

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT OA 46/90 of 20.....R. L. Guri.....Applicant(S)

Versus

U.O. 9.....Respondent(S)

INDEX SHEET

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8		

Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

GENERAL ADMINISTRATIVE TRIBUNAL
CIVIL BENCH, LUCKNOW

0-2-80

Registration No. 46 of 1989

Deputy Registrar(J)

APPLICANT(S) R. L. Garg
Respondent(s) UOI

Particulars to be examined

Endorsement as to result of examination

1. Is the application correct?
2. a) Is the application in the prescribed form?
b) Is the application in paper book form?
c) Have six complete sets of the application been filed?
3. a) Is the appeal timely?
b) If not, by how many days it is beyond time?
c) Has sufficient time for not making the application been time, been allowed?
4. Has the document of authorisation/ Vakalatnama been filed?
5. Is the application accompanied by Rs. 50/- postal order for Rs. 50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and produced accordingly?
c) Are the documents referred to in (a) above neatly typed in double copies?
8. Has the index of documents been filed and page no. given properly?
9. Have the chronological & table of representation made and the out come of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of law or any other bench of Tribunal?

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

8/7

Particulars to be Examined

Endorsement as to result of examination

- | | | |
|-----|---|-----|
| 11. | Are the application/duplicate copy/spare copies signed ? | Yes |
| 12. | Are extra copies of the application with Annexures filed ? | Yes |
| | 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 ? | NO |
| 14. | Are the given address the registered address ? | Yes |
| 15. | Do the names of the parties stated in the copies tally with those indicated in the application ? | Yes |
| 16. | Are the translations certified to be true or supported by an Affidavit affirming that they are true ? | NA |
| 17. | Are the facts of the case mentioned in item no. 6 of the application ? | yes |
| | a) Concise ? | |
| | b) Under distinct heads ? | |
| | c) Numbered consecutively ? | |
| | d) Typed in double space on one side of the paper ? | |
| 18. | Have the particulars for interim order prayed for indicated with reasons ? | Yes |
| 19. | Whether all the remedies have been exhausted. | Yes |

signed/

MT 46/90(L)

(2)

22/2/90

Hon. Justice K. Pruthi, V.C.
Hon. K. Obayye, AM.

Shri V. K. Chaudhary accepts
notice on behalf of opposite parties.
It will be appropriate to consider
whether the representations made
by the applicant for his promotion
and consequential benefits may
be required to be disposed of.

Copy of notices meant for the opposite
parties may be delivered to Shri Chaudhary
by the office. He may obtain
instructions and list for admission;
order on 15/3/90.

AM.

VC.

VC.

S.F.A

L
14/7

15-3-90

Hon. K. Obayye, AM

On the report of both
the counsel, the case is
adjourned to 30.4.90 for
admission / order

AM

on

S.F.A

30/4/90

Hon. Justice Mr. K. Pruthi, V.C.
Hon. Mr. K. Obayye, AM.

Shri V. K. Chaudhary, says that
the matter is under consideration before the
Director General of Defence Estate. Both,
the parties ^{has} requested for adjournment.

list id for admission in the
light of order dated 22/2/90, on 3/7/90

AM.

VC.

Central Administrative Tribunal, Circuit Bench,

Lucknow.

Registration (O.A. No. 46 of 1990)

R.L. Girj

... Petitioner

Vs.

Union of India & others

... Opp. Parties

Hon'ble Mr. Justice K. Nath, VC,

Hon'ble Mr. M.M. Singh, AM

J U D G M E N T

(Delivered by Hon'ble Mr. Justice K. Nath, VC)

This application under Section 19 of the Administrative Tribunals Act, 1985, is for a direction to the respondents to promote the applicant to the post of U.D.C. w.e.f. the date of promotion of P.R. Yadava and further promote him thereafter alongwith arrears of salary w.e.f. the date of suspension.

2. Counter affidavit has been filed on behalf of the respondents. The counsel for the applicant says that no rejoinder affidavit is filed. We have heard S/Sri P.N. Bajpai, counsel for the applicant and VK Chaudhary for the respondents.

3. Briefly, the facts are that the applicant was appointed as LDC on 13-5-1963 in the Central Ordinance Depot, Agra, Ministry of Defence. He was suspended on 18-10-1966 pending investigation of an offence of embezzlement punishable under Section 409 of the

Indian Penal Code. The departmental enquiry was instituted and as a consequence of which the applicant was dismissed w.e.f. 11-11-1970 by an order dated 10-11-1970, after holding the charges proved against him. The criminal trial of the applicant under

Section 409 IPC, however, ended in the applicant's acquittal by judgment dated 31-3-1984. On the basis of this acquittal, the dismissal order dated 10-11-1970 was revoked on 10-1-1985, but the departmental disciplinary enquiry was re-opened. During the pendency of the re-opened enquiry, the applicant was also ordered simultaneously to be deemed under suspension. The order of suspension ultimately was revoked on 2-2-1988 and by order dated 7-10-1988 (Annexure-1) the applicant was exonerated of the disciplinary enquiry.

4. It was in this background that the present application was filed whereby the applicant has claimed promotion as UDC w.e.f. the date of promotion of PR Yadava, LDC junior to the applicant. Further promotion to the posts of Technical Assistant, Office Superintendent, Grade-II and Office Superintendent, Grade-I has also been sought. The applicant claims arrears of his salary w.e.f. the date of suspension as contemplated in the order dated 7-10-1988, last paragraph of which runs as follows;

"the period of suspension of RL Birj will be treated as spent on duty and will be entitled to draw full pay and allowances as per his entitlement for the period of suspension".

5. Sri V.K. Chaudhary says that while the respondents have no objection to the promotion of the applicant to the post of UDC w.e.f. the date of promotion of PR Yadava (vide para 19 of the counter affidavit) in view of the fact that the post of UDC is a non-selection post governed by the principle of seniority-cum-suitability. The claim of further promotion as Technical Assistant, Office Superintendent, Grade-II is resisted because those are selection post governed by the criterion of merit. It is further said

that further promotion of the applicant to the post of Office Superintendent, Grade-I is not on the criterion of merit, but nevertheless field of eligibility consists of persons appointed as Office Superintendent, Grade-II.

6. On a consideration of all the aspects of the case, we find that while the applicant is entitled to be promoted as UDC as aforesaid and the applicant is entitled to arrears of salary from the date of suspension i.e. 18-10-1966, the claim of further promotion as Office Superintendent, Grade-I and Office Superintendent, Grade-II must be examined by the respondents. If the applicant is selected as Technical Assistant and is again selected as Office Superintendent, Grade-II, he would have to be considered for promotion as Office Superintendent, Grade-I on the criterion seniority-cum-suitability. We dispose of this petition finally on the above lines and direct the respondents to comply with these directions within a period of six months from the date of receipt of this judgment.

M. M. Sur
(A.M.)


(V.C.)

Dated : Lucknow
September 12, 1990.

ES/

PK

In the Central Administrative Tribunal,
Addl. Bench, Allahabad.
Circuit Bench, Lucknow.

C.A.No. 46 of 1990 (11)

0-2-90

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R. L. Girj

....

.... Applicant.

Versus

the Union of India & others Respondants

COMPI LATIONA

~~COM~~

COMPI LATION ... B

Dated :. 3.2.1990

May be put up
on 22-2-90
J. S. Jha
08/2/90

(P. S. Bajpai)
Advocate.
Counsel for the
applicant.

5/2

in the Central Administrative Tribunal
Additional Bench, Allahabad
Circuit Bench, Lucknow.

