. S. D.

S. S. S. D.

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dated 19-7-90 which they refused to sign.

Further on 20-7-90 the Main called for the explanations of the individuals concerned when apprised of the development of the previous day by the L.A.O(A).

20. THAT the statements contained in paragraph
4(D) of the application need no comments.

21. THAT the statements contained in paragraph 4(E) of the application are not correct. The applicant did not attend the office in which he was posted, rather he disobeyed the orders of the L.A.O.(A) Lucknow in this respect.

22. THAT the statements contained in paragraph 4(F) of the application are not correct. It would be evident from his application dated 20-7-90 that he did not attend his office of posting and went home. After his explanation was called for on 20-7-90, he managed to obtain a medical certificate dated

Further he put the date 21-7-90 below his signature on the medical certificate which was issued by the Doctor on 24-7-90. This

Samuel



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itself indicates ~~as~~ that the medical certificate from the private medical practitioner cannot be relied upon and in view of the totality of circumstances the same becomes irrelevant.

in reply
23. THAT the statements contained in paragraph 4(G) of the application it is submitted that as per extent xorders whenever a member of the office is prevented by sickness or other unforeseen reasons from attending office, he should invariably address the head of the office by a letter or by post-card the same day explaining the cause of absence. Any member absent due to sickness for more than 2 days will be required to furnish a medical certificate from A.MA./ R.MP. A photostat copy of relevant instruction is annexed herewith and marked as ANNEXURE-CA-4 to this counter affidavit.

ANNEXURE-CA-4

The applicant has thus failed to comply with the orders and kept himself absent unauthorisedly without any report and submitted his Medical Certificate dated 24-7-90 and fitness certificate dated 12-8-90 from a private medical practitioner when he resumed his duty on 13-8-90. The

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application dated 21-7-90 from his wife appears to be a fabrication as no such, application was received in the office.

Moreover, the mode of despatch of the alleged application has not been mentioned by the applicant any where.

24. THAT the statements contained in paragraph 4(H) of the application are not correct. It is further submitted that the applicant was not chargesheeted but the letter dated 20-8-90 calling for his explanation and others was despatched through proper channel. Four of them have replied to the explanation on 4-8-190.

25. THAT the statements contained in paragraph
4(I & J) of the application are not correct.

The applicant has not submitted any explanation

in reply to the letter dated 20-7-90, calling

for his explanation and instead he has addressed one letter dated 13-8-90 to the C.G.D.A.

New Delhi The individual was given reasonable opportunity to state his case by calling for

Fernandine

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his explanation but he did not even care to reply. However, no formal penalty under C.C.S(CCA) Rules 1965, has been imposed and an Administrative action has been taken keeping in view of the gravity of misconduct.

26. THAT the statements contained in paragraph 4(L) of the application are not correct. It is further submitted that the statements is baseless and false. On receipt of repeated complaints from the A.F.M.S.D. Authorities about non-compliance of the security instructions

by the S.L.A. staff to append signature in the security register at the time of entry and exit, instructions were issued on 26-6-90 , a photostat

copy of the same is ^{at} filed herewith and marked

as ANNEXURE-CA-8 to this affidavit. The respondent no. 3 directed the staff to comply with the Security instructions to sign and record their time of arrival and departure to and from the office.

Ramdev Singh

The staff was again directed on 19-7-90

A/9

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ANNEXURE NO. 5

by the L.A.O. A photostat copy of the
letter dated 19-7-90 is filed herewith

and marked as ANNEXURE- 6 to this affidavit;

to sign the security register maintained by
the Depot Authorities, but they refused to note
the orders of the L.A.O. The S.L.A., AFMSD
and the L.A.O.(A) in their reports dated
19-7-90 and 20-7-90 clearly stated that
the applicant alongwith others refused to sign
in the Security Register kept at the gate of
A.F.M.S.D.

