

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/PT ...60/90... of 20.....

Lakta Charan

Applicant(S)

Versus

U.O.9 -

Respondent(S)

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Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

B-C file needed & listing

25/12

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

21/2/20

Registration No. 60 of 1969

APPLICANT(S) Lalla Charan

RESPONDENT(S) U.O.

Particulars to be examined

Endorsement as to result of examination

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

Yes
Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

NO

(A)

Particulars to be Examined

Endersement as to result of examination

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

Yes
 Yes
 No
 Yes
 Yes
 NA
 Yes
 Yes
 Yes

dinesh/

(A3)

Serial of pages etc	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
------------------------------	---	---

23.2.90

Hon'ble Justice K. Math, V.C.

Hon'ble Mr. K. Obayya, A.M.

Admit.

Issue notice to respondents to file reply within four weeks to which the applicant may file rejoinder within two weeks thereafter.

In the matter of interim relief issue notice and list for orders on 9.3.1990. Till then the operation of the impugned termination order dated 14.2.1990 contained in Annexure I shall remain stayed.

A.M.

V.C.

rrm/

cor
rected
8/27/90

23.3.90

Hon. D.K. Agrawal, J.M.

Hon. K. Obayya, A.M.

Shri U. Hasan for applicant.

Shri A.K. Chaturvedi for respondent 4.

C.M. Application No. 171/90 was taken up. The facts that application under section 19 of the A.P. Act was filed on 21.2.90. An ad-interim was issued in favour of the applicant on 23.2.90, staying the operation of the impugned order contained in Annexure-1 dated 14.2.90. The impugned order is an order of termination passed under Rule 6 of Extr. Departmental Staff Service Rules. Under the aforesaid rule, the appointing authority has been empowered to terminate the services of an employee who has held the post for a period specified therein without assigning reasons. In the instant case, the applicant was appointed on 17.10.89 and the order of termination was passed on 14.2.90 i.e. within 6 months of the appointment. As such the operation of the order of termination cannot be stayed. Consequently, the prayer of the opposite parties is allowed. The ad-interim order dated 23.2.90 is hereby vacated. Put up on the date already fixed i.e. 2.5.90.

A.M.

J.M.

C in 17/1/90
filed today
20/1/90

OK

The L.C. for the
O.P. No. 1 was filed
E.M. No. 171/90
for vacation of stay
along with JCA
on behalf of opposite

As per order dt.
23.2.90, notices
were issued on 20.2.90
Neither reply
nor any unsent
ord. Decree has been
return back
S.F.O.

OK

No CA filed
S.F.O.

4/5/90

60/9016

(A4)

24.10.90

No sitting Adj to 23.11.90

(W)

23/11/90

Hon. Mr. Justice K. Math, J.C.
Hon. Mr. M. M. Singh, A.M.

As directed by the learned
Counsel for both the parties
list the case for hearing
on 12/12/90. The interim
orders shall continue till
then.

OR
The per cent's order
dt 1.11.90, Lk for the
applicant has noted
date & Notice was
issued to the applicant
No answer yet
checked has return
back.
s fo

L
24/11

M. M. J
A.M.

Q
V.C.

OR
S.P.H
7/12

12.12.90

Hon. Mr Justice K. Math, J.C.
Hon Mr K. Bhatnagar A.M.

Put up tomorrow. On 13.12.90
stay will continue till tomorrow.
A.S.

12.12.90

Hon. Mr Justice K. Math, J.C.
Hon Mr K. Bhatnagar, A.M.

Put up tomorrow
as per heard case.
Stay will continue till
tomorrow.

E
K.B.

Jh
N.C.


21 60/90(L)

14 12 90

Hon. Mr. Justice K. N. K. V.C.
Hon. Mr. Kirby C. J. M.

(AS)

Arguments heard.
Judgment reserved.


V.C.


D.M.



22.1.91


Hon. Mr. Justice K. N. K. V.C.

Judgment pronounced today


V.C.

Received Copy
but not the file
24/1/91

Received Copy
of judgment
22-1-91


28/1/91

(AG)

This judgment has been reviewed and substituted by
Judgment dated 22.1.91; copy of this judgment shall not be issued

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Jusals.
22.1.91

LUCKNOW CIRCUIT BENCH

Registration O.A. No.60 of 1990 (L)

Lalta Charan Applicant

Versus

Union of India & Others Respondents

Hon.Mr.Justice K.Nath, V.C.

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

(By Hon.Mr.Justice K.Nath, V.C.)

This application under Section 19 of the
Administrative Tribunals Act, 1985 is for quashing an
order dated 14.2.90, Annexure-I terminating the appointment
of the applicant Lalta Charan as Extra Departmental
Branch Postmaster at Ganeshpur and further for quashing
the appointment of respondent No.4 Kamal Singh on that
post by Annexure-D4 dated 14.2.1990.

2. The facts of the case are not in dispute. To
fill the vacancy of the E.D.B.P.M., five names were
sponsored by the Employment Exchange on the requisition
of the Supdt. of Post Offices, respondent No.3. These
included the names of the applicant as well as respondent
No.4. By order dated 17.10.89, Annexure-5 of respondent
No.3 who is the appointing authority, the applicant, after
selection, was appointed to the post and he took charge
of the office on 19.10.89.

3. Respondent No.4 appears to have made an appeal
by Annexure-D.3 dated 19.10.89 to the Director of Postal
Services, respondent No.2 against the appointment of the
applicant. By Annexure-R2 dated 5.2.1990, the respondent

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(A7)

No.2, after perusal of a letter dated 5.1.90 of respondent No.3 and the appointment file, the Director cancelled the appointment of the applicant and directed to issue an order of appointment of respondent No.4. He also informed respondent No.4 accordingly by a letter dated 16.2.90, Annexure-8. In para 4 of the counter of respondent No.3 it is stated that in compliance of the directions contained in the letter dated 5.2.90, Annexure-R2 of respondent No.2 he terminated the services of the applicant in exercise of powers under Rule 6 of the P&T EDA (Conduct and Service) Rules, 1964 and issued the appointment letter, Annexure-D4 on the same date in favour of respondent No.4.

4. The applicant's case is that the appointing authority was respondent No.3 and since the respondent No.3 had selected the applicant in accordance with the prescribed procedure and gave appointment to the applicant on that basis, respondent No.2 was not competent to cancel the appointment. It is next said that even if respondent No.4 had filed any appeal to respondent No.2 against the appointment of the applicant, the respondent No.2 was bound to give opportunity to the applicant to defend his appointment on the principles of natural justice but the respondent No.2 violated that requirement of the law.

5. Counters were filed separately on behalf of respondents 1 to 3 and respondent No.4. According to respondents 1 to 3 the services of the applicant were terminated and respondent No.4 was appointed in his place in compliance of the orders of respondent No.2. It was next said that the termination under Rule 6 of the

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E.D.A. (Conduct and Service) Rules, 1964 did not require any opportunity to be given to the applicant. It is significant that this counter does not set out any reasons to show that the appointment of the applicant was invalid.

6. In the counter of respondent No.4 it is stated that an appeal lies against the impugned termination order dated 14.2.90 under Rule 15 of the E.D.A. (Conduct and Service) Rules which the applicant had not preferred and therefore this application is not maintainable. It is next said that while the minimum educational qualification for appointment of EDBPM is 8th standard passed according to the Rules, the applicant had secured only 232 marks in the High School examination whereas respondent No.4 had secured 240 marks and therefore respondent No.4 had superior educational qualification. It is next said that according to departmental instructions a candidate should have adequate means of livelihood but Lalta Charan did not have an adequate source of income and therefore he was not entitled to be appointed. The appointment of applicant by respondent No.3, according to this counter, was arbitrary.

7. In his rejoinder to the counter of respondent No. the applicant stated that he possessed the qualification of B.A. pass and had adequate means of livelihood and income which had been duly verified by the postal authorities. He claimed to have possessed agricultural land and a pukka house containing the room which could be utilised for post offices. He reiterated that while his appointment was perfectly valid and is according to law, his termination and the appointment of respondent No.4 is

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arbitrary and illegal. This application having been filed on 21.2.90, it was admitted by this Bench on 23.2.90 and at the same time an interim order was issued staying the operation of the impugned termination order dated 14.2.90 contained in Annexure-I. That interim order was vacated on 23.3.90.

8. When this case was taken up for final hearing today Shri P.L. Mishra appeared on behalf of the applicant; no one appeared on behalf of the respondents. We have gone through the record of the case and have heard Shri P.L. Mishra.

9. The preliminary submission of respondent No.4 that the application is not maintainable because the applicant did not file an appeal against the termination order has no substance. In the first place, the Rules provide for an appeal under Rule 10. This provision is confined to an order putting an employee off duty or against a punishment order under Rule 7. There is no provision of appeal against an appointment.

10. Even if we construe the so-called appeal to be only a motion for review under Rule 16, it could not serve any useful purpose of the applicant because the motion for review would have to be made to respondent No.2 who is the authority immediately superior to respondent No.3 who passed the termination order. The impugned termination order was passed under the directions of respondent No.2 and therefore any motion for review to respondent No.2 would be meaningless.

11. In any event the competence of the Tribunal to admit a petition even if some of the remedies available,

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(A10)

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if at all, were not availed of is beyond dispute in so far as Section 20(1) of the Administrative Tribunals Act, 1985 only says that a Tribunal "shall not ordinarily admit an application" in such a situation. The circumstances of the present case are such as called for the admission of the petition without waiting for the applicant to approach the superior authority.

12. The question as to which of the two parties namely the applicant and respondent No.4 was better qualified or more suitable to be appointed was a matter specifically for the consideration of the appointing authority namely respondent No.3; and once the respondent No.3 had exercised his powers in that regard, vested civil right accrued in the person selected and appointed who also assumed charge of the office in consequence of the appointment. It is clear from the orders of respondent No.2 that he had acted on the so-called appeal of respondent No.4 and on perusal of the record of respondent No.3. As already mentioned there is nothing in the counter on behalf of respondents 1 to 3 (which obviously includes respondent No.2) to show that the appointment of the applicant was invalid or improper. All that is stated is that the applicant having been duly appointed through the proper procedure of selection the respondent No.2, on the complaint of respondent No.4, ordered the appointment of the applicant to be cancelled and it was in compliance of that direction the respondent No.3 passed the order, Annexure-I terminating the services of the applicant and Annexure-D4 appointing respondent No.4. No facts or circumstances have been set out in the counter of respondents 1 to 3 to show that the applicant's appointment was invalid. Fairness and justice demanded

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(11)

- 6 -

therefore that before the appointment of applicant was cancelled he should have been given an opportunity to contest the so-called appeal (in effect a complaint) of respondent No.4 contained in Annexure-D3. This is a basic requirement of the principles of natural justice which flow from Articles 14 and 16 of the Constitution of India. The provision of Rule 6 that the services of an employee who has not already rendered more than 3 years continuous service "shall be liable to termination by the appointing authority at any time without notice" does not imply that the fundamental obligation to act fairly and justly is done away with. The expression "without notice" does not include the expression "show cause notice". The Rule dealt with termination of services, and the ordinary method of termination of services in the Service Jurisprudence is to terminate it by one month's notice or by payment of Pay & Allowances in lieu of notice. An Extra Departmental Agent does not get any pay; he only gets some allowances which does not fall into the category of salary. When an Extra Departmental Agent proceeds on leave he does not get even allowances for the leave period much less for the period of absence from duty. In other words, an Extra Departmental Agent gets allowances only when he actually works. It is in this spirit that the expression "notice" is used in Rule 6; the significance is that his services may be terminated immediately, i.e. without notice. It does not mean that ^{where} fairness and justice demand an opportunity to be given to show cause, even that opportunity is done away with by Rule 6. There can be no doubt that the termination of the services of the applicant have visited him with civil consequences. He must therefore

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have had an opportunity to show cause before his appointment could be terminated.

13. It is also noticeable that the power to act under Rule 6 is a power vested in the Appointing Authority, not ⁱⁿ any superior authority. The Appointing Authority has to apply its own mind and exercise its own discretion and judgement in the matter. He can ^{not} be forced by superior authority to act in a manner which he considers to be erroneous or improper. In the case before us, the Appointing Authority, respondent No.3 has only acted in compliance of the directions of the superior authority, respondent No.2 and has not applied his own mind to the problem. The impugned termination order therefore also suffers from the vice of non-application of mind.

14. The result of the above finding is that the application must succeed.

15. The application is allowed and the impugned order of termination of the applicant's services contained in Annexure-I and of the order of appointment of respondent No.4 contained in Annexure-D4, both dated 14.2.90, are quashed. Respondents 1 to 3 are directed to permit the applicant to function as EDBPM at Branch Post Office Ganeshpur, District Kheri in consequence of his original order of appointment within one week of the date of the receipt of the copy of this judgement. The applicant shall not be entitled to any allowances for the period between 14.2.90 to the date when he actually reassumes office of the post in question. Parties shall bear their costs of this petition.

This judgement has been reviewed and substituted by judgement dated 22.1.91; copy of this judgement shall not be issued.

Amal
22.1.91.

[Signature]
Member (A)

[Signature]
Vice Chairman

Dated the 28th Sept., 1990.

RKM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Lucknow Circuit Bench

O.A. No.
T.A. No.

M.P. No. 615/90 (L)
Name: Gangai Singh
60

Applicant - Respondent
1990

DATE OF DECISION _____

Smt. Charan Petitioner

Smt. S. Hasan Advocate for the Petitioner(s)
P.L. Mishra Versus

Gangai Singh Respondent

Smt. Smt. Charan 1003 Advocate for the Respondent(s)
Smt. P.L. Mishra

CORAM :

The Hon'ble Mr. Justice K. Datta, J.C.