O.A. No. 46 of 100 (C)

~~XXXXXXXXXX~~

R. L. Girj Applicant.

Versus

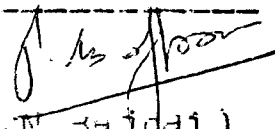
The Union of India & others ... Opp. Parties.

Compilation ...A.

S. No.	Particulars of papers relied on	Page No.
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1.	Application under section 19 of Central Administrative Act.	1-12
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Dated :- 3.2.90


(P. N. Bajpai)
Advocate.
Counsel for the
applicant.

(1/3)

In the Central Administrative Tribunal
Additional Bench, Allahabad
Circuit Bench, Lucknow.

C.A. No. 46 of 1990 (C)

NAMES OF PARTIES.

R.L. Girj aged about 57 years son of Sri Hira Lal Girj R/o employed as Lower Division clerk office of the Defence Estates Officer, Bareilly circle 53 Surpantine Road Bareilly Cantt.

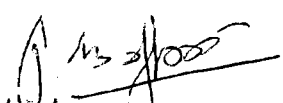
..... Applicant.

Versus

1. The Union of India through the Secretary, Ministry of Defence New Delhi.
2. The Director of Defence Estates Central Command 17 Cariyappa Road Cantt. Lucknow.
3. Military Estates Officers Agra Circle Agra Cantt. now known as Defence Estate Officer.
4. The Director General Defence Estates, Ministry of Defence Block No. 4 (West), R.K. Puram New Delhi 66.
5. The Defence Estates Officer Bareilly Circle Bareilly cantt.

..... Respondants.

Dated :- 8.2.1990


Petitioner.

8/2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

ADDITIONAL BENCH: ALLAHABAD:

CIRCUIT BENCH: LUCKNOW.

C.A. NO. 46 OF 1990. (4)

R.L.Girj aged about 57 years s/o Sri Hira Lal Girj r/o employed as lower division clerk office of the Defence Estate Office, Bareilly circle, 53, Serpentine Road Bareilly Cantt.

...Applicant.

Versus.

1. The Union of India through the Secretary, Ministry of Defence New Delhi.
2. The Director Defence Estates Central Command, 17, Cariyappa Road Cantt Lucknow.
3. Military Estates Officers Agra Circle Agra Cantt. now known as Defence Estate Officer.
4. The Director General Defence Estates, Ministry of Defence Block No 4 (West), R. K.Puram New Delhi 66.
5. The Defence Estates Officer Bareilly circle Bareilly Cantt.

Respondents.

APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT.

Details of application.

Contd...2

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2.

1. Particulars of the Applicant:

- I. Name of the applicant: R.L.Girj.
- II Name of the Father: Sri Hira Lal Girj
- III Designa- tion & Office L.D.C., Office of
in which employed: D.E.O. Bareilly
Circle Bareilly
53, Serpentine Rd
Bareilly Cantt.
- IV. Office Address: -AS above-
- V. Address for service
of all notices: -AS above-

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.

3. Limitation:

The applicant further declares that the application is within the limitation and as prescribed in section 21 of the Administrative Tribunal Act, 1935.

4. Facts of the Case:

(1). That the applicant was initially appointed on the post of lower division clerk in the central ordinance depot Agra, Ministry of defence on 8.7.1958. He continued to work as such ~~xxxx~~ few months thereafter he was transferred to the station health organisation Jhansi. He was declared permanent in the year 1959.

R. Girj

(11). That the applicant was transferred

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on compassionate ground by Army Head Quarter, A.G's Branch, New Delhi. For permanent duty to the Military State Office, now known as defence Estate Office, Agre Circle, 116, Tah Road, Agre Cantt. The Applicant was taken over charge there on 15.5.1963.

(iii) That the petitioner was implicated in a case of embezzlement in the year 1964, an F.I.R. was lodged in Police Station Sagar Bazar, Agre Cantt. The departmental proceedings were ^{not} started but the RK Applicant was placed under suspension on 1.10.1966.

(iv) That the petitioner was convicted by the Trial court, hence the Departmental authority dismissed the petitioner in the year 1970. They have not waited the result of the revision which was preferred before the Hon'ble High Court.

(v) That the revision of the Applicant remained pending in the Hon'ble High Court till the year 1972 when it was allowed and the conviction was set aside. The case was remanded to the Trial Court for fresh trial on the stage of defence witnesses. The trial court finally decided the case on 31.8.1974. The Applicant was acquitted in the case.

(vi) That the applicant on the basis of judgement of the criminal case filed an application for reconsideration of the dismissal order. The departmental authorities after consideration the dismissal order set aside.

Ref. in.

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4.

it and they deemed the Petitioner under suspension from the date of dismissal till the date of order. Further the orders for departmental enquiry were also passed.

(vii) That the Departmental enquiry was completed and the petitioner was exonerated from the charges. He was ordered to be reinstated with full salary and all other benefits admissible under the rules. The applicant was taken on duty during the pendency of the enquiry with effect from 2.2.88.

(viii) That the Applicant was transferred from Agra to Bareilly, under the O.P. No:5. He is still working there. The Petitioner was exonerated from the charges vide order dated 7.10.1988,

(IX) That the Applicant is getting the initial pay of his pay scale of the post of lower Division clerk. His salary has not been fixed by the Opp. parties concerned. He has not been paid the differences of the salary from the date of suspension till upto date. Now more than one year and 6 months have been passed from the date of final order in the enquiry proceedings.

(X) That the Applicant is entitled to get the promotions on every post from the date of promotion of his next junior.

(XI) That the seniority of the Applicant

Agarwal

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shall be determined w.e.f. 8.7.1958 on the post of lower division clerk when the applicant joined in the central ordinance depot Agra under the ministry of defence. He was transferred from there in the present department. There is no break in service in both these departments.

(xii). That the next junior to the applicant is Sri P.R.Yadav, who is at present posted as executive officer. In same benefit are liable to be given to the applicant which has been given to Sri Yadav.

(xiii). That the channel of promotion is from L.D.C. to U.D.C., then technical asstt. then the office superintendent grade II and thereafter grade I. The last post of promotion is executive officer Cantonment Board. The applicant was entitled to get all these posts w.e.f. the date of promotion of Sri P.R.Yadav on these posts.

(xiv). That the applicant was exonerated in the inquiry vide order dated 7.10.1988. The order was served on the applicant on 11.10.1988. The copy of the order is filed herewith as Annexure 1 to this application.

(xv). That the applicant just after receipt of the order filed an appeal before the Director General, on 11.10.1988 in which the request was made to quash the punishment awarded in the final order. The H.O.

R. Singh

Director had issued the dir stating that the disciplinary case will not come in the way of the promotion of the applicant on the higher post. and grant of other benefits. The copy of the order dated 10.11.1988 is filed herewith as Annexure 2 to this application.

(xvi). That applicant is regularly representing for his promotion since 9.5.1988 i.e. just after revocation of his suspension order. The request was made to the Director on 9.5.1988. for getting the promotion and also the benefit of salary of the suspension period. The copy of the representation is filed herewith as Annexure 3 to this application.

(xvii). That the applicant further represented on 5.1.1989 to the C.I.no 2 and 4 requesting to rein for getting the promotion upto the post of officer supernumerary grade I under the reservation quota of A.C. candidates. Further the request of arrears of pay and allowances was also made. The copy of the application is filed herewith as Annexure 4 to this application.

(xviii). That the applicant also represented on 29.9.1989 in which he requested of the previous representation and period. The representations are still pending, and

R. Singh

Nothing has been done. The report of the
is filed herewith as Annexure 5 to this
application.