27. THAT the statements contained in paragraph
4(M) of the application are not correct. It
is further submitted that the applicant was
not present in the office on 19-7-90 and 20-7-90
on both the days, he neither signed security r
register nor marked his attendance in the
attendance register maintained in the office
of the S.L.A. A.F.M.S.D. Lucknow where he was
posted. In this connection letter of the
L.A.O.(A) dated 20-7-90 and report of the S.L.A. &
L.A.O.(A) dated 19-7-90 clearly stated about the

Revd. S. N. Singh

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ANNEXURE- 6

position in the respect. A photostat copy of the report is filed herewith and marked as ANNEXURE NO- 6 to this counter affidavit.

28. THAT the statements contained in paragraph 4(N) of the application are not correct. In reply it is submitted that the applicant had not made any request for withholding of recovery of pay and allowances for the period of 'Dies-Non' in his application dated 8-12-90 addressed to the C.G.D.A.

29. THAT the statements contained in paragraph 4(O) of the application are not correct. It is further submitted that his applications dated 13-8-90 and 8-12-90 did not contain any request for withholding the recovery of Pay and Allowances for the period of 'Dies-Non'. Neither any document dated 19-11-90 has been received in the office nor any document dated 19-11-90 has been appended to the application submitted to the Honourable Tribunal.

Sanjivani

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30. THAT the statements contained in paragraph 4(P) of the application need no comments.

It is further submitted that after the shifting of the office of the S.L.A., A.F.M.S.D. within the premises of the Depot in 6/90, the Depot.

Authorities repeatedly tried to persuade staff of the S.L.A. to comply with the Security requirements of the Depot and sign the security Register. On refusal of the staff to do so, the Dy C.D.A.(AN) visited that office couple of times to impress upon the staff to comply with the security requirements and the Main office of the C.D.A. Lucknow also issued written instructions in this respect vide letter dated 26-6-90. The Depot Authorities strictly enforced the requirement w.e.f. 19-7-90

The staff instead of complying with the security requirement inspite of all out persuasion by the Depot Authorities as well as by the Main Office of the C.D.A. took a negative view and viewed the signing of security register as an insult and absented themselves in a concerted manner as a protest by adopting an agitational



S. S. Sinha

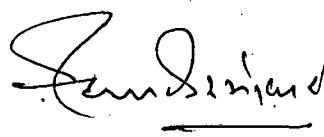
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approach. Through their ill conceived and nefarious action of total absence of staff they wanted to bring the functioning of the office to a grinding halt but the same was kept functioning by detailing 'staff' from the Main Office of the C.D.A. Lucknow and I.A.C.(A) Lucknow.

In view of the above facts the Competent Administrative Authority has rightly treated his absence as 'Dies Non'. The applicant has failed the application in the Tribunal without exhausting the remedies available to him under the rules in contravention of Section 20 of Administrative Tribunals' Act. The application is therefore liable to be dismissed.



31. THAT in reply to the statements contained in paragraph 5 of the comx application it is submitted that none of the ground staken in the application are sustainable in the eye of law and the petition itself is devoid of merit as such is liable to be rejected.



32. THAT in reply to the statements contained

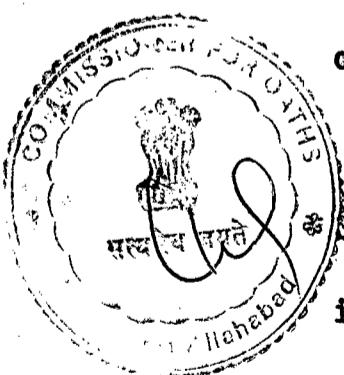
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in paragraph 6 of the application it is submitted that the applicant has not exhausted the alternative remedy available to him.

33. THAT the statements contained in paragraph 7 of the application it is submitted that the deponent needs no comment.

34. THAT In reply to the statements contained in paragraph 8 of the application it is submitted that the applicant is not entitled for any relief as he has failed to make out any case in his favour. The application is devoid of merit and is liable to be ~~xxxxxx~~ dismissed with costs.



35. THAT in reply to the statements contained in paragraph 9 of the application it is submitted that the applicant has failed to make out prima facie case for grant of any interim relief in his favour. The petition itself is devoid of merit and as such it is liable to be rejected.

Sanjay Kumar

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36. THAT the statements contained in paragraphs 10 11 and 12 of the application need no comments.