The Hon'ble Mr. K. Chatterjee, J.C.

1. Whether Reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporter or not ? Yes.
3. Whether their Lordships wish to see the fair copy of the Judgment ? Yes.
4. Whether to be circulated to all other Benches ? Yes.

.....

Ghanshyam/

Recd
24/01/91

(AL2)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
LUCKNOW CIRCUIT BENCH

M.P.Application No.615 of 1990 (L)

Kamal Singh Applicant-Respondent No.4
With O.A. No.60 of 1990 (L)

Lalta Charan Applicant

Versus

Union of India & Others Respondents

Hon.Mr.Justice K.Nath, V.C.

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

(By Hon.Mr.Justice K.Nath, V.C.)

Original Application No.60 of 1990 in which the present applicant Kamal Singh is respondent No.4 was decided by this Bench by judgement dated 28.9.1990 and the impugned order of termination of services of Lalta Charan as EDBPM at Branch Post Office Ganeshpur, District Kheri and the consequential order of appointment of respondent No.4 Kamal Singh on the same post were quashed and respondent Nos.1 to 3 were directed to permit Lalta Charan to function as EDBPM.

2. On 1.10.90 Lalta Charan filed M.P.A.No.615/90 to set aside that judgement which was passed without hearing his counsel and for reasons stated in the application. An order was passed on 1.10.90 to issue notice to the parties and also to the counsel of Lalta Charan for orders and in the meantime the operation of the judgement dated 28.9.90 was stayed.

3. The case was taken up on 14.12.90 when Shri Ashit Kumar Chaturvedi, Advocate appeared on behalf of Kamal Singh, Shri P.L.Mishra appeared on behalf of

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AMU

- 2 -

Lalta Charan and Dr. Dinesh Chandra appeared on behalf Union of India and Others. Arguments were heard on the restoration of application as well as on the merits of the Original Application; the judgement dated 28.9.90 was ignored.

4. The facts are that to fill the post of EDBPM Ganeshpur the Supdt. of Post Offices, respondent No.3 requisitioned names from the Employment Exchange which sponsored five names including the names of Lalta Charan and Kamal Singh. Lalta Charan made an application, Annexure-4 on 24.7.89; Kamal Singh made an application, Annexure-D1 on 1.8.89. By order dated 17.10.89, Annexure-5, Lalta Charan was selected and appointed; he took charge on 19.10.89.

5. Kamal Singh sent a petition of appeal dated 19.10.89, Annexure-D3 to respondent No.2, Director of Posts and Telegraphs Department.

6. Annexure-R2 is a letter dated 5.2.90 of respondent No.2 to the Supdt. of Post Offices, respondent No.3 mentioning that on a perusal of the latter's letter and the appointment file, respondent No.2 cancelled the appointment of Lalta Charan and ordered the appointment of Kamal Singh in his place and desired the appointment order to be issued in favour of Kamal Singh. In compliance of the directions contained in Annexure-R2, the respondent No.3 passed the impugned orders dated 14.2.90, Annexure-1 terminating the services of the applicant under Rule 6 of the P&T Extra Departmental Agents (Conduct and Service) Rules, 1964 (for short the Rules) and Annexure-D4 (also dated 14.2.90) appointing

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- 3 -

Kamal Singh in place of the applicant Lalta Charan. On 16.2.90 Kamal Singh joined the post; the charge report is Annexure-D5.

7. On 23.2.90 the Original Application was filed with a prayer for interim relief; and interim order was issued to stay the operation of the termination order. That interim order was vacated on 23.3.90.

8. The grievance of the applicant Lalta Charan was that the termination of his services without an opportunity by respondent No.2 was contrary to the principles of natural justice and therefore was illegal. It was urged that the Appointing Authority was respondent No.3 who after consideration of the various names sponsored by the Employment Exchange had appointed the applicant Lalta Charan and that respondent No.2 could act only by way of appeal in respect of which opportunity should have been given to the applicant. He also relied upon on Annexure-8, the letter dated 16.2.90 of respondent No.2 to respondent No.4 Kamal Singh with reference to the latter's appeal dated 19.10.89, Annexure.D3 informing that the appointment of applicant Lalta Charan was found to be not in accordance with the Rules and therefore orders for the appointment of respondent No.4 Kamal Singh had been issued to respondent No.3 and that Kamal Singh may contact the respondent No.3. It was urged that even if the appointment of the applicant was found to be not in accordance with the Rules, an opportunity of hearing should have been given to the applicant before cancelling his order of appointment.

File

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9. The case of the respondents is that in view of Rule 6, notice to show cause for termination of the applicant's appointment was not necessary. The Rule says that the services of an employee who has ^{not} rendered more than three years continuous service are liable to be terminated by the Appointing Authority at any time without notice. The learned counsel refers to Instruction No.3 under this Rule published at page 28 of Swamy's Compilation of the Rules (1987 Edn) that in cases of specific acts of misconduct ^{of a person} who has less than three years service, provisions of Rule 6 should not be employed. The contention is that only in cases where the reason for termination is misconduct, action may not be taken under Rule 6 because a regular enquiry is required to be instituted in accordance with Article 311 of the Constitution of India.

10. A similar situation figured before a Bench of this Tribunal in O.A. No.6/90 Dinesh Prasad Yadava Versus Union of India and Others. Dinesh Prasad Yadava was appointed as EDBPM after scrutiny of the names sponsored by the Employment Exchange and he joined the post. The Director of Postal Services, on examination of the appointment file, found that Shakir Ali was more deserving than Dinesh Prasad Yadava. Consequently, he directed the services of Dinesh Prasad Yadava to be terminated in compliance of which the Supdt. of Post Offices issued the termination order. On a plea of Rule 6 being taken this Tribunal held as follows :-

" The power to terminate services without reasons or without an opportunity have to be exercised

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in a fair manner and where such termination is not on account of unsuitability for the post, an opportunity cannot be done away with. There is a distinction between suitability for holding a post and suitability for selection to the post. We are of the opinion that fairness and justice demand that before the applicant's services could be terminated, an opportunity to show cause should have been given to him².

11. It will be appreciated that the appointment of Lalta Charan was not provisional; it was a regular appointment at the end of a selection process. He had also taken charge of the post. He had therefore adequate interest in the post held by him to be entitled to an opportunity to show cause before his appointment was cancelled.

12. A similar view was taken by this Tribunal in T.A. No.1973 of 1987 Satya Prakash Rai Versus Union of India and Others decided on 15.5.1990. Satya Prakash Rai was appointed as an Extra Departmental Delivery Agent against a clear vacancy on creation of a post. That appointment was cancelled on the ground that he was the nephew of one Brij Behari Rai who was working as a Branch Postmaster at the same post office. Simultaneously with cancellation of the appointment of Satya Prakash Rai without notice one Lallan Rai was appointed on the same post. Dealing with the respondents' defence on the basis of Rule 6 this Tribunal held as follows :-

" This Rule cannot override the well established principle of law which flows from the constitutional guarantee of Article 14 of the Constitution of India that a person whose civil rights are sought to be adversely affected is entitled to be heard before he is deprived of those rights.

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ASD

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The learned counsel for the petitioner has placed before us a photo copy of a judgement dated 17.10.84 in ~~what~~ Petition No.1364 of 1977, Hari Shanker Singh Versus The Supdt. of Post Offices, of a Division Bench of the High Court of Judicature at Allahabad, which dealing with Rule 6 of the said rules struck down a termination order on administrative grounds. The Bench referred to an earlier Division Bench decision where it was held that when a person has been appointed as an Extra-Departmental Employee and his selection is cancelled on the ground of irregularity, the order of appointment cannot be cancelled without following the principles of natural justice, i.e. after giving him an opportunity of showing causeⁿ.

13. In our opinion, the law laid down in these cases is squarely applicable to the present case. If respondent No.2 considered the appointment of the applicant Lalta Charan to be in violation of the Rules, it was necessary for him to give an opportunity to the applicant before cancelling his order of appointment.

14. The learned counsel for respondent No.4 said that the applicant should have challenged the validity of order dated 5.2.90, Annexure-R2 in this petition and that there is no mention in the Original Application that the order was invalid. Apart from the fact that the applicant had stated in paras 4(xv) and (xvi) of the application that the applicant should have been supplied with a copy of the complaint of the respondent No.4 and that the respondent No.2 passed the order without giving him an opportunity to show cause, the decision of respondent No.2 was only a direction to respondent No.3 to

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APP

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cancel the appointment of the applicant and to give an appointment to respondent No.4. The ultimate orders which adversely affected the applicant were Annexure-1 and Annexure-D4 both passed by respondent No.3. It was enough to challenge those orders.

15. The learned counsel for respondents then urged that the counter on behalf of respondents 1 to 3 by respondent No.3 is not appropriate because the stand taken by respondent No.2 was contrary to the stand taken by respondent No.3. The contention carries no weight. Firstly, it is for the respondents inter se to find who has to swear the affidavit on their behalf; it is not the business of this Tribunal to force some of the particular respondents to file a counter. Secondly, the main point involved in this case concerns the principles of natural justice. The fact remains that opportunity to show cause had not been given to the applicant; it would be wholly immaterial whether the counter was filed by respondent No.2 or respondent No.3.

16. The learned counsel for the respondents then referred to the Rules regarding method of recruitment, the educational qualifications, the income and the ownership of the property; the convention of priorities etc. These are the matters for the consideration of the appointing authority to determine the comparative merit of the applicants. All that stands out is that if the respondent No.2 ordered the cancellation of the applicant's appointment on an examination of the comparative merits, an opportunity to show case must have been given. This Tribunal's judgement in Dinesh Prasad Yadav's case *supra* also makes out that legal position.

Q

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17. The learned counsel for respondent No.4 urged that it was open to respondent No.2 to cancel the appointment order in exercise of powers of review under Rule 16. But even this Rule contemplates the passing of an appropriate order "after making such enquiry as it considers necessary". In the particular facts and circumstances in this case, the respondent No.2 could not have altogether avoided such an enquiry in which the applicant could be given an opportunity to show cause.

18. The learned counsel for the respondent lastly urged that if the action of the respondent No.2 is found illegal, he may be required to give a notice to the applicant and decide the matter afresh and in the meantime the order of appointment of respondent No.4 may not be disturbed. It may be appropriate for respondent No.2 to reconsider the matter, but it would certainly be improper for this Tribunal to maintain the order which is illegal for the reasons indicated above.

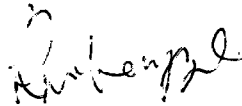
19. In the result while we allow Misc.Application No.615/90 and set aside the judgement dated 28.9.90 in O.A. No.60/90, we allow this application, quash the impugned orders dated 14.2.90 contained in Annexure-1 and Annexure-D4 and direct the respondent No.1 to 3 to permit the applicant Lalta Charan to work as Extra Departmental Branch Postmaster at Branch Post Office Ganeshpur, District Kheri within one week of the date of the receipt of a copy of the judgement. It shall




A21

- 9 -

be open to respondent No.2 to re-examine the case of appointment of applicant or respondent No.4 after giving reasonable opportunity of being heard to both and to pass suitable orders in accordance with law. In the meantime, the applicant shall be allowed to work on the post but he shall not be entitled to any allowances for the period between 14.2.1990 and the date when he actually joins the post. Parties shall bear their costs of this petition.


Member (A)


Vice Chairman

Dated the 22nd January, 1991.

RKM

A22

2

— — — — —

Applicant

respondents

Sl.no.	Description of documents	Pages

(Amrul Hasan)
Advocate
Counsel for the applicant

(P2S)

21-2-80

2 2

Before the Hon'ble Central Administrative Tribunal
Circuit Bench, Lucknow.

Application No. 60 of 1990 117

Sri Laita Charan, aged about 21 years,
S/o Sri Kesho Ram, r/o Village Post
Ganeshpur, Pargana Firozabad, Tahsil
Dharaura, district Kheri. ...Applicant
Vs.

Noted
31/2/80
21/2/90

- 1- Union of India through its Secretary,
Department Posts Ministry of Communication,
New Delhi.
- 2- The Director, Posts and Telegraphs Department,
Lucknow Circle, Lucknow.
- 3- The Superintendent of Post Offices,
Kheri Division, Kheri.
- 4- Sri Kamal Singh, S/o Puttu Singh, presently
posted as E.D.B.P.M at Post Office Ganeshpur
Kheri (Isa Nagar, Tahsil Dharaura,
district Kheri. ...Respondents

Particulars of order against which the application
made;

राजेश्वर

(A24)

2.

- I- Order) The applicant is challenging
2- Date) impugned termination order no. A/Ganesh-
3- Passed by) pur/- dt. 14.2.90 (true photostate
copy of which is annexed as Annexure-I
to this application) passed by Respondent
no.3 in pursuance of Director's letter
no. RDL/STA/C-27/89/3 dt. 5.2.1990 and
also challenged fresh immediate appoint-
ment of Respondent no. 4 absorbed in
place of applicant without any Selection
and Verification made by the Department
and Tahsil authorities in respect of
his moveable immovable property,
character as provided by D.G. P & T
letter no. 43-84/80 pen dated 30-1-1981
and its corrigendum dt. 29.3.1981.

Subject in brief :-

I- That the dispute in the instant case relates
to the impugned order of termination dt. 14.2.1990 as
contained in Annexure-I whereby the respondent no. 3
issued orders that services of Sri Lalta Charan , S/o
Keshavram are hereby terminated under Rule-6 of P& T
E.D.A's (conduct and service) Rules 1964 with immediate
effect and without handing over charge by the applicant,
respondent no. 4 has been ~~pl~~ planted on the post of

श्रीलता चरण

3.