(xix). That the applicant has come to
know that the promotion is not being made
as there are no character roll entries
during the period of suspension.. The
authorities had written to the central
government for exemption of consideration of
the character roll entries in promotion of
the applicant. In fact there is no need of
obtaining any exemption as the applicant
remained out of employment and no character
roll entries have been given. / It will be
presumed that the character roll of the
applicant is neat and clean and spotless.

(xx). That there is no ground before the
opposite parties of not promoting the
applicant and awarding the him the benefit of
all the posts from the date. The criteria
for promotion is seniority subject to
rejection on unfit. The applicant is
entitled to get the promotion on all the posts
on the basis of this criteria.

(xxi). That the opposite parties are bound
to allow the applicant all the benefits of
arrears of salary from the date of suspension
upto date. He is also entitled
to get the increment which becomes due
during this period.

Refining



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(xxii). That the order is finally made for payment of the arrears of salary but the actual payment has not been made, the applicant is entitled to get these arrears at once without any further delay.

(xxiii). That the order by no. 2 and 3 and 4 is in favour of the applicant by no. 3 and 5 in which the directions have been given for making the payment of arrears of salary and other dues to the applicant. Within a fortnight. The opposite parties concerned are not taking any interest and there is no hope of payment in the near future. *The letter is annexure 6 to the application.*

(xxiv). That the retirement of the applicant is due on 31.1.1991. He will not get the retirement benefits according to the rules if the arrears of salary will not be paid to him and he will not get the promotions from the dates on every post on which his junior Mr. P.R. Yadav has been promoted.

(xxv). That the discrimination has been done with the petitioner and the provisions of Art 14 and 16 of the constitution of India have been violated.

(xxvi). That the applicant is further entitled to get the interest at the bank rate on the due amount.

R. Singh

5. Grounds for reliefs with legal provisions

(a). That the applicant has been provided



on duty during the suspension period, he has been allowed the full salary of this period but the actual payment has not been made.

(b). That the juniors to the petitioner have already been promoted to the post of executive officer of cantonment board.

(c). That the applicant is entitled to get the benefit of quota reserved for S.C. candidates in getting the promotion or every post upto the post of executive officer.

(d). That the criteria for promotion is strictly subject to rejection or unfit. The ~~xxxx~~ applicant is entitled to get the promotion on the basis of the criteria.

(e). That the character roll of the applicant is blotless.

(f). That there is no ground before the App. F. I. S. of not giving the promotion to the applicant.

(g). That the matter has been sent to the Government for backing the application of not considering the character roll entries in the promotion. It has been done with the view to delay the promotion of ~~xxxxxxxxxxxx~~ applicant.

(h). That the orders for payment of the arrears of salary has already been passed but

R Singh

4. Actual payments bet on date.

(1). That the applicant is entitled to get the interest at the bank rate on the due amount.

6. Details of the remedies exhausted:

The representations have been made for getting the remedies to the higher authorities. The copies are already annexed as Annexures 3, 4, 5, which are still pending.

7. Whether the ~~xxxxxx~~ matter is pending or the same was filed previously.:

Neither the matter is pending nor in any court of law nor it is filed earlier before this Hon'ble Tribunal or any other court.

8. Reliefs sought :

The applicant prays for the following reliefs:-

(a). That the applicant may be allowed the promotions from the post of U.D.C. upto the post of executive officer with Board W.S.F. the date of promotion of Mr P.L.Y. & v the junior to the applicant on every post alongwith the increase of salary from 10000/- to 15000/- alongwith the interest on the bank rate.

(b). That the applicant may be allowed

R. Singh

(1/2)

X. X. 11.

arrears of salary along with interest at the Bank rate W.S.I. dated of suspension till the date of actual payment.

(c) That the cost of the application may be awarded to the Applicant.

(d) That any other relief which this Tribunal deems fit and proper may be awarded to the Applicant.

9. INTERIM RELIEF IF ANY

The Applicant prays for the following Interim Reliefs:-

(a) That the arrears of salary from the date of suspension till today together with interest may be directed to the Applicant to pay the Tribunal at once without any further delay.

(b) That the Applicant may be considered for the vacant post of office Superintendent Grade -1 in the office of the C.F.No.2 for promotion as he is fully competent & qualified.

10. PARTICULARS OF THE PETITIONER

- (i) No. of the Indian Postal Order: 802409855
- (ii) Name of the issuing post office: High Court Bench
- (iii) Date of issue of the postal order: 8-2-70
- (iv) Post office at which payment is made: G.P.O. LK (Held)

IN VERIFICATION.

I, R.L. Girj, S/O Mr. Hira Lal Girj, employed as L. S. officer in the District

5/5

st. *Ching*
applicant.

~~1. 10 10 10 10~~

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, AHMEDABAD
CIRCUIT BENCH, LUCKNOW.

O.A. No. 46 of 1990 24

M. L. Girj Petitioner
Versus
The Union of India & others ... Opp. Parties.

C O M P I L A T I O N B

S. NO. PARTICULARS OF PAPERS WITH PAGE NO.
ANNEXURE NOS.

1.	<u>ANNEXURE NO. 1</u> Order dated 7.10.88 of final proceedings.	1-2
2.	<u>ANNEXURE NO. 2</u> Order dated 10.11.88 Punishment is not Punishment	3
3.	<u>ANNEXURE NO. 3</u> copy of representation dated 9.3.88	4-5
4.	<u>ANNEXURE NO. 4</u> Copy of appeal Dated 5.1.89	6-7
5.	<u>ANNEXURE NO. 5</u> Representation Dated 20.9.89 to Minister	8-9
6.	<u>ANNEXURE NO. 6</u> Representation dated 22.1.1990's recommendations	10-11
7.	<u>ANNEXURE NO. 7</u> Power	12

Dated :-
8.2.90

(P.M. Bhatnagar)
ADVOCATE
COUNSEL FOR APPLICANT.

In the Central Administrative Tribunal
Additional Bench Allahabad
Circuit Bench-Lucknow.

R.L.Girj

Applicant.

Vs.
The Union of India & Others... Respondent
Annexure no. 1

CONFIDENTIAL Registered

No. 32142/LCE/Conf/R.L. Girj
Dte. of Defence Estates,
HQ. Central Command
Lucknow Cantt.

Dated 7/8 Oct.'88

ORDER.

① WHEREAS, Departmental disciplinary proceedings were initiated under Rule 14 of the CCS(CCA) Rules 1965 against Shri R.L. Girj, IDC in the office of the DEO, Agra (Now in DEO, Bareilly) vide Director, DE, HQ. Central Command (Disciplinary authority) Memo. No. 32142/Conf/LCE dt. 12 June '87 and he was charged with embezzlement of Rs. 50/- while working in the office of MEO(now DEO) Agra.

② AND WHEREAS, Smt. Shanti Dev Dasan, CEO, Agra was appointed as Inquiry Officer vide Director, DE, CC Lucknow letter No. 32142/Conf/LCE dt. 24 July '87. She could not complete the inquiry due to her appointment as Director, Scheduled Castes and Scheduled Tribes, Govt. of India, Deptt. of Welfare, on deputation.

③ AND WHEREAS, Shri Ved Prakash, Asstt. Director, Defence Estates, HQ. Central Command was appointed Inquiry officer vide Director, DE, CC Memo No. 32142/LCE dt. 21 June '88 in place of Smt. Shanti Dev Dasan and the inquiry was conducted by the said Shri Ved Prakash and the charge framed against Shri R.L. Girj, IDC and he submitted his inquiry report in accordance with Rule 14 of CCS(CCA) Rules 1965.

④ AND WHEREAS, the charge of embezzlement of Rs. 50/- framed against Shri R.L. Girj, IDC has not been established from the oral and documentary evidence on record.