I, the deponent abovenamed do hereby declare and verify that the statements contained in paragraph nos. 1, 2, 3, 5, 7, 14, 15, 16, 18 (partly) 20, 21, 22, 36 (partly) 33, 36 of this counter affidavit are true to my personal knowledge and the statements contained in paragraph nos. 4, 6, 11, 13, 17, 18 (partly) 19 (partly) 23 to 29, 30 (partly) of this counter affidavit are based on perusal of record and that the statements contained in paragraph nos. 8, 9, 10, 12, 18 (partly) 19 (partly) 31, 34, 35 of this counter affidavit are based on information legal advice to which in all the deponent believes to be true and that no part of this affidavit is false and nothing material has been concealed in it.

So help me God.

(R. K. CHOUDHARY) (Deponent)



I, D.S. Chaubey, Clerk to Shri K.C. Sinha,

Sworn and signed

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Additional Standing counsel, Central Government,
do hereby declare and identify that the
person alleging himself to be the deponent
is known to me from the perusal of record of
this case and I am satisfied that he is the
deponent.

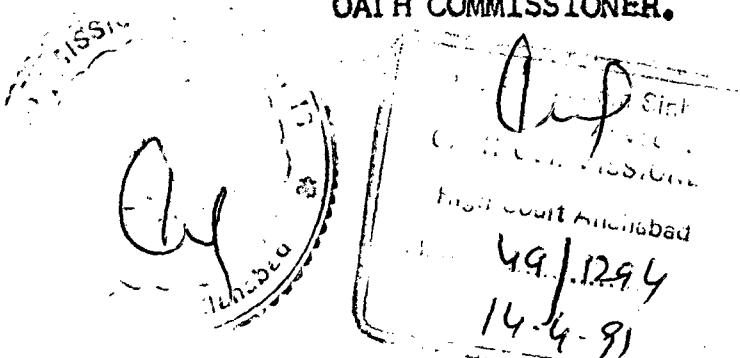

(Clerk)

Solemnly affirmed before me on this 14/15
day of February, 1991 at 10.00 A.M./p.m.
by the deponent who has been identified by
the aforesaid Clerk.

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

OATH COMMISSIONER.

S. A. M. S.

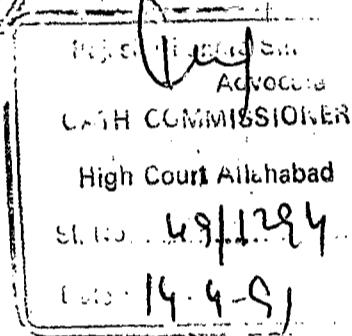


ANNEXURE - 4
ANNEXURE NO. 4

Para 254 of Office Manual Part I

Annexure-3

Whenever a member of the office is prevented by sickness or other unforeseen reason from attending office, he should invariably address the Controller by letter or by post-card the same day explaining the cause of absence. Any member absent through sickness for more than 2 days will be required to furnish a medical certificate from Authorised Medical Attendant/Registered Medical Practitioner.



Annexure 5

Sub: Discipline within the

Maj. Representations from Staff members viz.

S. R. K. Shukla, S. K. Singh, S. M. Dhar

S. K. B. Kurel, S. T. P. Tewari, C. K.

As per ~~order~~ instructions
contained in Com. Circular Letter No.

Anil 192/Secyngt dated 26.6.90 you are

again directed to sign the following

Register maintained by DFO of Mysore

at the gate of the Central Office,

Headquarters Office discipline & checker

Holding which you are liable for

disciplinary action.

No. Lt/602/Comd dated 19.7.90.

M. Concerned to

a. use of for

Compliance.

S. Dhar
19.7.90

LKO

R. S. R. K. Shukla, S. K.

P. K. Singh, S. K.

S. K. B. Kurel

S. T. P. Tewari

S. M. Dhar

Instructions directed to
S. M. Dhar on line.
M. Office informed on
phone, 23-7-90 LKO/60
(192) also informed by him
personally in M. Office.