Extra Departmental Branch Post Master on which the applicant has bonafide lien till date, being selected candidate, in view of the prior letter dt. 5.2.1990 issued by respondent no. 2 to respondent no. 3. The action of respondent no. 3 is perfectly illegal, unjust, unfair, & unreasonable, discriminatory, violative of Director General's Circular no. IO/I/82 Vig.III dt. 19.7.82, against provisions of Art. 311(2) of the constitution of India, and violative of principles of natural justice. There is clear non-application of mind of respondent no. 3 as prior to the passing of the termination orders, he should have issued a show cause notice against applicant or one month's pay be given in lieu of notice.

2- Jurisdiction of the Tribunal:-

The applicant declares that the subject 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 limitation ~~xxx~~ prescribed under section 21 of the Administrative Tribunal Act 1985.

4- Facts of the Case

4- I:- That the applicant's academic qualification is B.A. from Kanpur University with IIInd Division and English, Sanskrit, Hindi Literature, and economics were his subject. A true photostat

आलोक चरण

(P26)

4.

copy of B.A. Part- II Marks Sheet is annexed as Annexure-2 to this petition.

- 4- 2:- That the applicant permanently resides in village and post office Ganeshpur, Tahsil Dharaura Post Office was established w.e.f. 23.5.1989.
- 4- 3:- That on account of poor economic condition of his parents, the applicant has to search out the government job.
- 4- 4:- That in this connection he got his name registered in the Employment Exchange of District Kheri on IO-II-87 which No. is 4612/87 Code No. X-OI-30.
- 4- 5:- That on account of opening new Branch Post Office at Ganeshpur Village Pargana Ferozabad District Kheri, the names were called for by the Superintendent of Post Offices (Respondent No. 4) for E.D.B.P.M from the Employment Exchange which sponsored the following five candidates including the applicant as well as respondent no.4.
- I- Lalta Charan (Applicant)
 - 2- Kamal Singh (Respondent No.4)
 - 3- Munna Lal Singh
 - 4- Kedar Singh
 - 5- Suresh Chandra Verma
- 4 - 6:- That for the post of Extra Department Branch Post Master at Ganeshpur, the applicant sent his application dt. 26.6.1989 to the respondent

आलताचरण

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5.

no. 3 alongwith required photostat copies of the Certificates. A true photostat copy of the application is filed herewith as Annexure-3 to this application.

- 4- 7:- That the respondent no. 3 also required the attested copies of the certificates and directed to send the proforma forms supplied by the post office duly filed in by him.
- 4- 8:- That on 24.7.89 , the applicant sent the aforesaid proforma by registered post as required by the respondent no. 3. A true photostat copy of the proforma dt. 24.7.89 is filed as Annexure-4 to this application.
- 4- 9:- That the police as well as Tahsil Lekhpal did the verification regarding applicant's character , moveable and immovable property as required under the method of recruitment relating to E.D.B.P.M as before complete verification appointment on the post could not be made. Under the Rules of method of recruitment, the Inspectors and over-
seen... have been assigned the works of verification.
- 4 -10:- That the applicant reproduces ~~in~~ sub clause-2 of Rule -6 of Method of Recruitment as under;-

कोलता चरा

A28

6.

(2) Verification of conditions for appointment to be done prior to appointment :- One of pre-conditions for appointment to the post of ED BPM/ED SPM relates to the verification of property and income. A number of cases have come to light where such verification was carried out only after the candidates were appointed. This practice of verification after appointment is not in order and needs to be discontinued immediately. The particulars regarding property and private income should be verified before and not after the appointment. This should be brought to the notice of all appointing authorities for strict compliance.

(D.G.P. & P.. ND.Letter No. 43-198/85, dated the 14th August , 1985 .)

4 → II)- That after the aforesaid verification, the respondent no. 3 found the applicant suitable for the said post and selected him for the post of ED BPM out of five candidates named above.

4- I2- That on 17-10-89 an appointment letter was issued under the signature of respondent no. 3 against the applicant appointing him as ED BPM.

A true photostat copy of the appointment letter is filed herewith as Annexure-5 to this application.

साल 1989

4- I3 :- That from a perusal of Annexure-5 it will indicate that the appointing authority is the respondent no. 3 as he specifically mentioned in the appointment letter that his appointment as ED BPA. Ganeshpur shall be in the nature of contract.

4- I4:- That in pursuance of the appointment letter the applicant submitted his joining report on 19-10-89 forenoon and he took over charge from one Jagdish Kumar Pandey in the presence of Mail oversear namely Sri R.P. Mauriya. A true photostat copy of the joining report is filed as Annexure-6 to this application.

4- I5:- That it appears that when the respondent no. 4 who is an Intermediate and was not selected for the said post which the applicant is holding and has legal lien to continue on the same, made complaint himself through other persons to the Director (Respondent No. 2). The applicant has reliably learnt that he was influenced by the persons belonging to respondent no. 4 and favouritism prevailed so much that he without making any enquiry into the matter, to show cause, and in respect of applicant's works and conducts issued a letter No. R.DL/STA/89/3 dt. 5.2.90 to respondent no. 3, probably directing him to terminate applicant's

8.

services with immediate effect and to absorb the respondent no. 4 without any verification or fresh selection held by the respondent no. 4.

4 -I6:- That the applicant ought to have been supplied the copy of the fake complaint as well as afore-said letter of Director dt. 5/2/90 before terminating his services which has resulted in grave miscarriage of justice and is in violation of 311 of the Constitution of India.

4- I7:- That there is clear violation of the letter dt. 14.8.85 issued by the Director General Post and Telegraph.

4- I8:- That according to Rule -6 (4) and (5) of the EDA conduct and service Rules termination can only be done either on medical grounds, (physically and mentally unfit) or on abolition of post.

That it is significant to mention that applicant is neither physically or mentally unfit nor there is the abolition of post, therefore, he has been caused prejudiced and the action of the respondent no. 2 and 3 is quite arbitrary, unfair, unreasonable, discriminatory and violative of principles of natural justice.

लाला चरन

(A3)

9.

4 -19:- That the applicant for the sake of convenience of the Hon'ble Tribunal is filing an extract copy of relating to Rule 6 of E.D.A conduct and Service Rule, as Annexure-7 to this application.

~~4xx20x-~~ That in the Annexure-7 there is also mentioned that the said provision has been deleted vide DG, P & T ND No. 10/8/82 -Vig-III dt. 19.7.82. Hence the same is not applicable in the instant case.

4 -20:- That the applicant is advised to State that the respondent no. 2 and 3 overlooked the general principles that a person once selected acquired right to continue till his services are terminated in accordance with rule.

4- 21:- That it would not be out of place that on 16.2.1990, One Inspector of Post Offices (Central Kheri) visited Post Office Ganeshpur and forcibly served impugned termination order dt. 14.2.1990 upon applicant. The applicant due to high handedness and arbitrary action of the officials got sudden Shock and fell ill.

4- 22:- That, however, the applicant having no other alternative proceeded towards Isanagar Block but Kamal Singh (O.P. no. 4) and his brother prevented him from proceeding further.

लाली-चर

A32

they restrained the applicant in the way and forced him to hand over charge of his post at Ganeshpur, but he did not give the charge in the Post Office.

- 4-23 That arbitrary action or enforcement of service condition terminating the services of temporary employee may itself constitute denial of equal ~~clause~~ protection and offend equality clause of Articles 14 and 16 of the Constitution.
- 4-24. That the applicant is hopeful to get justice and relief sought for by this Hon'ble Tribunal as the function of the court is to discover the nature of the order by attempting to ascertain what was the motivating consideration in the mind of Authority which prompted the order. The impugned order issued against the applicant has been actuated by improper motive.
- 4-25 That the respondent no.3 solely acted in hasty manner due to the directions of the higher authority i.e. respondent no.2 and terminated services of the applicant without any show cause, warning, explanation against the complaint, which has been made the basis for passing of the impugned order dt.14.2.90. The action amounts colourable exercise of powers of the concerning Officers.
- 4-26. That there is clear violation of the provisions of Article 311(2) of the Constitution of India on the ground that without conducting enquiry into the matter of complaint, the services could not be terminated. His work and conduct is satisfactory.
5. Details of remedies

That on account of sudden termination on the basis of fake complaint by respondent no.4 and his men, the applicant having no any speedy and efficacious remedy prefers this application for immediate relief.

6. Matters not previously filed or pending in other courts.

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A33

7. Relief sought for

- A) To issue order or directions ~~to respondents~~ ~~maxi~~ ~~taxi~~ to declare appointment of respondent no.-4 as illegal and invalid, and liable to be quashed,
- B) To issue orders or directions to respondents no.1 to 3 to treat the applicant ~~in~~ continuous service, to allow him to continue to work on the post of EDBPM at Ganeshpur on the basis of his regular appointment, to pay him salary regularly, and the respondent no.3 be directed ~~not~~ to withdraw salary from the Treasury in favour of respondent no.4 during pendency of the writ petition, as applicant's lien has not been suspended legally,
- C) To quash impugned termination order dt.14.2.90 issued by respondent no.2 as contained in Annexure-I to this application,
- D) To pass such other appropriate orders or directions which this Hon'ble court may deem fit and proper, and
- E) To award cost of the petition.

8.

G r o u n d s

- I) Because the impugned termination order passed on the basis of complaint and without any show cause is perfectly arbitrary, unjust, unreasonable, discriminatory, mala fide, and violative of principle of natural justice.
- II) Because the respondent no.2 was so much influenced ~~and~~ by respondent no.4 and his men that the respondent no.2 ordered vide his letter no.RDL/STA/C-27/89/3 dt.5.2.90 to respondent no.3 to terminate his services abruptly who did so without apply his own fair mind, which action is quite unconstitutional and against law.
- III) Because a government servant cannot be appointed substantively to a post on which another govt. servant holds a lien.
- IV) Because in the case at hand this Hon'ble Tribunal has got power to discover the nature of the order by calling for original records and to ascertain

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-12-

as to what was the motivating consideration in the mind of the authority which prompted the termination order. The impugned order under the circumstances can be said to have actuated by improper motive, hence liable to be set-aside.

V) Because arbitrary action or enforcement of service condition terminating regular services of the applicant whose work and conduct has remain satisfactory may itself constitute denial of equal protection and offend equality clause of Articles 14 and 16 of the Constitution.

VI. Because respondents no.2 and 3 overlooked the general principle that a person once selected acquires right to continue till his services are terminated in accordance with rules.

VII) Because before termination order, the applicant must have been supplied copy of complaint, letter of respondents no.2 dt.5.2.90 on which basis the respondent no.3 took away means of livelihood, which is violative of Article 21 of the Constitution.

VIII. Because the Selection for the post in question out of 5 candidates was done according to method of recruitments of EDBPM and respondent no.3 found applicant as suitable and successful candidate on the basis of qualification etc.

IX) Because termination without giving one month's notice or salary in lieu of notice as provided has ~~not~~ been done, which is bad in law and suffers from legal infirmity.

X) Because according to Rule 6(4) (5) of E.D.A. Conduct and Service Rules, termination can only be done either on medical ground or on abolition of post.

XI) Because without fresh sponsoring of names from Employment Exchange and verification against the respondent no.4, the post of the applicant has been given in the hands of respondent no.4, which is penal in nature and it visits with evil circumstances.

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-13-

9. Interim order if any prayed for passing final decision of this application.

Pending final decision of the application, the applicant seeks for the issue of following orders;

- A. To grant interim relief to applicant by directing respondents no.1 to 3 to restrain the respondent no.4 from functioning on the post on which the applicant has bonafide and legal lien till date and in his place he may be allowed to continue to work during pendency of this petition,
- B. To direct the respondents 2 and 3 to pay salary to applicant regularly and the respondent no.4 may not be paid any salary as his appointment is arbitrary and illegal
- C. To pass any other orders in favour of the applicant which this Hon'ble Tribunal may deem proper in the circumstances of the case.

10. Particulars of Indian postal order in respect of applicant.

- A. Indian post order no.02 408128 dt.13.2.90 of Rs.50/-
- B. Issued by Aminabad Post Office, Lucknow.

Verification

By ~~Lakta Charan~~, son of

II. List of Annexures

I. Annexure-I

- Annexure-2
- Annexure-3
- Annexure-4
- Annexure-5
- Annexure-6
- Annexure-7

Ver. fi cation

I, ~~Lakta Charan~~, son of Kesho Ram, applicant working on post of ELBPM Ganeshpur, Aheri, do hereby verify that the contents of paras 1 to 4-14, paras 6, 7, 9 and 10

are true to my personal knowledge, those of

लाला चरण

P36

-I4-

2, 3, 4, ~~4-14~~ 4-15, 4-16 to 4-26, para 8

are based on legal advice and belief and
I have not suppressed the material facts.

Qamrul Hasan

Signature of applicant

Qamrul Hasan

(Qamrul Hasan)

Advocate

Counsel for the applicant

Doc now dated:

Feb. 21, 1990

737 15

of 1990.
Applicant

1000

under the following conditions:

Glenn

- • •

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दादासाहेब फाल्के

438

ब अदालत धीमान

[वादी अपीलान्ट]

प्रतिवादी [रेस्पाडेंट]

महोदय

वकालतनामा



टिकट

वादी (अपीलान्ट)

बनाम

प्रतिवादी (रेस्पाडेंट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

व

वकील

महोदय

एडवोकेट

S.M. Ramar Ibrahim

नाम अदालत
मुकद्दमा नं०
नाम फरीकत

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



Accepted
20/2/90

Accepted
S.M. Ramar Ibrahim
20/2/90

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०

स्वीकृत

हस्ताक्षर

Application

Before the Central Administrative Tribunal, Addl. Bench,
Circuit Bench, Lucknow.