⑤ NEVERTHELESS, the fact remains that Shri R.L. Girj received a sum of Rs. 50/- on 2 Dec. 1964 from Shri H.N. Yadav, lessee of Barua Sagar, Camping ground by money order and as per duties entrusted to Shri Girj under office order No. 2 dated 28 Jan 1964, he was given the responsibility of writing of the cash book and preparation and issue of receipts for Govt. revenues. He was also to deal with the recovery of all leases and rents including maintenance of Sch. III and it was his duty to credit Govt. money in the Bank/Treasury.

cont-2

Received
11/10/88

[Signature]

True copy
Attended
[Signature]

[Signature]

512490

Now, therefore, from the documents produced before the Inquiry officer it is clear that Shri Grij did not prepare receipt for the amount received by him. He did not enter this amount ~~amount~~ in cash book and he did not prepare the challan for this amount to ensure the remittance of this money into Govt. Treasury. His job did not finish with the handing over of the money to the office Supdt. which in fact he was not supposed to do. He has, thus failed, to account for this money in the Govt. books and its credit to Govt. Treasury.

As, Shri Grij was not charged with dereliction of duty but in the statement of imputation (Annexure II to the charge sheet) Shri Grij was accused for not accounting for this money. I find that he has been negligent in discharging his responsibility in accounting cash received by him on behalf of Govt.

Since Shri Grij has already suffered for his lapse in the form of dismissal and subsequent reinstatement and suspension, taking into account all the circumstances of this case, I take a lenient view and reprimand him for his failure to discharge his duties and responsibilities as a conscientious employee.

The period of suspension of Shri R.L. Grij will be treated as period spent on duty and he will be entitled to draw full pay and allowances, as per his entitlement, for the period of suspension.

(L.R. Julia)
Director
Defence Estates,
HQ. Central Command
(Disciplinary authority)

Registered:-

Copy to:-

✓ Shri R.L. Grij
DEO, Bareilly Circle
Bareilly

:- Alongwith a copy of inquiry report dt. 20 Sept.'88.

Copy to:-

1. The Director General
DE, Govt. of India,
Min. of Defence, R.A. Puram
New Delhi-110066.
- "2. The DEO, Agra.
- 3- The CDA, CC, Meerut.

*True copy
attached.
J. S. Rao
8/2/90*

In the Central Administrative Tribunal
Additional Bench Allahabad
Circuit Bench-Lucknow.

R.L.Girj

Applicant.

The Union of India & Others...

Respondent

Annexure no. '2'

CONFIDENTIAL

No. 109/299/VIG/DE
DIRECTORATE GENERAL, DE
Government of India,
Ministry of Defence,
West Block No. IV,
R.K. PURAM, NEW DELHI-66

Nov 88

To

✓
Shri R.L. Girj, Pt LDC
C/O DEO Bareilly Circle,
BAREILLY CANTT.

APPEAL SUBMITTED BY SHRI R.L. GIRJ, LDC DEO
BAREILLY CIRCLE BAREILLY CANTT.

Reference your appeal, dated 11-10-88.

2. The Disciplinary Authority vide his order No. 31142/LCE/Conf/R.L. Girj, dated 7th October, 1988 has taken a lenient view in the case and only reprimanded you. The "Reprimand" is not a punishment under the provisions of CCS(CCA) Rules. Since no statutory punishment has been awarded to you, no appeal against the order of Disciplinary Authority lies to the Appellate Authority. The Appellate Authority cannot, therefore, interfere in this case.

3. As far as your promotion to the higher post and grant of the attendant benefits is concerned, this Disciplinary case will not come in your way.



DIRECTOR GENERAL, DE

Copy to:-

The Director, DE - for information and necessary
Central Command, action
LUCKNOW

ADM Sec.

- for information and necessary
action.

Received
15/11/88

True copy
attached
15/11/88

In the Central Administrative Tribunal
Additional Bench Allahabad
Circuit Bench-Lucknow.

R.L.Girj

Vs.

Applicant.

The Union of India & Others... Respondent
Annexure no. 3

27/9/88

To,

Hon'ble Mr.L.R.Julka,
Director, D.E. Government of India,
Ministry of Defence, Central Command,
LUCKNOW CANTONMENT.

Through : Hon'ble Shri O.P.Mishra,
Defence Estates Officer,
Agra Circle, Agra Cantt.

SUB : REQUEST FOR FIXATION OF PAY AND ALLOWANCES FROM
1964 ONWARDS TREATING ENTIRE PERIOD OF SUSPENSION
FROM 1966 ONWARDS AS ON DUTY AND FURTHER DEPART-
MENTAL PROMOTION TREATED AS A MAXIMUM UDC
FROM 3.3.1969 UNDER RESERVATION QUOTA.

Honoured Sir,

I have the honour beg to lay down for the following few
lines for favour of sympathetic consideration and earliest
justice please:-

1. That due to party politics and office gutbandi, I was
falsely implicated under Section 409 I.P.C. and the
then honourable Deputy Director, ML&C, Central Command
Lucknow had placed me under suspension in 1966 and
thereafter dismissed me from service in 1970.
2. In 1984, I was fully exonerated from the false
allegations under Section 409 I.P.C. by the Hon'ble
Addl. Chief Judicial Magistrate, Agra, judgements
dated 31.3.1984. On representations, Hon'ble,
Director, DE Central Command, Lucknow Cantt. had been
pleased to quash the ~~dismissal~~ dismissal order of
1970 in 1985 and treated me as deemed/placed under
suspension from 1970 that is from the date of dismissal
order. Thus my suspension continued right from the
date of original suspension order ~~made~~ in 1966.
made
3. That Honourable, Director, Central Command, Lucknow
had now been pleased to revoke my suspension order
vide order NO.32142/LCE dated 2.2.1988 with immediate
effect but no order for service benefits and back
wages etc. has been stated therein.
4. That I have submitted my joining report in the office
of D.E.O. Agra Circle, Agra Cantt. and thereafter
on 12.2.1988 my posting has been issued from D.E.O.
Agra to D.E.O. Bareilly where I have to join as soon
as Pt. TA/DA advance is received.
5. That I have alongwith my all family members already
faced with ~~financial~~ life during the course of my
suspension period from 1966 onwards. In fact my life
and life of my children had been ruined educational
and financially etc.
6. That under existing provisions of rules/law, while
reinstating after revocation of suspension orders,
my entire period of suspension from 1966 onwards

is to be treated on duty with all services benefits etc. even if my disciplinary authority chooses to conduct a domestic enquiry after my acquittal from the competent court of law. In this connection paras 13, 17 and 19 respectively of my notice under section 80 CPC dated 11.11.1985, besides my representation dated 5.2.80 and others related representations, may kindly be referred please. Hardly less than 3 years service is left to be served more. My date of birth and date of initial appointment is 20.1.1933 and 8.7.1958 respectively. I have completed 55 years of age recently on 19.1.1988.

L. Mavistand
a
h. d. ant
e

7. That Hon'ble D.F.O. Agra Circle, has very kind enough considered sympathetically my request and recent representation dated 19.2.1988 in submitting a Pay Bill restricted to minimum monthly salary to my post to AAO Agra Cantt. pending fixation of my pay and allowances. The same could not be made for the month of July in view of lack of instruction from Hon'ble Director, DE Central Command, Lucknow.
8. That as per Hon'ble DMS, Army HQ., AG's Branch New Delhi order/letter NO.13549/II/DMS(B)/dated 3.3.1969 addressed to the then M.E.O. now D.F.O. Agra, that I am deemed to be UDC w.e.f. 3.3.1969 and accordingly I deserve to be further promoted departmentally under reservation quota.