1.1.1

DATE CIR/ISSN
High Court Allahabad
No. 1611184
14-4-91

Sanctioned

Annexure-6

to the
Lokman
Muhammad

SI. No. 3/ Comptt.

Officer, S.I.A. Room

15-7-80

ANNEXURE NO. 6

Sub: Representation from you.

Ref: your No. Lef/2010/II dt 19.7.80.

The applications of the
following individuals dt 19.7.80 are
presented before along with the
Comments.

① Captain Singh S.I. ② Dr. R. K. Shukla S.I.

③ Sh. Mukundan C.I. ④ I.S.P., Tandoor C.I.

⑤ Dr. K. R. Kulkarni C.I.

The comments are offered as under:

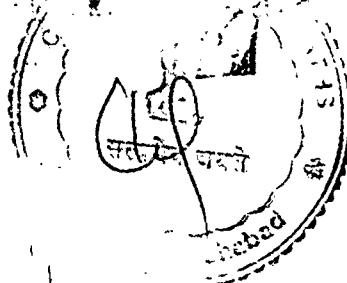
1. All the individuals attended my
office on 2-7-80 but they refused to
sign the Security Register which was
done for the year on 1st May. They told
to the Security Officer that they want
to talk with the D.P.C. They have
also not signed the attendance Register.

2. The same was informed to the D.P.C.
but the D.P.C. said, "no objection to
enter them without signing the Security
Register".

As requested by the D.P.C. I
brought the Register before the D.P.C. and asked
Mr. Powidhar to sign the Register
but he refused to do so. Accordingly Mr. Powidhar
performed their duties as D.P.C. the Register
not to be used.

All the individuals left the office after
my arrival to my office from the Register.

S. M. D. Singh



Confidential

52

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To

The Com

AN Section
Bucknall

W/F/62/1/1 Compt
Officer L.A. U.A.H

Annexures

Bucknall

(T) 7-50

20.

ANNEXURE-6

Subj: Discipline, D.A. to B.S.U.

ANNEXURE NO. CA 8

Application dated 19.7.90 Received from

Sh. R. K. Shukla I.A., Sh. Puri Singh I.A., Sh. Mukti

Dhan, Sh. K. B. Kusul, Sh. T. P. Tewari

An Automobile Driver. For your

kindly action with the following

Remarks

On 19.7.90 around 10.35 AM Brief.

Staff members of S.I.A. Annexure Viz

Sh. R. K. Shukla I.A., Sh. Puri Singh, Sh. Mukti

Dhan, Sh. K. B. Kusul, Sh. T. P. Tewari.

Came to your office with a Central

Commissioner for going their office. They been

Insulted & man handled by S.I.P.

Officers & not allowed to enter the

S.I.P. premises. It has also been stated

by them that they are going to file

a complaint with the Compt. of S.I.A.

for action against the Commissioner & other

S.I.P. Authorities.

On hearing from them, the undersigned

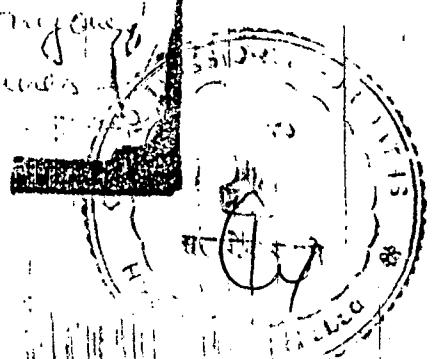
ordered to apprehend them & conducted

first the Sh. K. B. Kusul, and then, as instructed

by S.I.P. Commissioner (Not to apprehend anyone

in the premises without giving him orders

Sanjivani



On 1st August in the Security Register before
 the issue, the Staff members (as before) X
 to be felt disturbed. Thereafter
 the undersigned along with Supt. P. M. A.
 & P. K. Saha met with 2-P.C & the Commandant
 (Col. M. C. Chatterjee) & informed them
 of the information on being requested to
 that the issue of Staff members' Security
 Certificate & discussed with them
 the matter in the presence of S.A.
 Supt. M. A. It was also informed
 by the Commandant & the 2-P.C that
 they sent the Security Register
 in the S.A. office through T.C.O.,
 where the Staff members R. K. Saha,
 but they refused to sign on the
 Register & Chatterjee left the
 Office & deposited it with the
 Commandant.