Application no. of 1990
Sri Lalta Charan Applicant
Versus
Union of India and others ...Respondents

I n d e x

Sl.no.	Description of documents	Pages
I.	Annexure-2(Marks sheet of B.A final)	16
2.	Annexure-3(Application dated 26.6.89)	17-18
3.	Annexure-4(Proforma application dt.24.7.89)	19-20
4.	Annexure-5(Appointment letter dt.17.10.89)	21
5.	Annexure-6(Photostat copy of joining report) dt.19.10.89	22
6.	Annexure-7(Photostat copy of extract of Rule 6)	23

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Lucknow dated:

Feb. 1990

Qasim
(Qasim Hasan)
Advocate

नामांकन संख्या के - - - - -

१९८६

24806

अनुक्रमांक - - - - -

कानपुर विश्वविद्यालय, कानपुर

अंक तालिका

(व्यक्तिगत अभ्यर्थियों के लिये)

अनुक्रमांक तथा प्राप्तांकों के अतिरिक्त पृष्ठ भाग पर पूरे सहित शेष रिक्त स्थानों की पूर्ति परीक्षार्थी स्वयं करें।)

बी० ए० द्वितीय वर्ष - - - - - परीक्षा १९८६ के प्राप्तांकों का विवरण

विषय (परास्नातक)

अभ्यर्थी का नाम - लूलता चरण

पिता का नाम - श्री लक्ष्मण राम

परीक्षा केन्द्र - मुखर्जी दत्त महाविद्यालय लखीमपुर खीर

विषय/प्रश्न पत्र	अधिकतम अंक	प्राप्तांक				परीक्षाफल शब्दों में
		प्रथम प्रश्न-पत्र	द्वितीय प्रश्न-पत्र	प्रायोगिक	विषय प्रश्न-पत्रों का योग	
१- अंग्रेजी साहित्य	१००	२१	१८		३९	
२- संस्कृत	१००	२१	२९		५०	
३- हिन्दी साहित्य	१००	२६	२३		४९	Ind Div.
४- आर्यशास्त्र	१००	२५	३१		५६	
५-	१००					
६-	१००					
पूर्ण योग					१९३	अधिकतम अंक
भाग १ पूर्वाह्न परीक्षा का योग					१५५	
सम्पूर्ण योग शब्दों में					३४८	

टिप्पणी:- १-स्नातक तथा परास्नातक परीक्षा में श्रेणी का निर्धारण निम्नवत् है।

	स्नातक	परास्नातक
प्रथम श्रेणी	६०%	६०%
द्वितीय श्रेणी	४५%	४८%
तृतीय श्रेणी	३३%	३६%

२- बी० ए०, तथा बी०काम० भाग १ एवं भाग २ की परीक्षाओं में उत्तीर्ण हेतु प्रत्येक अभ्यर्थी का सम्पूर्ण योग ३३% अंक तथा प्रत्येक विषय में ३३% अंक (लिखित एवं मौखिक अलग अलग) इस प्राविधान के साथ प्राप्त करना होगा। कि अगर वह केवल एक विषय में २५% या उससे अधिक अंक (लिखित एवं प्रायोगिक परीक्षा अलग अलग) प्राप्त करता है तो वह उत्तीर्ण घोषित किया जायेगा।

३- एम० ए० एवं एम० काम० परीक्षा उत्तीर्ण होने के लिए पूर्ण योग में ३६% अंक प्राप्त करना आवश्यक है।

४- विषय की लिखित तथा प्रायोगिक परीक्षा में अलग-अलग उत्तीर्ण होना आवश्यक है।

५- विश्वविद्यालय के सारणीयन पंजिका में अंकित अंक और तालिका में अंकों में यदि कोई अन्तर है तो उस दशा में विश्वविद्यालय के सारणीयन पंजिका में अंकित प्राप्तांक ही अन्तिम रूप से मान्य होगा।

कानपुर विश्वविद्यालय

कानपुर।

दिनांक - १९८६

लेखक के पूर्ण हस्ताक्षर

जाचकता के पूर्ण हस्ताक्षर

कृते मुख्याधिकारी

Before the Hon'ble Administrative Tribunal
Circuit Bench, Lucknow.

4

Application No. Shri Lalta Charan

of 1990.
Applicant

Versus

Union of India and others.....
Annexure No...3.....

Respondents

Am

सेवा में ,

श्रीमान डाक अधीक्षक , खीरी प्रखण्ड

खीरी

महोदय ,

जैसा कि आपके कार्यालय के द्वारा आयी हुई विज्ञापन की नोटिस पत्रांक २५/

गणेशपुर पोस्ट दिनांक 16-6-89 से ज्ञात हुआ है कि ग्राम गणेशपुर पोस्ट गणेशपुर में एक शाखा

डाक पाल का पद रिक्त है और उसमें शाखा डाकपाल पद हेतु प्रार्थना पत्र मांगे गये हैं

प्रार्थी ग्राम गणेशपुर का मूल निवासी है और शाखा डाक पाल के पद हेतु पूर्ण योग्यता

रखता है ।

अतः अपना प्रार्थना पत्र उपरोक्त पद हेतु प्रार्थी प्रेषित कर रहा है जिसका

विवरण निम्न प्रकार है:-

1- प्रार्थी का नाम :-----लालता चरण-----

2- पिता का नाम - - श्री - केशव राम -----

3- जन्म तिथि अंकों में : - - 16-01-63 - - शब्दों में सोलह जनवरी सन्
एक हजार नौ सौ त्रिसहस्र

4- स्थाई पता ग्राम :- गणेशपुर, तहसील गणेशपुर, जिला खीरी

5- शैक्षिक योग्यता - स्नातक - (बी. ए.)-----

6- स्वाधीन श्रोतों से होने वाली मासिक आय रु००/- (शुद्धी हो उपजा जंगल)

7- व्यवसाय - - कृषि -----

8- सेवायोजन कार्यालय में प्रवेश की संख्या 4612/89 (सेवायोजन कार्यालय खीरी)

9- डाकघर हेतु उपयुक्त स्थान होने का प्रमाण पत्र सेलरन है -----

10- वरिष्ठ प्रमाण पत्र - - - सेलरन है -----

लालता चरण

प्रतिनिधि

Tham

प्रतिनिधि प्रेषित

श्रीमान सेवायोजन अधिकारी महोदय लखीमपुर खीरी को प्रेषित

संलग्नक संख्या

- (1) तहसील गणेशपुर
- (2) गणेशपुर डाकघर
- (3) गणेशपुर पोस्ट
- (4) गणेशपुर पोस्ट
- (5) गणेशपुर पोस्ट

प्रार्थी के हस्ताक्षर लालता चरण
पता ग्राम गणेशपुर पोस्ट गणेशपुर
जिला खीरी
दिनांक 26-6-89

प्रार्थी के हस्ताक्षर

लालता चरण
26-6-89

1. 24.11.1980 को जन्म / अम डाकघर पत्र पर निम्नलिखित हेतु आवेदन।
जन्म नाम - लालता चरण
पिता का नाम - श्री केशव राम

ग्राम गनिशपुर

तहसील धौरहरा थाना इसानगर

दुखाने से
(निरस)

ॐ नमः (स्वात्म्य)

श्री. लो. ग. ५

जंय. १५

शाखा सिक्मात्र गणेशपुर

६ (उपयुक्त अक्षर)

से आज है

ਪ੍ਰਸਿਧਾਦਿ (੬੬੭)

ਪੰਨਾ ੫
ਜਲੀ ੬

संलग्न है

संज्ञा सेवाभोजन कापी लप लखीन पुर-खोर्
पंजी करण संख्या 4612/87

मे प्रमाणित करता हूँ कि उपरोक्त विवरण पूर्ण रूप से सत्य है।

—ला लता साँ

हस्ताक्षर आंध्रक

18-7-89

उपरोक्त प्राप्त में अन्तर्गत आये दस-पत्र सत्यापित प्रमाण-पत्रों के साथ इस
आयतन में 15 दिनों के अन्दर भेजे। इसके उपरान्त प्राप्त आये दस-पत्रों पर
विचार नहीं किया जायेगा।

W. J. STONE,

ਭੀ ਟੀ. ਸਪੁਟਲ, ਭੀ ਟੀ-262701

क. अ. उ.

Before the Hon'ble Administrative Tribunal
Circuit Bench, Lucknow.

Application No.
Shri Lalta Charan

of 1990.
Applicant

Versus
Union of India and others.....

Respondents

Annexure No... 5

21
1213

Indian Posts & Telegraphs Department

(Letter of appointment)

Memo No.: A/Gangapur


Dated at Kheri the 17.10.89

Sri Lalta Charan s/o Sri Keshav Ram, hereby
provisionally appointed as ED BPM. He shall be paid such
allowance as admissible from time to time.

2. Sri Lalta Charan s/o Sri Keshav Ram should clearly
understand that his appointment as ED BPM Gangapur
shall be in the nature of contract liable to be terminated
by him or the undersigned by notifying the other, in writing
and he shall also be governed by the Posts and Telegraphs,
Extra Departmental Agents (Conduct & Service) Rules, 1964
as amended from time to time.

3. Sri _____ should also understand
that his services can be terminated at any time if his
predecessor incumbent is reinstated.

4. If these conditions are acceptable to him he should
communicate his acceptance in the proforma enclosed.


Supt. of Post Offices,
Kheri Division,
Kheri.

Copy to:-

- 1- Shri Lalta Charan s/o Sri Keshav Ram v. Po. Gangapur
- 2- The SPM Gangapur Kheri through SDI (i) Kheri
- 3- The PM Kheri.
- 4- The SDI (C) Kheri. He will please get the charge
transferred immediately and submit the following
documents duly completed alongwith the charge report
off the official.

- (1) Attestation form (in duplicate)
- (2) Letter of acceptance.
- (3) Descriptive particulars.
- (4) Declarations.
- (5) S. Bond.

लालता चरण

17.10.89



Before the Hon'ble Administrative Tribunal
Circuit Bench, Lucknow.

Application No.

of 1990.

Shri Lalta Charan

Applicant

Versus

Union of India and others.....

Respondents

Annexure No... 6

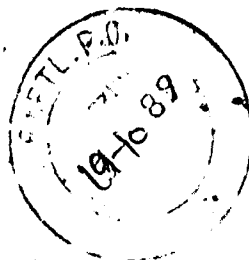
चार्ज रिपोर्ट शारदा डम्कपालक गतिशुद्ध

श्री मात डम्क निरीक्षण खोरी मैन्सुने दिनांक 18/10/89
जग सेवका EPF-94/गतिशुद्ध/खोरी 18/10/89
बिषय B.P.M गतिशुद्ध की निम्नलिखित में अनुपालन में आज
दिनांक 19/10/89 को सर्व दायता में शारदा डम्कपालक के
मा कुल न्याय भार, न्यायवाहक शारदा डम्कपालक श्री -
गंगेश कुमार जोड़े से दिलाया गया।

भार हुक्म माधिमारी

✓ भार ग्राही माधिमारी

महेश कुमार/19/10/89
म/377
भार माधिमारी
19/10/89



माधिमारी
19-10-89

लालता चरण

19/10/89
L

Before the Hon'ble Administrative Tribunal
Circuit Bench, Lucknow.

Application No. of 1990.
Shri Lalta Charan Applicant
Versus
Union of India and others Respondents
Annexure No...7.....

6. Termination of Services:

The service of an employee who has not already rendered more than three years' continuous service from the date of his appointment shall be liable to termination by the appointing authority at any time without notice [].

DIRECTOR-GENERAL'S INSTRUCTIONS

(1) Implication of amendment to Rule 6. The words which have been deleted from Rule 6 of the P. & T. E. D. Agent (Conduct and

1. Deleted, vide D.G., P & T, N.D., No. 10/1/82-Vig-III, dated 19-7-82.

साला-चरन

10/1/82

10/1/82

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT JUDGE AT LUCKNOW

Cm 171/90(4) of 1990 (-)

O.A.No. 60 of 1990 (-)

Lalta Charan

... Applicant

Versus

Union of India & others

... Respondent

APPLICATION FOR VACATION OF THE
INTERIM ORDER DATED 23.2.90 ON
BEHALF OF RESPONDENT NO.4

The applicant most respectfully begs
submit as under;

That for the reasons disclosed in the
accompanying Counter Affidavit the Hon'ble Tribunal
may be pleased to vacate the Hon'ble Tribunal's inter
order dated 23rd February, 1990 at the earliest in
the interest of justice.

Place: Lucknow

Dated:

20.3.90

A. Chaturvedi
Advocate,
Counsel for Respondent No.4

*Mentioned in the Court
Noted for 23.3.90
Asif Kumar Chaturvedi
Adv.
20/3/90*

1007

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

O.A. No. 69 of 1990(L)

Lalta Charan

... Applicant

Versus

Union of India & others

... Respondents

Counter Affidavit on behalf of
Respondent No. 4.

I, Kamal Singh, Aged about 33 years,
Son of Sri Puttu Singh, Resident of Village and
Post office Ganeshpur, District Kheri do hereby
solemnly affirm and state on oath as under;

1. That the deponent is Opposite Party No.4
in the above mentioned application as such he
is well conversant with the facts and circumstances
of the case stated hereinafter.