MAXIMUM PRAYER

It is therefore humbly prayed that your kind honour may be pleased to extend your gracious hands to pass favourable order for treating the entire period of suspension as on duty and promote me departmentally treating as UDC w.e.f. 3.3.1969 in the interest of natural justice. For this act of kindness I shall ever remain thankful and pray God for your longevity and prosperity.

Thanking you in anticipation.

Yours faithfully

(Signature) 9/3

Dated : 9.3.1988.

Hcc

Copy in advance to:-
(1) Hon'ble Director, DE, CC, Lucknow
(2) Hon'ble D.F.O. Agra Circle, (Under Transfer to DFO Bareilly)
and Resident of 8/196, Kola wali
West-Beloch No. 4, Free Ganj, crossing AG A-4.
New Delhi.

Received Two Copies

(Signature)

3.88

रक्षा सम्पदा अधिकारी
आगरा मण्डल, आगरा
Despatcher
Defence Estates Officer
Agra Circle

True copy
Submitted
(Signature)
8/2/88

(Signature)

In the Central Administrative Tribunal
Additional Bench Allahabad
Circuit Bench-Lucknow

R.L.Girj

Applicant.

Vs.
The Union of India & Others... Respondant
Annexure no. 4

From:- R.L.Girj, Pt. LDC
G/o DEO, Bareilly Cantt.

To,

1. Hon'ble Director General, DE (Mr. K.M. Sebastian),
Govt. of India, Ministry of Defence,
West Block IV, R.K. Puram, New Delhi-56
(adm & Vig Sections)

2. Director, DE (Mr. L.R. Julka),
Ministry of Defence, Central Command
Lucknow Cantt.

Through:- Proper Channel - DEO, Bareilly Cantt.

Subject:- Appeal by R.L.Girj, Pt. LDC, DEO, Bareilly
Cantt for Promotion as OS Grade-I under
reservation Quota fixing seniority wef
8.7.1958, Fixation of PAA under Rules 1973
& 1986 etc.

.....

Reference Hon'ble DG, DE, New Delhi letter No.109/299/
VIQ/DE dated 10.11.1988 and latest DEO, Bareilly letter
No.BLY/PER/151 dated 27.12.1988

In continuation to my Petition dated 9.6.1988,
I have the honour beg to appeal as under:-

1. That since I have been fully exonerated from the
alleged charges under section 409 IPC by the Competent Court
of Law on 31.3.1984 and as well as by the Disciplinary Authority
(D, DE, CC, Lucknow) letter No.32142/LCE/Conf/R.L.Girj dated
7.10.1988, I am entitled for all departmental promotions
as and when fell due counting my seniority wef 8.7.1958
in terms of Army HQ AG's Branch, Ministry of Defence, New Delhi
letter No.7833/Agg/Org 4 (GV) (b) dated 29.4.1983 copy of
which has already been forwarded to your Dte Gen under DEO,
Bareilly Letter No.BLY/PER/151/ dated 27.12.1988 having be
transferred from SHO, Jhansi to the then MEO, Agra for
permanent duty on compassionate grounds including all arrears
benefits etc.

2. That I was illegally and vindictively placed under
suspension wef 1.10.1968 to 1.2.1983 which was revoked wef
2.2.1988 vide Hon'ble Director, DE, Lucknow Cantt letter No.
32142/LCE dated 2.2.1988 and simultaneously was transferred
to DEO, Bareilly from DEO, Agra ignoring my age factor
and Hon'ble DG, DE, New Delhi letter No.133/26/ADM/LAC/83
dated 3.6.1983 shifting from my Home Station-AGRA.

3. That DEO, Agra has not deliberately fixed my Pay
and allowances under Revised Pay Rules 1973 & 1986 respectively
and has now raised certain objections at a very late
stage adopting delivery tactics as under:-

(3/5)

letter No.1/A/554/Conf/ dated 24.12.1988 instead of complying with the orders of D, DE, CC, Lucknow letter No. 22142/LCH/Conf/R.L.Girj letter dated 7.10.1988:-

- (a) As to whether the specific sanction of the Competent Authority to Cross E.B. on 2.3.1972 by Sri R.L.Girj, IDC, is necessary in this case,
- (b) As to whether the options of Sri Girj for revised Scales of 1973 & 1986 respectively, are necessary, (Since submitted to DEO, Agra)
- (c) Confirmation to the fact that suspension period of Shri R.L.Girj, is to be treated as unjustified, as he has been allowed full P&A by Disciplinary Authority for the period of suspension. In this connection when a Government Servant is fully exonerated in Disciplinary Proceedings or in Competent Court of Law, the suspension order has become unjustified automatically under existing Rules and other provisions of law.
- (d) Whether necessary action for the pay fixation of Sri R.L.Girj, IDC and completion of specific entries in his service book shall be taken receipt of further instructions from Competent Authority (Director, DE, CC, Lucknow). Here it is pertinent to submit that my service book is not completed deliberately from the date of my suspension wef 1.10.1988 onwards.

In this connection above DEO, Agra letter No. 1/A/554/Conf/ dated 24.12.1988 is enclosed herewith for your perusal and earliest suitable orders please as I have already faced with miserable life along with my family members during my suspension period. I am shall be retired wef 31.1.1991 and if my fixation of pay and promotions are not made earliest, I shall further face with extreme miserable life with my family members.

It is, therefore, humbly prayed that your kind honour may be pleased to issue necessary orders for my Promotion to GS/Grade-I under reservation quota and post me at my Home Station Agra, directing to the DEO, Agra for fixing my P&A under RP Rules, 1973 & 1986 and pay all legitimate arrears of pay and allowances at and early date with 12% usual interest thereto as he is adopting delitory tactics with malafide intentions.

Thanking you anticipation.

Yours faithfully

Dated 5.1.1989 (R.L.Girj, P.O. IDC)
DEO, Bareilly Cantt.

R. Girj

(3) Annexure to the letter dated 25.1.1989

True Copy
Attended

J. S. Sharma
012190

In the Central Administrative Tribunal
Additional Bench Allahabad
Circuit Bench-Lucknow

R.L.Girj

Applicant.

Vs.
The Union of India & Others...

Respondent

Annexure no. 5

Reminder Representation

Dated:- 29.9.89

To,

Hon'ble Defence Minister
(Mr. K.C. Pant),
Ministry of Defence,
New Delhi

Subject:- Special appeal dated 6.4.1989 for departmental promotions^u and when fell due as a Office Supereintendent Grade-1, under reserved quota being a senior most Group 'C' s taff member and belonging to Scheduled Caste and also transfer back to Home Town (AGRA) on compassionate grounds.

.....

Hon'ble Sir,

It is most respectfully submitted that decision/justice on my above subject Special appeal dated 6.4.1 989 (copy a ttached) besides several other petiti ons already submitted to your kind honour amongst others, is still awaited.

Prayer

I, therefore beseach you Sir, your nobility to be benevolent enough to kindly allow my above subject appeal dated 6.4.1989 and direct to Hon'ble DG, DE, Ministry of Defence, West Block No. Qx IV, R.K. Puram, New Delhi and other concerning a uthorities as under:-

(1) To promote me as Office Superintendent Grade-I under reserved quota as per existing Government policies/instructions as m-ny junors to me are promoted as Cantt. Executive Officer and post me in existing vacancy in the office of D.E.O., Bareilly Circle, Bareilly Cantt, a-ready fell due treating me as UDC wef 3.3.1969 as per Army Hrs AG's Branch, Medical Dte, New Delhi letter No. 13549/11/DLS 3 (b) dated 3.3.1969 issued to then A.E.O., Agra (Now DEO, Agra) counting my seniority from the da te of my initial appointment wef 8.7.1958 and simultaneously transfer me to my Home Station at DEO, Agra Circle from DEO, Bareilly as O/S Grade-I on compassionate grounds being retired wef 31.1.1991 as per Hon'ble DG, DE, Ministry of

R. Girj

Defence , New Delhi letter No.133/26/ADM/LCE dated 3.6.1983.