The Commandant also informed
 that he instructed the Security
 Staff on the issue not to allow
 anyone to issue without proper
 signature. The undersigned
 was himself ordered to sign the
 Security Register & the T.C.O.
~~for~~ for the issue of the
 Security Certificate.

Sundarban



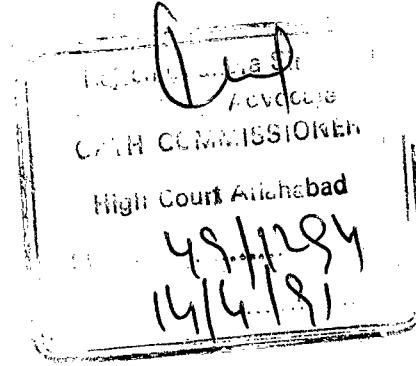
Orderance has to sign on the Register
to left the Office.

The Committee appointed by the
Sh. Afroz in your regard.

Concerned in this no. Staff Sergeant
dt 1978, the above mentioned
herein.

Since the Court members are
Orderance has to go to the Sh. Afroz
Office. One thing in my Office,
The member is reported to you
if you necessary can be called before.

(Enc. 5)



Redacted

Vakalatnama

In the High Court of Judicature at Allahabad
SITTING AT LUCKNOW

DA No 427 of 1990 (L)

Ram Kishore Shukla.

VERSUS

Union of India.

No.

of 19

I/we the undersigned do hereby nominate and appoint Shri K. C. Sinha and Shri Addl. Standing counsel, Central Govt.

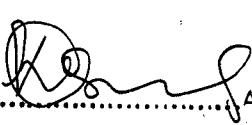
Advocate, to

be counsel in the above matter, and for me / us and on my / our behalf to appear, plead, act and answer in the above Court or any Appellate Court or any Court to which the business is transferred in the above matter, and to sign and file petitions, statements, accounts, exhibits, compromises or other documents whatsoever, in connection with the said matter arising there from, and also to apply for and receive all documents or copies of documents, depositions, etc, etc, and to apply for issue of summons and other writs or subpoena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise thereout and to apply for and receive payment of any or all sums or submit the above matter to arbitration.

Provided, however, that, if any part of the Advocate's fee remains unpaid before the first hearing of the case or if any hearing of the case be fixed beyond the limits of the town, then, and in such an event my / our said advocate shall not be bound to appear before the court and if my / our said advocate doth appear in the said case he shall be entitled to an outstation fee and other expenses of travelling, lodgng, etc. Provided ALSO that if the case be dismissed by default, or if it be proceeded ex parte, the said advocate(s) shall not be held responsible for the same. And all whatever my / our said advocate(s) shall lawfully do, I do hereby agree to and shall in future ratify and confirm.

ACCEPTED :

R. C. SINHA
Advocate
Presenting Officer
Central Administrative Tribunal
Allahabad

1-  Advocate

Signature of Client 

(R. K. CHOUDHARY).....

D CDA

R. K. Choudhary

Dy. C D.A.

Office of the

C.D.A. Lucknow

2- Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
SILCHAR JAGATPURAD BENCH

21/1/90

Regd. No. A/D
23-A, Thorntree Road
Jagatpurad, 781101

Registration O.A. No. 07 of 1990 (B) 20. 09. 1990.

No. CAT/Alld/Jud - 11011

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Applicant(s)

Versus

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Respondent(s)

1. Union of India, through Secretary, Ministry of Finance,
Tribal Affairs.

2. Executive Council, Government of India, Dated 07.09.90.
Copy to O.A. No.

3. State/Local Government, Lucknow.

4. State/Local Government, Lucknow.

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Please take notice that the applicant above named has presented an Application a copy of whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 23.09.90 Day of For.

If, no appearance is made on your behalf, your pleader or my son one duly authorised to Act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this Day of 20.09.1990.

11/10/1991
For Deputy Registrar
(Judicial)

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