2. That the deponent has understood the
contents of the application and giving parawise
reply as under;

3. That the contents of paragraph 1 of the
application are denied. It is stated that the servi-
ces of the applicant were terminated by the
Superintendent of Post Offices, Kheri Division,
Kheri through an order dated 14th February, 1990
(Annexure No.1 to the application) and the deponent

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(2)

was appointed on the post of Extra Departmental Branch Post Master, Post Office Ganeshpur through an order dated 14th February, 1990 as Selection of Sri Lalita Charan on the said post was irregular, illegal and improper. The deponent took the charge as Extra Departmental ^{Branch} Post Master, Ganeshpur on 16th February, 1990.

4. That the contents of paragraph 2 of the application need no reply.

5. That in reply to the contents of paragraph 3 of the application, it is stated that the appeal ^{lies} against the impugned order of the applicant dated 14th February, 1990 under Rule 15 of the Post and Telegraph Extra Departmental ^{Agent} ~~Regulation~~ (Conduct and Service) Rules 1964. The said appeal has not been preferred by the applicant as such the application is not maintainable.

6. That in reply of the contents of paragraph 4 of the application, it is stated that the minimum educational qualification required for the post of Extra Departmental Branch Post Master is 8th standard. However, preference is given to the candidates who are matriculate or equivalent and no weightage has been prescribed for any higher qualification thereafter under section 2 of the Post and Telegraph Extra Departmental ^{Agent} ~~Regulation~~ (Conduct and Service) Rules, 1964. The applicant has secured 232 marks in the High School examination where as the deponent has secured 240 marks. As such the deponent is

Handwritten signature: "Omprakash Singh"

AWG

(3)

superior than the applicant in Educational Qualification.

7. That in reply to the contents of paragraph 4-2 of the application, it is stated that the dependent is a permanent resident of village and post Ganeshpur Tehsil Dhaurara.

8. That in reply to the contents of paragraph 4-3 of the application, it is stated that keeping in view the letter no. 43-84/80-Pen dated 30th Jan. 1981 and corrigendum dated 29th March, 1981 of Director General, Post and Telegraphs, it has been specifically stated that the preference for appointment to the post of Extra Departmental Branch Post Master shall be given to the candidates who have adequate means of livelihood, as such keeping in view the contents of para under reply, it is evident that the applicant Sri Lalta Charan does not have adequate source of income. He was not entitled for appointment on the post of Extra Departmental Branch Post Master, Post office, Ganeshpur.

9. That in reply to the contents of paragraph 4-4 of the application, need no reply.

10. That in reply to the contents of paragraph 4-5 of the application, it is stated that a comparative chart of Educational Qualification and other essential requirements as per rules of the 5 applicants is being annexed herewith as ANNEXURE No. D-1

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to this Counter Affidavit. A perusal of the comparative chart will reveal that the deponent is the suitable candidate for appointment on the post of Extra Departmental Branch Post Master, Post office Ganeshpur and not Sri Lalta Charan. The applicant was appointed on the post of Extra Branch Departmental Post Master, Post office Ganeshpur illegally and arbitrarily and in contrary to the Rules, 1964.

11. That in reply to the contents of paragraph 4-6, 4-7 and 4-8 of the application, it is stated that the deponent is better qualified and has adequate means of livelihood than the applicant Sri Lalta Charan keeping in view the service rules of 1964. A copy of the application on the proforma prescribed by the department is being annexed herewith as ANNEXURE No. D-2 to this Counter Affidavit.

12. That in reply to the contents of paragraph 4-9 of the application, it is stated that the Opp. Party No. 3 arbitrarily and illegally and in contravention to rules, 1964 and ~~that~~ letter of Director General decided to appoint the applicant Sri Lalta Charan on the post of Extra Departmental Branch Post Master Post office Ganeshpur, as such the verification made by Tehsildar Dhaurara of applicant Sri Lalta Charan is irrelevant and immaterial. The deponent was entitled for appointment on the post of Extra Departmental Branch Post Master, Post Office Ganeshpur keeping in view the educational qualification

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and adequate means of livelihood as the deponent ^{is owner of} ~~has own~~ 60 dessimal of Agricultural land in addition to a cloth shop in a permanent constructed premises.

13. That in reply to the contents of paragraph 4-10 of the application, it is stated that complete provision in regard to recruitment etc. have not been deliberately reproduced in the para under reply so that the Hon'ble Tribunal may be misled. The complete rules and guidelines shall be produced before the Hon'ble Tribunal at the time of hearing.

14. That the contents of paragraphs 4-11 and 4-12 of the application are vehemently denied. It is stated that the applicant Sri Lalta Charan was not suitable for appointment on the post of Extra Departmental Branch Post Master, Post office Ganeshpur keeping in view the educational qualification and adequate ^{means of} livelihood as such the selection done by the respondent no. 3 ~~to~~ Sri Lalta Charan was illegal, arbitrary and with mala fide motive. The respondent no. 3 acted in colourable exercise of power and in contravention of rules and guidelines on the subject. In fact the deponent was entitled for appointment instead of Sri Lalta Charan, as such the deponent preferred an appeal to respondent no. 2, Director, Postal Services Lucknow region, Lucknow. A copy of the same is annexed herewith as ANNEXURE No. D-3 to this Counter Affidavit. Through the above said application

Amrinder Singh

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he prayed that the appointment of Sri Lalta Charan may be cancelled and the deponent may be appointed on the post of extra Departmental Branch Post Master Post office Ganeshpur.

15. That in reply to the contents of paragraph 4-13 of the application, it is stated that the appointment of the applicant Sri Lalta Charan was a provisional appointment and was in the nature of contract which was liable to be terminated by Superintendent of Post Offices, Kheri Division, Kheri under the Post and Telegraphs A.D.A. (conduct and Service) Rules, 1964. The applicant Sri Lalta Charan has no right to be retained on the post of extra Departmental Branch Post Master keeping in view the nature of his appointment as evident from perusal of Annexure No. 5 to the application, letter of appointment dated 17th October, 1989.

16. That in reply to the contents of paragraph 4-14 of the application it is stated that the appointment of Sri Lalta Charan was arbitrary and illegal in colourable exercise of powers in contravention of the rules and guide lines on the subject and with malafide motive of respondent no. 3. The deponent preferred an appeal to respondent no. 2 against the appointment of the applicant Sri Lalta Charan.

17. That the contents of paragraph 4-15 of

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the application are vehemently denied. It is stated that the deponent submitted appeal/representation to respondent no. 2 (Annexure No.D-3) as the appointment of applicant Sri Lalta Charan was illegal, arbitrary and in contravention of the Rules and guidelines on the subject. The respondent no.2 considered the representation/appeal of the deponent (Annexure No.D-3 to the Counter Affidavit) along with comments of respondent no. 3 on the representation of the deponent, and other records pertaining to selection and passed the order dated 5th Feb.1990 by which the appointment of Sri Lalta Charan was cancelled. The respondent no. 2 cancelled the appointment of the applicant Sri Lalta Charan as the same was not in accordance with rules and guidelines and it was in colourable exercise of powers by respondent no. 3. The deponent was appointed in pursuance of the order dated 5th February, 1990 of the respondent no. 2 and after completing formalities required for appointment in the Rules.

18. That the contents of paragraph 4-16 of the application are vehemently denied. It is stated that ^{appointment} ~~a proposal~~ of the applicant Sri Lalta Charan was arbitrary and illegal and in contravention of the Rules and regulations ~~and~~ on the subject as the deponent had better educational qualification than the applicant as well as deponent had better adequate means of livelihood than the applicant Sri Latacharan. The applicant Sri Lalta Charan has no right on the post of Extra Departmental

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Branch Post Master as evident from the perusal of the appointment order dated 17th October, 1989. The complete record pertaining to selection along with comments of respondent no. 3 ^{was} ~~what ever~~ considered by respondent no. 2 while passing the order dated 5th February, 1990.

19. That the contents of paragraph 4-17 of the application, are vehemently denied. It is stated that the complete guidelines in regard to recruitment has not been reproduced. The fact is that the appointment letter dated 17th October, 1989 was in contravention of the guidelines and Rules on the subject. The order dated 5th February, 1990 was passed by respondent no. 2 so that the rules and regulations and guide lines pertaining to recruitment may not be violated.

20. That the contents of paragraphs 4-18 and 4-19 of the application are not applicable in the case of Sri Lalta Charan, the applicant, as the selection of Sri Lalta Charan was irregular, improper and illegal. The impugned order dated 14th February, 1990 has been issued in accordance with rules and guide-lines on the subject.

21. That the contents of paragraph 4-20 of the application are vehemently denied. It is stated that the applicant Sri Lalta Charan has no right on the said post of Extra Departmental Branch post Master keeping in view the appointment order

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dated 17th October, 1989 and the irregularities committed in the selection of the applicant. The selection of the applicant was in contravention of the Rules and guidelines on the subject.

22. That the contents of paragraph 4-21 of the application are vehemently denied. It is stated that the termination order dated 14th February, 90 was served upon the applicant Sri Lalta Charan on 16th February, 1990. However he handed over the articles in presence of Sri C.L.Verma, Sub Divisional Inspector, Kheri East and Sri R.P.Maurya, Overseer Post Office, Kheri south but refused to sign over the charge certificate. Then in presence of Sri R.P.Maurya and Sri C.L.Verma, the deponent took charge as Extra Departmental Branch Post Master of Ganeshpur Post Office on 16th February, 1990. A copy of the appointment order dated 14th Feb.90 and charge report dated 16th Feb. 1990 are annexed herewith as ANNEXURE No D4 and D5 to this Counter Affidavit. The deponent is running the Post Office ^{in the premises} Ganeshpur owned by the deponent w.e.f. 16th Feb.90. The applicant concocted the story of ~~slack~~ and illness on 16th February, 1990 and did not sign the charge certificate, despite the fact that the Articles and goods in his possession ^{were} ~~what ever~~ delivered to the deponent on 16th Feb. 1990.

mmr

23. That the contents of paragraph 4-22 of the application are vehemently denied. It is stated that the applicant Sri Lalta Charan did not sign

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on charge certificate. However the goods and articles were delivered to deponent on 16th Feb. 1990 in presence of Sri S.L.Verma and Sri R.P.Maurya. The deponent did not use any force.

24. That the contents of paragraphs 4-23, 4-24, 4-25 and 4-26 of the application are vehemently denied. It is stated that the applicant Sri Lalita Charan has no right to continue on the post of Extra Departmental Branch post Master Post Office, Ganeshpur keeping in view the appointment order dated 17th October, 1989 and the irregularities in the selection of Sri Lalita Charan and the rules and guidelines pertaining to recruitment. The respondent no. 2 has rightly and within his jurisdiction decided the representation/appeal (Annexure No.D-3 to this Counter Affidavit) of the deponent. The complete record including the comments of respondent No. 3 on the representation of the deponent was considered by the respondent no. 2 and only thereafter the order dated 5th February, 1990 was passed. The services of the applicant Sri Lalita Charan has been rightly terminated in accordance with law and Rules. The deponent was entitled for appointment in place of applicant Sri Lalita Charan which has been ordered by respondent No. 2 through order dated 5th February, 1990.

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25. That the contents of paragraphs 5 & 6 of the application are vehemently denied. It is stated that an appeal/representation lies to the

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Chief Post Master General, U.P. circle, Lucknow against the order dated 5th February, 1990 by respondent no. 2. The applicant Sri Lalta Charan has not availed the alternative remedy by filing the said appeal/representation and has approached the Hon'ble Tribunal. The applicant is not entitled for any relief as he has not availed alternative remedy.

26. ^{in reply to} That ~~the~~ contents of paragraph 7 of the application, it is stated that the ^{applicant} ~~document~~ is not entitled for any relief as prayed by this Hon'ble Tribunal keeping in view the alternative remedy and also the facts and circumstances stated hereinafter. The applicant Sri Lalta Charan has not challenged the order dated 5th February, 1990 as such he is not entitled for any relief.

27. That the contents of paragraph 8 of the application are denied. It is stated that the grounds stated in the paragraph under reply are not tenable in the eyes of law keeping in view the averments, made hereinabove and the rules and guide lines on the subject. The application deserve to be dismissed.

28. That the contents of paragraph 9 of the application are vehemently denied. It is stated that the applicant Sri Lalta Charan is not entitled for any interim relief as the applicant has not challenged the order dated 5th February, 1990 and

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also the fact that the deponent has taken over the charge on 16th February, 1990 and is continuously working thereafter. The balance of convenience and equity is in favour of the deponent as ~~such~~ the deponent is continuing to work as extra Departmental Branch Post Master, Post Office, Ganeshpur in pursuance of the appointment order dated 14th February, 1990 and charge report dated 16th Feb. 1990. The Hon'ble Tribunal may be pleased to vacate the interim order dated 23rd Feb. 1990 and the deponent may be allowed to continue on the post of extra Departmental Branch Post Master, Post Office, Ganeshpur during the pendency of the application. The application is devoid of merits on facts as well as grounds stated in the application. As such the application deserves to be dismissed with cost to the respondent no. 4.

Place: Lucknow

Dated: 20.3.90

कमल सिंह
DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 28 of this affidavit are true to my personal knowledge.

Nothing material has been concealed so help me God.

Signed and verified on this 20 day of March, 1990 at Lucknow.