(2) to make my all outstanding legitimate payments of my P&A within 30 ~~day~~ days during my entire period of suspension wef 1.10.1966 onwars, fixing my P&A under revised pay Rules 1 973/86 as per Hon'ble Director, DE, CC, Lucknow letter No.32142/LCE/Conf/R.L.Girj dated 7.10.1983 and Hon'ble DG, DE, New Delhi letter No.109/299/Vig/DE dated 16.11.1983 as I am being paid very meagre monthly minimum salary of my lower grade.

Under the circumstances and fact already prayed in my attached special appeal dated 6.4.89, your kind honour may be pleased to allow it with suitable instructions to all ~~concerned~~ concerning authorities for which I shall ever remain grateful and shall pray God for your long life and prosperity.

Thanking you in anticipation.

Yours faithfully,

Sd//XX
(R.L.Girj)

Pt. IDC ((On leave)

C/o DEO, Bareilly Circle,

Bareilly Cantt.

Dt. 29.9.1989

Copy for favour of similar necessary action and justice to:-

1. Hon'ble State Home Ministry (Mr. P.Chindambran). *
2. " Defence Secretary (Mr. S. Sahasan) *
3. " Director General, DE (Mr. K.M. Sebastiah), *
Ministry of Defence, West Block No. IV, R.K. Puram,
New Delhi- with the prayer to kindly refer my
Reminder (1) Telegram dt. 4.8.89 and inland
letter dt. 28.7.89.
4. " Director, DE (Mr. L.R. Julka), Central *
Command, Lucknow Cantt.
4. " DEO, Bareilly Circle, Bareilly Cantt. *

* My above subject special appeal dt. 6.4.89
may kindly be referred please.

R. Girj

*True copy
submitted*

J. Asif
5/12/90

(11/12/90)

The Central Administrative Tribunal
Additional Bench - Allahabad
Circuit Bench - Lucknow.

R.L.Girj

... Applicant

Vs.

The Union of India & Others... Respondent.

Annexure no.'6'

L.R. Julka,
Director

No.31 412/ LCF

22nd Jan. 90

Please refer to correspondence relating with our letter no.32142/LCF dt.20.12.89 and send post copy of telegram of DG, DE letter no.133/614/DDM/DE dt.1 Jan.90 regarding regularisation of period of absence of Shri R.L. Girj, LDC of DEO, Bareilly Circle, Bareilly, during relevant period of time he was on the strength of DEO, Agra, as such the period of absence has to be regularised by your office by way of grant of leave as admissible under leave rules. It is surprising to note that the matter is being delayed by making avoidable correspondence, despite clear rule position and instructions from this Directorate. His pay is also required to be fixed on the relevant scale. I would like to remark that the individual concern is due to retire within next couple of years. Non settlement of such long issues will create hardship to the individual concerned and may also be adversely viewed by the higher authorities. You shall be responsible

R. Julka

5
8/12

2.

attention to the above said matters and finalise the same within a fortnight of this communication. A compliance report should be submitted to this Directorate and Directorate General.

Yours

sd/-

(L.R. Julka)

Sri O.P. Kajriwal,
DEO, Agra.

Copy to:

1. The DG, DE, Govt. of India,
Minister of Defence, R.K. Puram,
New Delhi-66
2. The DEO, Bareilly.

True copy.

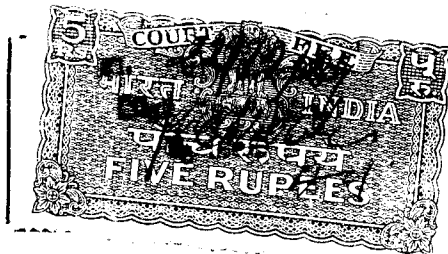
(Signature)

True copy
attested
J. S. Jha
9/11/90

ब अदालत श्रीमान *Central Police Station* महोदय
 वादी अपीलान्त *Shri. B. S. Singh*
 प्रतिवादी रेस्पाडेन्ट *Shri. B. S. Singh* का **वकालतनामा**

(8/1)

R. L. G. S.



(अपीलान्त)

Shri. B. S. Singh

बनाम

प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री प्रयाग नारायण बाजपेई

एडवोकेट एवं श्री कार्तिकेय बाजपेई एडवोकेट भैरो जी

रोड, लखनऊ महोदय

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

हस्ताक्षर

R. L. G. S.

साक्षी (गवाह)

Shri. B. S. Singh

साक्षी (गवाह)

दिनांक

5

महीना

2

सन् १६ १० ई०

Shri. B. S. Singh
5/2/90

(7)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

C.A No. 96 of 1990 (L)

C M AMH MO M. P. No. 580/90 (4)
of 12/9/90

R.L. Girj

... Applicant

-vs-

Union of India and others

.. Opposite parties

APPLICATION FOR CONDONATION OF DELAY IN FILING C.A.

.....

The opposite parties beg to submit as under:-

1. That due to some inadvertance and oversight, counter affidavit on behalf of opposite parties could not be filed in the stipulated time.
2. That now the counter affidavit is ready for filing and is being filed herewith and it is expedient in the ends of justice that the accompanying counter affidavit be taken on record after condoning the delay.

Wherefore, it is most humbly prayed that the accompanying counter affidavit may be taken on record.



(J.K. Chaudhary)

Addl Standing Counsel for Central Govt
Counsel for opposite parties.

Lucknow,

Dated: 12 Sept 1990.

Filed today
Sd/-
12/9/90

BEFORE THE HONBLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

REG. C.A NO.46 of 1990(L)

Shri P.L. Girj

... Applicant

-versus-

Union of India & others

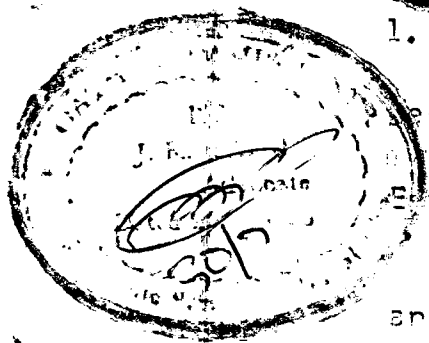
... Respondents.

COUNTER AFFIDAVIT ON BEHALF OF THE DEPT. OF DEF.

I, Ved Prakash aged about 43 years,
son of Shri *Budh Singh*
resident of *Lucknow*
do hereby solemnly affirm and state as under:-

1. That the deponent is posted as
Deputy Director in the office of the Director, Defence
Estates, Central Command, Lucknow (Respondent no.2)
and has been authorised to file this affidavit on
behalf of all the respondents.

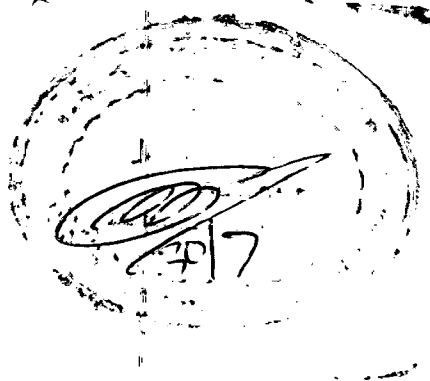
2. That the deponent is well conversant with
the facts of the case, he has read and understood
the contents of the application filed by the
applicant as well as the facts deposed to here in
under in reply thereof.