कमल सिंह
DEPONENT

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

A. Manuvar
Advocate

गिरद गनेमपुर गांवरा के आखा हाकमाल पर हेतु

अध्यापक का विवरण:-

नाम	जाति	आवास	शिक्षा	हार्दिकता	ग्राम के श्रेष्ठ	डाफ पर रखने के लिए स्थान
1- श्रीलालनाथ	हिन्दू	ग्राम का रंगार्ड	बीORO	232	रखने के नाम	पक्का कमरा उपलब्ध है जिसमें केवल दर-वाजा है बि.को नहीं है।
2- नूतनलाल सिंह	हिन्दू	ग्राम का रंगार्ड	बीORO	209	रखने के नाम	पक्का कमरा उपलब्ध है जिसमें अनन्ता की छवि का उत्तर वाता विद्युकी लगा है।
3- अकाल सिंह	हिन्दू	ग्राम का रंगार्ड	कण्टर	240	रखने के नाम	पक्का कमरा उपलब्ध है जिसमें अनन्ता की छवि का उत्तर वाता विद्युकी लगा है।
4- केदार सिंह	हिन्दू	ग्राम का रंगार्ड	कण्टर	240	रखने के नाम	पक्का कमरा उपलब्ध है जिसमें अनन्ता की छवि का उत्तर वाता विद्युकी लगा है।
5- श्री सुरेशचन्द्र	हिन्दू	ग्राम का रंगार्ड	कण्टर	240	रखने के नाम	पक्का कमरा उपलब्ध है जिसमें अनन्ता की छवि का उत्तर वाता विद्युकी लगा है।

कमाल सिंह

AGD

इन दि आनरेबुल सेन्ट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल

सर्किट बेच, एट लकाऊ

ओ०एन० आफ 1990ई एल०

सालता कन

--- एप्लीकेन्ट

वर्सेस

नियन आफ इन्डिया एण्ड अदर्स

--- रेस्पॉन्डेंट

सेक्टर नं०-डी-2-

अ०वि०राजा डाकपाल गनेशपुर ईसानगर के पद पर
नियुक्ति हेतु आवेदन पत्र

- 1- आवेदक का पूरा नाम -कमल सिंह
- 2- पिता का नाम- श्री पुत्तु सिंह
- 3- स्थायी/अस्थायी पूरा पता- ग्राम गनेशपुर, पोस्ट-गनेशपुर, तहसील धारहरा, थाना इसानगर
- 4- जन्म तिथि प्रमाण पत्र संलग्न करें - पाँच जून उन्नीस सौ छप्पन 15-6-1956
- 5- शैक्षिक योग्यता प्रमाण पत्र संलग्न करें - इंटरमीडिएट
- अ- हाई स्कूल की अंकतालिका की सत्यापित प्रतिलिपि - संलग्न है
- ब- यदि हाई स्कूल पास न हो तो जूनior स्कूल की अंकतालिका भी जाय ।
- स- पद का नाम व आफिस
- 6- डाकधर रजि के लिये अलग उपर्युक्त कमरा है या नहीं है प्रधान का प्रमाण पत्र संलग्न है ।
- 7- वार्षिक आय तहसीलदार का प्रमाण पत्र संलग्न करें 3600/- तीन हजार छः सौ
- 8- आमदनी का श्रोत आय के समस्त श्रोतों के नाम लिखे जाय:-
 - 1- स्वयं के नाम 60 डि० कृषि योग्य भूमि
 - 2- कपड़े की पक्की दुकान
- 9- ग्रामपंचायत/ग्राम सभा, न्याय पंचायत का सदस्य है या नहीं नहीं है । प्रधान ग्राम सभा द्वारा दिया गया प्रमाण पत्र संलग्न है
- 10- दो सभ्रान्त व्यक्तियों द्वारा दिये गये चरित्र प्रमाण पत्र संलग्न करें - संलग्न है ।
- 11- रोजगार दफ्तर का नाम तथा अंजीकरण संख्या 1113/89 सेवा योजन कार्यालय, लखीमपुर खीरी

महेश सिंह

161

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मैं प्रमाणित करता हूँ कि उपरोक्त विवरण पूर्ण रूप से सत्य है ।

दिनांक 1-3-89

ह0/- कमल सिंह
हस्ताक्षर आदेशक

प्रार्थना पत्र के साथ निम्न प्रमाण पत्र संलग्न है:-

- 1- हाईस्कूल का प्रमाण-पत्र
- 2- हाई स्कूल का अंक प्रमाण पत्र
- 3- इंटरमीडिएट का अंक प्रमाण पत्र
- 4- तहसीलदार द्वारा दिया गया निवास एवं आय प्रमाण पत्र
- 5- ग्राम प्रधान ग्राम सभा गणेशपुर का दिया हुआ निवास प्रमाणपत्र
- 6- चरित्र प्रमाण पत्र विद्यालय द्वारा
- 7- चरित्र प्रमाण पत्र ग्रामप्रधान द्वारा
- 8- डाकघर सुरक्षित रखे का प्रमाण पत्र
- 9- जमीन बैनाम की फोटो स्टेट रसीद
- 10- दुकान का प्रमाण पत्र प्रधान द्वारा

नोट:- प्रार्थने दिनांक 16-6-89 को श्री लाजर्जीसिंह से 60 डि०

जमीन खरीदी थी जिसका बैनामा सब रजिस्ट्रार धौरहरा द्वारा दिनांक 16-6-89 को किया गया है सब रजिस्ट्रार द्वारा दी गई रसीद संख्या 35 की फोटो स्टेट प्रतिलिपि साथ में संलग्न है बैनाम की कापी मिलने पर सेवा में प्रेषित कर दूंगा ।

ह0/- कमल सिंह

लाजर्जीसिंह

सेवा में ,

श्री

श्री भानु प्रताप सिंह •

निदेशक,

डाक सेवारं,

लखनऊ क्षेत्र लखनऊ ।

विषय :- डाक अधीक्षक खोरी द्वारा शाखा डाक पात्र गनेशपुर खोरी में की गयी अवैधानिक नियुक्ति के विरुद्ध अपील ।

5 5 5 5 - - - - -

महोदय,

प्रार्थी के ग्राम गनेशपुर खोरी में खाखा डाकपाल के पद को नियुक्ति हेतु आवेदन पत्र मांगे गये थे । जिसमें प्रार्थी ने भी आवेदन पत्र दिया था । इस सम्बन्ध में मुझे निवेदन करना है कि अधीक्षक खोरी ने किन्हीं विशेष कारणवस श्री लालता चरन को नियुक्ति दिनांक 10-10-89 ई० को कर दी है । जो कि सर्वथा नियमों के विपरीत है विवरण इस प्रकार है :-

1- श्री लालता चरन को शिक्षा बी०ए० तक है उनके हाई स्कूल परीक्षा में 232 प्राप्तांक है प्रार्थी का शिक्षा इंटरमीडियट तक है तथा हाई स्कूल परीक्षा में 240 अंक है ।

नियुक्ति के नियमों के अनुसार शाखा डाकपाल के पद के लिए शैक्षिक योग्यता जो जूनियर हाईस्कूल है तथा हाई स्कूल या समकक्ष को वरीयता दी जाती है। इस

इस नियम के अनुसार हाई स्कूल परीक्षा के ही प्राप्तांकों को आधार माना जाता

है । डाकमहानिदेशक के ऐसे कोई भी आदेश नहीं है कि हाई स्कूल से उच्च शिक्षा वाले को वरीयता दी जाये । परन्तु अधीक्षक खोरी ने इस नियम को बिल्कुल अनदेखा कर दिया है ।

2- प्रार्थी के पास निजी कपड़े की रोज़ाना दुकान है जिसे डाक निरीक्षक महोदयने अपने बिजुट के दौरान सत्यापित किया था डाक महानिदेशक के पत्र सं० 43-84/80 पं- दिनांक- 30-1-81 के अनुसार जिस अभ्यर्थी के पास व्यवसायिक स्थान होगा उसे वरीयता दी दी जायेगी । चाहे अन्य अभ्यर्थी किसी भी कैटेगिरी के क्यों न हों

इस नियम के अनुसार - " The candidate must be able offer office space to serve as the agency premises for postal operations as well as public call office and as such, business premises such as shops etc, must be preferred regardless of the various categories of preferences."

श्री लालता चरन जिससे अधीक्षक खोरी ने नियुक्ति किया है के पास ऐसा कोई व्यवसायिक स्थान नहीं है इस तथ्य को डाक निरीक्षक महोदय, ने अपनी बिजुट

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के दौरान स्थापित किया था परन्तु अधीक्षक खीरी ने डाक महानिदेशक के उक्त नियमों की सुली अवेहन की ओर श्री लालता चरन की ही नियुक्ति की।

3- श्री लालता चरन के पास स्वयं के नाम 21 डि० भूमि है तथा प्रार्थी के पास स्वयं के नाम 60 डि० । प्रार्थी की भूमि श्री लालता चरन से कहीं अधिक है।

नियम के अनुसार यदि कोई शाखा डाकपाल गवन करता है तो जिसके पास अधिक भूमि है सरकारो धन की अधिक वसूली की जा सकती है इस प्रकार अधिक भूमि वाले अभ्यर्थी को प्राथमिकता मिलनी चाहिए। इस मामले में श्री अधीक्षक खीरी ने श्री लालता चरन का सुला पक्ष लिया।

4- प्रार्थी का पक्का कमरा भी श्री लालता चरन की अपेक्षा कहीं अच्छा है। प्रार्थी के कमरे में जनता की सुविधा के लिए, काउन्टरयुक्त खिड़की लगी हुई है जबकि लालता चरन के कमरे में कोई खिड़की नहीं है।

5- श्रीलालता चरन जिनकी नियुक्ति अधीक्षक खीरी ने की है, अनौपचारिक शिक्षा के अन्तर्गत, ग्राम बदालीपुर में जो कि ग्राम गनेशपुर से 5 किमी० दूर है अध्यापक के पद पर पहले से कार्यरत हैं। जिसका कार्यकाल शाखा डाकघर के कार्यकाल के लगभग समान है। नियमानुसार एक व्यक्ति एक साथ दो पदों पर कार्य नहीं कर सकता। अधीक्षक महोदय ने इस तथ्य की जांच भी डाक निरोधक महोदय से कराई थी। जिसका पुष्टिकरण डाक निरोधक महोदय ने किया था। चूंकि अधीक्षक महोदय को श्री लालता चरन का सुला पक्ष लेना था, अतः नियुक्ति करते समय उन्होंने श्री लालता चरन को इस अयोग्यता को पूरी तरह से नजर न दाय कर दिया।

6- प्रार्थी ने अधीक्षक खीरी से इस सम्बन्ध में व्यक्तिगत मुलाकात की थी उन्होंने उत्तर दिया था कि मैं कमसे कम 10,000/- रु० लेकर नियुक्ति करता हूँ। क्योंकि इसके आधे पैसे छद्म तो मुझे उच्च अधिकारियों को देने पड़ते हैं। लालता चरन ने मुझे रडवांस में आफिस के बाबू के जरिये पैसे भिजवा दिये हैं अतः मुझे उसी की नियुक्ति करनी है। चाहे वह नियम में आता हो या नहीं।

7- श्रीमानजी जब मैं अधीक्षक महोदय के चेम्बर से बाहर निकला तो वहां के कई बाबू लोगों ने मुझे बताया कि यहां हर चीज के रेट फिक्स हैं तुमने आने में देर कर दी है। इस पद का सौदा हो चुका है। उन लोगों ने आगे बताया कि श्री दयाराम आर्य अधीक्षक खीरी ने अपने कार्यकाल में जितनी भी नियुक्तियां की हैं सब मोटी धनराशि लेकर की हैं। जितने भी विभागीय ई०डी० कर्मचारो बहाल किये गये हैं पैसे लेकर किये हैं इस बात को हर व्यक्ति कहने को तैयार है। नियुक्ति की फाइलों में तो लम्बे घपले हैं।

8- इन परिस्थितियों को ध्यान में रखते हुए श्रीमानजी से निवेदन है कि शाखा डाकघर गनेशपुर (खीरी) में श्री लालता चरन की गयी अवैधानिक नियुक्ति को निरस्त किया जाये तथा प्रार्थी यदि नियम के अन्तर्गत आता है तो शाखा डाकपाल के पद पर नियुक्ति करने की कृपा करें। सभी कन्डीडेटों का वार्ड में दिया विवरण संलग्न है।

दि०-१८-१०-८८

प्रार्थी:-- कमल सिंह पुत्र श्री पुस्त सिंह
ग्राम गनेशपुर पो० गनेशपुर ई० नगर जिला-खीरी।

अमर सिंह

ACF

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL.

CIRCUIT BENCH AT LUCKNOW

C.A.No . of 1990(L)

Lalta Charan

... Applicant

Versus

Union of India & others

... Respondents

Annexure No. D-4

DEPARTMENT OF POST OFFICE OF THE SUPDT. OF POST
OFFICES, KHERI DIVISION, Kheri. 262701

Memo No. A/Ganeshpur/2

Dated at Kheri the 14.2.1990

Sri Kamal Singh S/O Sri Putee Singh is here
by provisionally appointed as EDBPTT Ganeshpur
(Isanagar) Kheri subject to the verification of
character and antecedents and income. He shall
be paid such allowances as admissible from time to
time.

2. Sri Kamal Singh should clearly understand
that his appointment as EDBPM Ganeshpur shall be in
the nature of contract liable to be terminated by him
or the undersigned by notifying the other, in writing
and he shall also be governed by the Posts and
Telegraphs Extra Departmental Agents (Conduct and
Service) Rules, 1964 as amended from time to time.

3. Sri Kamal Singh should also understand
that his services can be terminated at any time if his
previous incumbent comes back.