Wafar

3. That before giving paravise reply to the contents of the application it would be proper to give a brief history of the case of the applicant which is as under:

- a. (a) That the applicant who joined the organisation with effect from 12.5.1962 on the compassionate transfer from SIT Jhansi through IG's Branch, New Delhi was placed under suspension with effect from 18.10.1966 vide Dte. Defence Estates Central Command letter No.32142/LCE dated 1.10.66 and subsequently dismissed from the service with effect from 11.11.1970 vide Dte. DE , Central Command letter No. 32142/LCE dated 10.11.70.
- (b) That the applicant was fully exonerated from the allegation under Section 402 IPC by the Hon'ble Additional Chief Judicial Magistrate, Agra vide Judgement dated 21.2.84. The Director, Defence Estates, Central Command, Lucknow cancelled the disciplinary order of 1970 and treated him as deemed to be placed under suspension since 1966 vide Dte. DE, CC letter No.32142/LCE dated 10.1.85. Further his suspension was revoked vide Dte. Defence Estates, Central



Handwritten signature

8/5

-3-

Command letter No.32142/LCE/dated 2.2.1988
with effect from 2.2.1988.

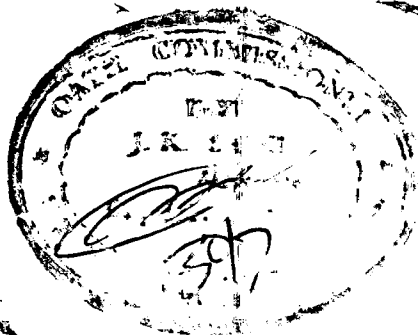
(c) That the applicant ~~has~~ Shri Girj, LDC
has now requested for his promotion to the
grade of LDC, Technical Assistant and Office
Supdt. etc., at par with his juniors. In
accordance with CCS(CCA) Rules 19 and 20 of
Appendix. ~~Shr~~ the applicant can be promoted
to the higher grade since he has been fully
exonerated from the allegations made against
him.

(d) That the criterion for promotion to the
higher grade as per the Recruitment Rules are

as under:-

- | | |
|------------------------------|--|
| (i) LDC | .. Non selection-seniority-cum-Fitness. |
| (ii) Technical-Assistant | .. Selection Merit |
| (iii) Office Supdt. Grade-II | .. Selection -Merit |
| (iv) Office Supdt Gr.I | .. Non-selection - seniority -cum-fitness. |

(e) That in the case of the applicant the record
is available only for a period of 3 years ie.
1963 to 1966. The applicant remained suspended
from 1966 to 1988. In his case we have no
record for 22 years. After his reinstatement 2 ,
ACRs for the period 1988 to 1990 will be available
with the Department. His first promotion could be



mark

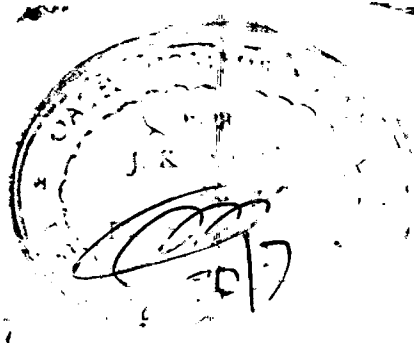
to the grade of UDC, which is a non-selection post. This promotion will be given to him on the basis of the record of 3 years 1962 to 1966. There should be no problem in so far as this promotion is concerned and the applicant may be promoted in his turn subject to being declared fit by the DEC.

(f) That since suspension order of the applicant has been revoked only with effect from 2.2.1988, no ACRs would be available to be considered for promotion to higher grades. Moreover, the posts of Technical Assistant and Office Bundt. are selection post. No doubt has, therefore, arisen as to how the seniority promotion would be given to him in the absence of ACRs.

4. That the particulars given by the applicant in para 1 of the application are not in accordance with the rules. In this para the applicant should have given the particulars of the orders against which he has filed this application as such the same do not require any comments.

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

6. That in reply to the contents of para 3 of the application it is submitted that most of the claims



with

of the applicant seems barred by time as per limitation provided in the Administrative Tribunal Act.

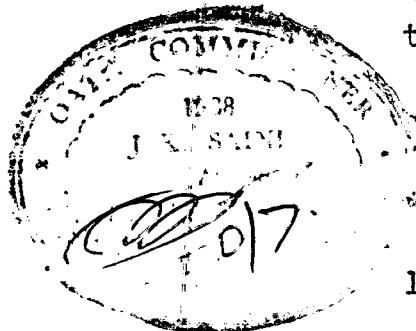
7. That the reply to sub para (1) to (26) of para 4 of the application is being given as under:-

8. That the reply to the contents of para 4(1) of the application are admitted being matter of record.

9. That in reply to the contents of para 4(2) of the application it is submitted that the applicant joined Defence Estates Organisation (DEO Agra Circle, Agra) with effect from 13.5.1963 on compassionate transfer from SIK, Jhansi through Adjutant General Branch of Army Headquarters.

10. That in reply to the contents of para 4(3) of the application it is submitted that the applicant was not involved in a case of embezzlement and was placed under the suspension with effect from 1.10.1966.

11. That in reply to the contents of para 4(4) of the application it is submitted that the applicant was convicted by the Trial Court and the Disciplinary authority dismissed him from Government service with Director, Defence Estates, Central Command letter



mark

No. 32142/LCE dated 10.11.70.

12. That in reply to the contents of para 4(5) of the application it is submitted that the applicant has filed a case in the Hon'ble High Court against his conviction who remanded it to the Trial Court for fresh trial. The Trial Court finally decided the case and acquitted him vide 'dd1. Chief Judicial Magistrate, Agra judgement dated 31.3.84.

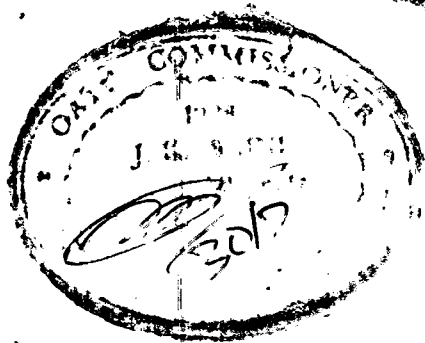
13. That in reply to the contents of para 4(6) of the application it is submitted that in view of his exoneration from the trial court the disciplinary authority- the Director, Defence Estates, Central Command, Lucknow cancelled the dismissal order of 1970 and treated him as having continued under suspension since 1966 vide Director, Defence Estates Central Command letter No.32142/LCE dated 10.1.1985.

14. That in reply to the contents of para 4(7) of the application it is submitted that a departmental inquiry was held and his suspension was revoked during the pendency of inquiry from 2.2.1988.

15. That in reply to the contents of para 4(8) of the application it is submitted that the applicant was exonerated from the charges and was reinstated vide Director, Defence Estates, Central Command order dated 7.10.88.

16. That in reply to the contents of para 4(9) of the application it is submitted that after his reinstatement the applicant requested for his promotion to the grade of VDC, TA, CS etc. at par with his juniors. In accordance with the CCS(CCA) Rules 19 and 20 an employee can be promoted to the higher grades once he is fully exonerated from the charges. The applicant was in the first instance was taken on ~~examined~~ the strength of Defence Estates Office, Bareilly as LDC - the post which he had held before his suspension in 1966. The arrears of salary admissible to him as LDC for the period of suspension are being worked out by Defence Estates Officer, Agra and shall be paid to him shortly.

17. That in reply to the contents of para 4(10) of the application it is submitted that the applicant may be promoted to higher grades under rules 19 and 20 of CCS(CCA) Rules provided his performance has been good and he is eligible for promotion to the selection grade posts on the basis of merit.



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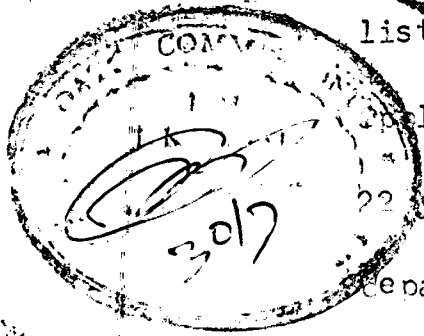
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18. That in reply to the contents of para 4(11) of the application it is submitted that the applicant will be entitled to seniority with effect from the date he joined Defence Estates organisation ie. 12.4.1963. Service rendered by him in other Department/organisation cannot be treated as qualifying service for the purpose of promotion to higher grades in Defence Estates Organisation under Govt rules on the subject. He will of course be entitled to retirement benefits for his entire Government service including the service rendered by him in CCD Agra.

19. That in reply to the contents of para 4(12) of the application it is submitted that in the seniority list of LDCs as in 1966 Shri PR Yadav was Junior to the applicant and he has got his promotion during the last 22 years based on his record and after passing the departmental examination for promotions and Shri Yadav now holds the post of CEC , Group 'B' post.

20. That in reply to the contents of para 4(13) of the application it is submitted that the criteria for promotion to the higher grades as per the Government rules is/under:-

- (a) From LDC to UDC - Non selection post on the basis of seniority.
- (b) From UDC to T^A - Selection post | seniority-cum-merit.
- (c) From T^A to CS-II - Selection post |



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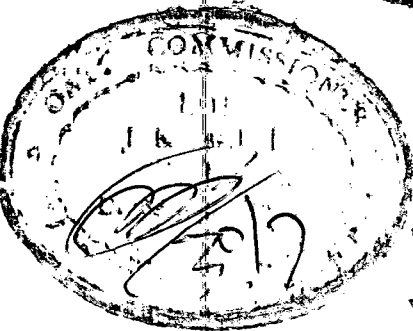
(d) From OS-II to OS-I .. Selection post-seniority

(e) The promotion to the post of CEC Gp. (B) is based on promotion examination conducted by the Department.

21. That in reply to the contents of para 4(14) of the application it is submitted that the applicant was exonerated of the charges vide Director, Defence Estates Central Command order dated 7.10.1988.

22. That in reply to the contents of para 4(15) of the application it is submitted that the applicant was ~~ex~~ not awarded any punishment under CCS(CA) Rules but the disciplinary authority reprimanded him for his failure to discharge his duties and responsibilities as a conscientious employee. The applicant filed an appeal against the order of the disciplinary authority with the appellate authority the Respondent No. 4, who informed him vide EG DE letter No. 109/200/Vig/DE dated 10.11.88 that no statutory punishment has been awarded to him and therefore no appeal lies to appellate authority. He was informed that reprimand is not a punishment and will not come in his way as far as his promotions to higher posts are concerned.

23. That in reply to the contents of para 4(16) ^{to 4(21)} of the application it is submitted that the case of the promotion of the applicant to the higher grades is still under consideration of the Ministry of Defence.



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The problem is that the applicant remained out of job for 22 years and no annual confidential reports on his performance are available for consideration by the Department promotion committee. The promotion to selection post, is strictly made on the basis of comparative merit of the employees concerned as reflected in the annual confidential reports of the employees. The promotion to the post of UDC can be made on the basis of seniority as the UDC a non-selection post. But the promotions to the post of TA and CS are to be based on the ~~apprxxvax~~ appraisal of their performance. The case of the applicant is under consideration of the Respondents. The applicant has been informed about this and further action will be taken in due course. As already stated above the criterion for promotion to selection posts like that of TA/CS -II is merit-cum-seniority and not seniority alone.

24. That in reply to the contents of para 4(21) and 4(22) of the application it is submitted that the applicant is being paid arrears of his salary for the period of suspension and increments in the LDC grade will also be granted to him.

25. That in reply to the contents of para 4(23) of the application it is submitted that the Defence

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Estates Officer, Agra has already taken steps to ~~exh~~ claim the arrears of pay from the Controller of Defence Accounts (CDA) Central Command so that the amount is paid to the applicant as soon as possible.

26. That in reply to the contents of para 4(24) of the application it is submitted that efforts are being made to finalise arrears of salary & payable to the applicant as soon as possible. In respect of promotion the Ministry of Defence/Department of Personnel and Training have been consulted and as soon as their views are available, appropriate action will be taken.

27. That in reply to the contents of para 4(25) of the application it is submitted that the applicant has been given full justice and was reinstated as soon as he was acquitted by the trial court.

28. That in reply to the contents of para 4(26) of the application it is submitted that there is no provision for the payment of interest by the Government in respect of arrears of salary which became due only & after the reinstatement of the applicant.

29. That in reply to the contents of para 5 of the application it is submitted that the case of the applicant for his promotion is under consideration of the Respondents and the fact that he is a

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SC candidate, will also be taken into account at the time of consideration for promotion to the posts for which he will be entitled in the absence of his performance reports. The payment of arrears of salary will be made to the applicant very soon as the bills are passed by the CDA, Central Command.

30. That in reply to the contents of para 6 of the application it is submitted that the representations submitted by the applicant to the Respondent no.4 and the higher authorities are still under consideration but no action can be taken now as the matter is sub-judice before this Hon'ble Tribunal.

31. That the contents of para 7 of the application need no comment.

32. That in reply to the contents of para 8(a) of the application, it is submitted that the case of the applicant for adopting the criteria in connection with his ~~xxxx~~ annual ~~xxxx~~ Confidential Reports to determine his merit vis-a-vis others for promotion to selection posts is under consideration. The applicant has been informed about this and further action will be taken in due course as per the decision

which unilaterally reached with regard to the criteria to be adopted for his promotions.

32. That in reply to the contents of para 8(b) and (c) of the application it is submitted that as already stated above, arrears of salary due to him as LDC, in the first instance, for the period of suspension are being worked out and will be paid to him shortly.

33. That in reply to the contents of para 9(a) of the application it is submitted that arrears of salary will be paid to him shortly.

34. That in reply to the contents of para 9(b) of the application it is submitted that as soon as a decision is reached with regard to the criterion to be adopted for promotion of the applicant, the DPC will be held and promotions which he deserves will be granted to him and orders will be issued as per directions of this Hon'ble Tribunal.

35. That the contents of para 10 of the application it is submitted that these are formal and need no comments.

36. That the applicant is not entitled to get any of the reliefs as claimed and the petition is liable to be dismissed being devoid of any force of law or merits.



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

[Signature]
Depnent.

Lucknow,

Dated: 30/7/80 *[Signature]*

Verification.

I, the above named deponent Shri Ved Prakash do hereby verify that the contents of para 1 to 2 are true to my personal knowledge and those of paras 3 to 35 are believed to be true on the basis of official records and information gathered and those of paras 36 & 37 are also believed to be true on the basis of legal advice. Nothing material fact has been concealed and no part of it is false.

[Signature]
Depnent

Lucknow,

Dated: 30/7/80 *[Signature]*

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

[Circular Stamp: 30/7]

[Signature: Ved Prakash]
(VK CHAUDHARI)
Addl. Standing Counsel for Central Government
(Counsel for the Respondents)

[Signature: V.K. Chaudhary]
I have read the contents of this affidavit which has been read out and signed by me. Recd. & P. 1

[Signature: S. K. Chaudhary]
Commissioner of Civil Services
Court Complex, Lucknow
Date: 30/7/80