4. If these conditions are acceptable to him
he should communicate his acceptance in the proforma
enclosed.

mmw AC

Sd/-Supdt. of Post Offices
Kheri Dn. Kheri 262601

AC 5

-2-

Copy to;

1. Sri Kamal Singh S/O Sri Puttee Singh
VFO Ganeshpur Kheri through S.D.I.(C)
Kheri
2. SPM Isanagar, Kheri.
3. Post Master Kheri.
4. SDI(C) Kheri. He will please get the
charge transferred immediately and
send relevant papers.
5. The Director Postal Services, Lucknow
Region, Lucknow wrt his letter No.
RDL/STA/C-27/89/3 dt. 5.2.90 for
information.
6. C/C
7. Spare.

Sd/-Supdt. of Post
Offices,
Kheri Dn. Kheri 62701.

ALC

C.A.No. of 1990(L)

V e r s u s

Annexure No. D-5

Certified that the charge of EDMP

Ganeshpur P.O. Kheri was assumed by Sri Kamal Singh S/O Puttee Singh R/O Vill. P.O. Ganeshpur Kheri on 16.2.90 afternoon in accordance with SPos. Kheri memo no. A/Ganeshpur/2 dated 14.2.90 at Ganeshpur P.O.

Relieving official

Copy to

1. The official
2. SPos Kheri
3. SDI(C) Kheri
4. P.M.Kheri

मन्त्र लिख

व अदालत श्रीमान

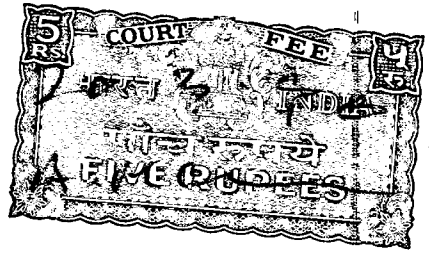
Before the Central Admin. Tribunal

महोदय

[वादी] अपीलान्त

प्रतिवादी [रेस्पान्डेंट] 4 Shri Kameel Singh

का वकालतनामा



Lata Chavan

Union of India बनाम प्रतिवादी (रेस्पान्डेंट) and others.

मुकदमा नं०

सन्

पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

Shri. A. Mannan

वकील

Shri. Asit. K. Chaturvedi

महोदय

एडवोकेट

नाम अदायक	मुकदमा नं० नाम	फरीकन

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

A. Mannan
Asit Chaturvedi

हस्ताक्षर

कामेल सिंह

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

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महीना

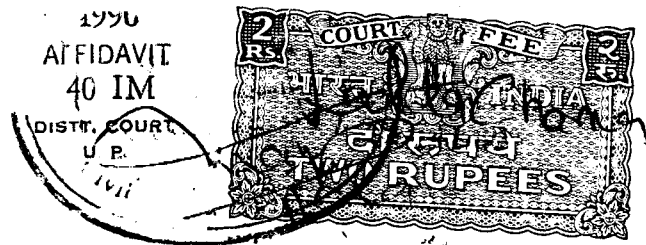
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१६ १९६०

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

~~M.P. No. 408/90 (L)~~
Application No.60 of 1990 (C)



Lalta Charan

... Applicant

Versus

Union of India and others

... Respondents

REJOINDER AFFIDAVIT

I, Lalta Charan aged about 27 years s/o Sri Kesho Ram, R/O Village Post Ganeshpur, Pargana Firozabad, *Tehsil Dhaunrahra, District Kheri, the deponent do hereby state on oath as under:

1. That the deponent is applicant in the above mentioned application and as such is fully conversant with the facts of the case deposed to hereinafter.
2. That the deponent has gone through the contents of the counter affidavit filed on behalf of Sri Kamal Singh and has understood the same. The parawise reply is as under:
3. That the contents of paras 1 and 2 of the counter affidavit need no reply.

Contd...p/2.

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: 2 :

4. That the contents of para 3 of the counter affidavit are denied and those stated in paragraph 1 of the application are re-affirmed. It is, however, further stated that the order of termination was passed by the Superintendent of Post Offices, Kheri Division, Kheri on the instructions issued by the Director, Postal Services, Lucknow Region, Lucknow.

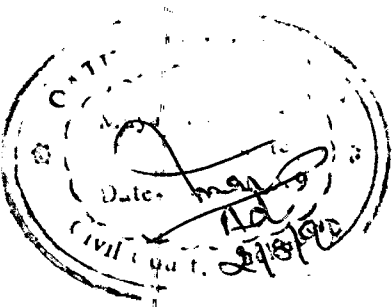
5. That the contents of para 4 of the counter affidavit need no reply.

6. That in reply to the contents of para 5 of the counter affidavit, it is stated that the order passed by the Supdt. of Post Offices, Kheri, on the direction issued by the Director, Postal Services is against the provisions of law and as such is void ab-initio. In these circumstances, there is no occasion to prefer any appeal.

7. That in reply to the contents of para 6 of the counter affidavit, it is stated that on account of merit of the applicant he was selected for the post of Extra-Departmental Branch Post Master and candidature of other candidates who appeared in the selection including that of the opposite party No.4 was rejected.

8. That the contents of para 7 of the counter affidavit need no reply, as the applicant is also permanent resident of Ganeshpur.

9. That the contents of para 8 of the counter



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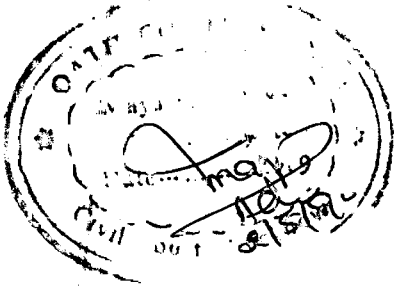
affidavit are denied and those stated in para 4-3 of the application are re-iterated. It is, however, further stated that the applicant is possessed of adequate source of income which was duly verified by the Revenue and the Postal authorities.

10. That the contents of para ^L 9 of the counter affidavit need no reply.

11. That the contents of para 10 of the counter affidavit are denied. It is, however, further stated that the candidature of the applicant was found suitable on consideration of overall circumstances. It is specifically denied that the selection and appointment of the applicant was in any way illegal, arbitrary or contrary to the Rules.

12. That the contents of para 11 of the counter affidavit are denied and those stated in paras 4-6, 4-7, 4-8 of the application are re-iterated. It is, however, further stated that the applicant who is B.A. and is possessed of adequate means of livelihood is a better qualified and suitable person for the post of Extra-Departmental Branch Post Master.

13. That the contents of para 12 of the counter affidavit are denied. As has already been stated that the selection and appointment of the applicant was in accordance with the Rules. It is also further stated that the applicant is also possessed of agricultural land and pakka house including a room



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to be utilised for post office.

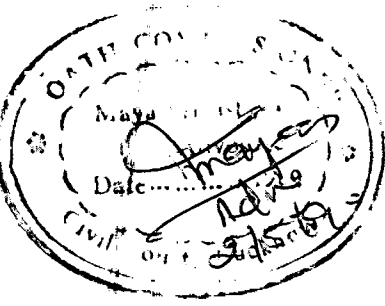
14. That the contents of para 13 of the counter affidavit are denied and those stated in para 4-10 of the application are re-iterated.

15. That the contents of para 14 of the counter affidavit are denied. The applicant was fully qualified and suitable for appointment as Extra Departmental Branch Post Master.

16. That the contents of para 15 of the counter affidavit are denied and those stated in paras 4-13 of the application are re-iterated. The appointment of the applicant was neither provisional nor in the nature of any contract. It is, however, further stated that the appointment and services of the applicant cannot be terminated by the Superintendent of Post Offices in an arbitrary manner and that too without any notice or opportunity.

17. That the contents of para 16 of the counter affidavit are denied and those stated in para 4-14 of the application are re-iterated. It is, however, further stated that the selection and appointment of the applicant was perfectly legal and in accordance with the provisions of law.

18. That the contents of para 17 of the counter affidavit are denied and those stated in para 4-15 of the application are re-affirmed. It is, however, further stated that no appeal or

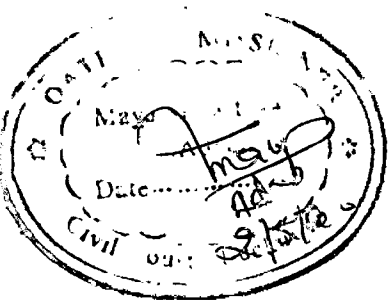


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representation lay against the selection and appointment of the applicant. Moreover, if any appeal was maintainable even then the applicant should also have been arrayed as a party and should have been afforded an opportunity of hearing in the appeal before any order could have been passed by the Director, Postal Services. This having not been done, the orders passed by the Director, Postal Services cannot be said to be an order passed by an appellate authority. The cancellation of the appointment of the applicant by the Director, ~~18x~~ Postal Services is not in accordance with law. Similarly, the appointment of Sri Kamal Singh as Extra Departmental Branch Post Master by the Director, Postal Services is also not in conformity with the procedure prescribed by law.

19. That the deponent has been advised to state that the procedure adopted by the Director, Postal Services in cancelling the appointment of the applicant and in appointing Sri Kamal Singh is arbitrary and full of malafides. A copy of the letter dated 16.2.1990 written by the Director, Postal Services to Sri Kamal Singh is annexed as ANNEXURE NO.8 to the application. A perusal of the letter would indicate that the Director, Postal Services was personally interested in the matter and had taken personal interest to appoint Sri Kamal Singh.

20. That the contents of para 18 of the counter affidavit are denied and those stated in para 4-16 of the application are re-affirmed. So far as



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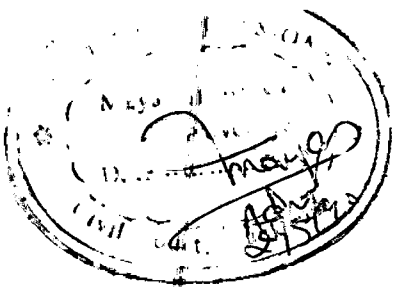
educational qualifications are concerned, it has already been stated that the applicant is B.A. while Sri Kamal Singh is only Intermediate. The selection of the applicant was valid and in accordance with the Rules applicable in respect of the selection and appointment of the Extra Departmental Branch Post Master. The otherwise contents of this para are denied.

21. That the contents of para 19 of the counter affidavit are denied and those stated in para 4-17 of the application are re-affirmed. The order passed by the Respondent No.2 is arbitrary and illegal. (The deponent has been advised to state that the order is without jurisdiction and nullity in the eyes of law).

22. That the contents of para 20 of the counter affidavit are denied and those stated in paras 4-18 and 4-19 of the application are reiterated.

23. That the contents of para 21 of the counter affidavit are denied and those stated in para 4-20 of the application are re-affirmed. No irregularity, whatsoever, was committed in the selection of the applicant which was in accordance with the Rules and guidelines on the subject.

24. That the contents of para 22 of the counter affidavit are denied and those stated in para 4-21 of the application are re-affirmed. It is, however, further stated that the applicant did not hand over the charge as has been stated.



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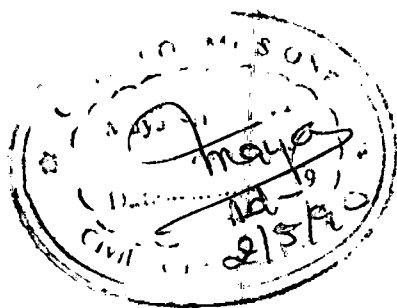
He was being forced to hand over charge but the applicant left the place and sent a F.I.R. to the Supdt. of Police, Kheri. The otherwise contents of this para are denied.

25. That the contents of para 23 of the counter affidavit are denied and those stated in para 4-22 of the application are re-affirmed.

26. That the contents of para 24 of the counter affidavit as stated are denied and those stated in paras 4-23, 4-24, 4-25 and 4-26 of the application are re-affirmed. It is, however, further stated that the applicant who was duly selected and was appointed as Extra Departmental Branch Post Master, has got the right to continue on the said post. The order dated 14.2.1990 passed by the Supdt. of Post Offices suffer from manifest errors of law.

27. That the contents of para 25 of the counter affidavit are denied and those stated in paras 5 and 6 of the application are re-affirmed. (The deponent has been advised to state that the order dated 14.2.1990 passed by the Supdt. of Post Offices is void ab-initio and has been passed on the direction of the Director of Postal Services, the question of preferring an appeal does not arise.)

28. That the contents of para 26 of the counter affidavit are denied and those stated in para 7 of the application are re-affirmed. It is,



21/08/92

however, further stated that the applicant was not informed about the order dated 5th February, 1990 passed by the Director, Postal Services at any point of time prior to passing of the order dated 14.2.1990 passed by the Supdt. of Post Offices.

29. That the contents of para 27 of the counter affidavit are denied and those stated in para 8 of the application are re-affirmed. The deponent has been advised to state that on the grounds stated in the application the order dated 14.2.1990 passed by the Supdt. of Post Offices, Kheri, deserves to be set aside.

30. That the contents of para 28 of the counter affidavit are denied and those stated in para 9 of the application are re-affirmed. It is, however, further stated that the applicant who fell ill had submitted the application for grant of leave. The applicant is already on leave upto 5th May, 1990. Rest of the contents of this para are denied.

Lucknow

महाराज-१२१
DEPONENT

Dated: 2.5.1990

Verification

I, the above named deponent do hereby verify that the contents of paras 1 to 30 ^{except para 27 & 28} of this rejoinder

are true to my knowledge and those stated in the counter affidavit are believed to be true. ^{except para 27 & 28}

Signed and verified this 2nd day of May,

1990 in the Court's compound at Lucknow.

Civil Court

महाराज-१२१
DEPONENT

identify the deponent who has signed before me

An G. B. P. L. M. S. C.

Before the Jt. Additional Bench

1st Bench

Case No. 60 of 1990 (A76)

1st Bench

Additional Bench

Union of India

Respondent

An. No. 8

प्रदेश निदेशक डाक सेवाएं
लाहौर क्षेत्र लाहौर

सेवा में
श्री कमलेश सिंह कुजुआपुरा
शिवपुरी गुरुवापुरा
आपका लाहौर क्षेत्र

पत्र संख्या निदेश/स्था/सी - 27/86/3

स्थापित ला. दिनांक - 16.2.90

विषय: गुरुवापुरा (शाखा) डाक घर (सी) में शाखा डाकघर पद पर अधीक्षक
डाक घर सी द्वारा की गई नियुक्ति के विरुद्ध प्रतिवेदन

संदर्भ: आपका पत्र दि. 19-10-89 एवं 15-1-90

विषयवस्तु: आपने संदर्भित प्रतिवेदन के माध्यम से आपका प्रचित
क्रिया पाता है कि अधीक्षक डाक घर सी द्वारा शाखा डाकघर गुरुवापुरा में
पद पर की गई नियुक्ति के विरुद्ध आपके (क्योंकि वह नियमावली के
अधीन नहीं पायी गई) आपकी नियुक्ति के लिए के विरुद्ध अधीक्षक डाक घर
सी को दे दिए गए हैं आप प्रमाण इसके माध्यम से आपका प्रचित
पत्र की पावती साथ में भेजी जा रहे हैं आपकी नियुक्ति के अंतर्गत
इस कार्य को अवश्य करें

सं - ①

प्रतिवेदन - अधीक्षक डाक घर सी
मास्टर सी को प्रेषित

कृते निदेशक डाक सेवाएं लाहौर

क्षेत्र लाहौर

हो
कृते निदेशक डाक सेवाएं
लाहौर क्षेत्र
क्षेत्र लाहौर

लाहौर



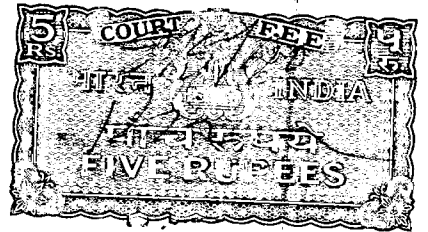
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बअदालत श्रीमान के.वि. प्रसाद के.के. महोदय

वादी (मुद्ई)
मुद्ई (मुद्दालेह)

का

वकालतनामा



ललिता चरन

नं० मुददमा ०० सन १० पेशी की ता० १९ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री पुत्र लाल मिश्र एवं किशु जोषल वकील

मिश्र एडवोकेट महोदय

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

नाम अदालत
नं० मुकदमा
नाम फरीकन

Accepted
Q.1234

हस्ताक्षर ललिता चरन

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

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सन

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Accepted
12/11/98
27/11/98

A.78

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

M. P. No. 408/90 (4)
C.M. Application No. of 1990
in
APPLICATION NO.60 OF 1990(C)

Noted for 27/6/90
M. P. No. 408/90
25/6/90

Noted for 27/6/90
J. (L. & A.)
25/6/90

Lalta Charan, aged about 27 years, son
of Sri Kesho Ram, resident of Village and
Post Ganeshpur, Pargana Firozabad, Tahsil-
Dhaunrahra, District Lakhimpur Kheri.

... Petitioner-applicant

Versus

1. Union of India through its Secretary, Department-
Posts, Ministry of Communication, New Delhi.
2. The Director, Posts and Telegraphs Department,
Lucknow Circle, Lucknow.
3. The Superintendent of Post Offices, Kheri Division,
Kheri.
4. Sri Kamal Singh, S/o Puttu Singh, presently posted
as E.D.B. Post-Master at Post Office Ganeshpur,
Tahsil Dhaunrahra, District Kheri.

... Respondents

APPLICATION FOR INTERIM RELIEF.

For the facts and the circumstances stated in --

22

Filed today
25/6/90

25/6/90

A-76

-2-

the application as well as in the Rejoinder Affidavit, it is most humbly and respectfully prayed that the operation of the order of termination dated 14.2.1990 passed by the Superintendent of Post Offices, Kheri Division, Kheri, may kindly be stayed during pendency of the application before this Hon'ble Tribunal.

Such further orders as may be deemed just and proper in the circumstances of the case be also passed in favour of the applicant and against the respondents.

Lucknow: Dated
May , 1990.

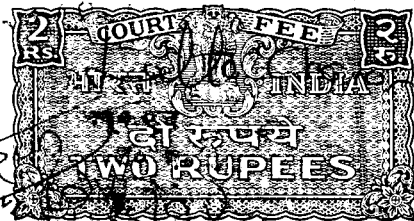

ADVOCATE,
COUNSEL FOR THE APPLICANT.

साला-चर

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

APPLICATION NO.60 OF 1990 (C)

1990
AFFIDAVIT
70 IM
DISTT. COURT
U. P.



Lalta Charan

... Applicant

Versus

Union of India and others

... Respondents.

RE JOINDER AFFIDAVIT

I, Lalta Charan, aged about 27 years, son of Sri Kesho Ram, resident of Village & Post Ganeshpur, Pargana Firozabad, Tahsil Dhaunrahra, District Kheri, the deponent do hereby state on oath as under :-

1. That the deponent is applicant in the above mentioned application and as such he is fully conversant with the facts of the case deposed to hereinafter.
2. That the deponent has gone through the contents of the Counter-affidavit filed on behalf of respondents no.1 to 3 and has understood the same. The parawise reply of the same is given as under :-
3. That the contents of paragraphs 1 to 4 of --

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the Counter-affidavit need no reply.

4. That the contents of para 5 of the Counter-affidavit, as stated, are denied and those stated in para 1 of the application are reiterated. It is, however, further stated that Rule 6 of the Post and Telegraph Extra Departmental Agent (Conduct and Service) Rules, 1964 are not attracted in the present case as the order has been passed on the directions issued by an authority which is not the appointing authority.

5. That the contents of para 6 of the Counter affidavit need no reply.

6. That the contents of paras 7 to 9 of the Counter-affidavit need no reply.

7. That in reply to the contents of para 10 of the Counter-affidavit, the facts stated in para 4.15 of the application are reiterated. No representation or appeal has been provided against the order of selection made by the Superintendent of Post Offices and as such the representation submitted by Sri Kamal Singh was not in accordance with law and the Director, Postal Services, did not have the jurisdiction to pass an order on the said representation.

8. That the contents of para 11 of the counter-affidavit are denied and those stated in and 4.17 para 4.16/of the application are reiterated. The

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Adm
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लालता चरण

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provisions of Rule 6 of the Post and Telegraph Extra Departmental Agent (Conduct and Service) Rules 1964 are not attracted and the post held by the petitioner applicant could not have been revoked. The order is also in violation of the principles of natural justice as the same has been passed without affording an opportunity to the applicant.

9. That in reply to the contents of para 12 of the Counter-affidavit, it is stated that the services of the applicant could not have been terminated in pursuance of the orders of Director, Postal Services, Lucknow.

10. That the contents of para 13 of the Counter-affidavit are denied and those stated in para 4.19 of the application are reiterated.

11. That the contents of para 14 of the Counter-affidavit are denied and those stated in para 4.20 of the application are reiterated. The selection and appointment of the applicant could not be said to be provisional.

12. That the contents of para 15 of the Counter-affidavit in so far as they are contrary to the averments made in para 4.21 of the application are denied. It is further reiterated that the applicant did not hand over the charge of the post of Extra Departmental Branch Post-Master to Sri Kamal Singh.

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-4-

13. That the contents of para 16 of the Counter-affidavit need no reply.

14. That the contents of para 17 of the Counter-affidavit are denied and those stated in para 4.23 of the application are reiterated.

15. That the contents of para 18 of the Counter-affidavit are denied and those stated in para 4.24 of the application are reiterated.

16. That in reply to the contents of para 19 of the Counter-affidavit, the facts stated in para 4.25 of the application are reiterated. The order of termination, which has been issued by the Superintendent Post Offices can not be said to have been issued in exercise of powers u/s 6 of the Post and Telegraph Extra Departmental Agent (Conduct and Service) Rules, 1964.

17. That the contents of para 20 of the Counter-affidavit are denied and those stated in para 4.26 of the application are reiterated.

18. That the contents of para 21 of the Counter-affidavit need no reply.

19. That the contents of para 22 of the Counter-affidavit are denied. It is, however, further stated that the interim relief as prayed for can be granted in view of the facts that the order of termination is void ab-initio and that the applicant --

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is holding the charge of the post of Extra Departmental Branch Post-Master.

20. That the contents of para 23 and 24 of the Counter-affidavit need no reply.

21. That the contents of para 25 of the Counter-affidavit are denied. Since the order which has been passed by the Director Postal Services is without an authority of law and is beyond jurisdiction and as such the same is nullity in the eyes of law. (The deponent has been advised to state that no appeal has been provided against such an order. Therefore, the question of filing appeal does not arise).

22. That the deponent has been advised ~~to~~ to state that in view of the facts and the circumstances stated in the application as well as in the Rejoinder-affidavit, the order of termination dated 14.2.1990 passed by the Superintendent Post Offices is liable to be stayed during pendency of the application before this Hon'ble Tribunal.

Lucknow:Dated

May 4, 1990

मामा-429
DEPONENT

Verification

I, the above-named deponent, do hereby verify that the contents of paras 1 to 21 except --

ASCC

bracketted portion, of this Rejoinder-affidavit are true to my knowledge and those stated in the bracketted portions of para 21 and para 22 are believed to be true.

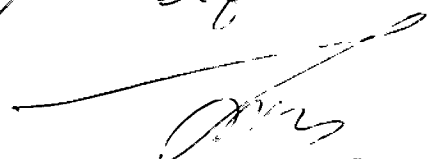
Signed and verified this 4th day of May, 1990 in the Courts' Compound at Lucknow.

may
Adm
4/5/90

Lucknow; Dated
May 4, 1990.

सोमनाथ चौरा
DEPONENT

I identify the deponent
who has signed before me


C/O Smt. R. Choudhary
Adm
4/5/90

4/5/90 11-00 by Latta Chavan
Adm

may
Adm
4/5/90

(A95)

In the Central Administrative Tribunal at Allahabad,

Circuit Bench, Lucknow.

Written ^{Ref.} Statement on behalf of Respondent No. 1 to 3.

In

O. A. No. 60 of 1990

Lalta Charan

.....

Applicant.

Versus.

Union of India & Others

.....

Respondents.

I, Daya Ram, aged about 52 years, son of ^{Late} Shri Bachhi Ram

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

Kheri, do hereby solemnly affirm and state as under :-

1. That the ^{"Officer above named"} ~~deponent~~ is ~~competent~~ competent to ^{sign} ~~make~~ this written ^{self} ~~statement~~ on behalf of all the respondents.
2. That the ^{"Officer above named"} ~~deponent~~ has read the application filed by Shri Lalta Charan and has understood the contents thereof.
3. That the ^{"Officer above named"} ~~deponent~~ is well conversant with the facts of the case deposed hereinafter.
4. That it would be worth while to give a brief facts of the case as under :-

Brief History of the Case

Plan
On opening of a new Extra Departmental Branch Post Office

(A.B.)

at Ganeshpur on 23.5.89, a letter was sent to Employment Exchange, Kheri for sponsoring the names of candidate for the post of E.D. Branch Post Master, Ganeshpur. The Employment Exchange sponsored the names of five candidates (Annexure &-1). All the five candidates were asked to submit their applications in the prescribed form. On receipt of their applications, the details of their income, its source, character of the applicant & the suitability of the provision offered by them for the post were got marked by the Sub Divisional Inspector Kheri. On receipt of the report of the Inspector, the cases of all the five candidates were examined. Shri Lalta Charan, the applicant was found to be the most suitable candidate amongst all the five. He was, therefore, selected for the post of E.D. Branch Post Master, Ganeshpur. The character and income of Shri Lalta Charan was also got verified through the District Magistrate, Lakhimpur Kheri and after receipt of the District Magistrate's report on 12.10.89, Shri Lalta Charan was appointed on 17.10.89. He took over charge of the Branch Post Office, Ganeshpur on 19.10.89.

The Director Postal Services ~~Lakhimpur~~ Lucknow Region, Lucknow, vide his letter No. RDL/STA/C-27/89/3 dated 5.2.90 ordered the deponent for cancellation of the order of appointment of the applicant. He further ordered that Shri Kamal Singh should be ~~appointed~~ appointed in place of the petitioner (Annexure R-2). Accordingly in compliance to the said order of the Director Postal Services, Lucknow, services of the applicant were terminated under Rule 6 of the P & T, EDA (Conduct & Service) Rules, 1964 vide

.... 3..

AST

-: 3 :-

Memo No. A/Ganeshpur/1 dated 14.2.90 and the appointment letter No. A/Ganeshpur/2 dated 14.2.90 was issued to Shri Kamal Singh. The termination order was served on the applicant but the applicant did not handover the complete charge of the Post office. Certain documents which could be obtained from the applicant were handed over to Shri Kamal Singh. In the meanwhile the applicant obtained stay order from the Hon'ble Tribunal in respect of his termination order & forwarded the same to the deponent which was received on 26-2-90.

Para-wise Comments

5. That in reply to the contents of para 1 of the application it is stated that the termination order dated 14.2.90 was issued under Rule 6 of the Posts and Telegraphs Extra Departmental Agents (Conduct & Service) Rules, 1954, hereinafter referred to as EDA Rule 1964. The said order was issued in pursuance of the letter dated 5.2.1990 from the Director Postal Services, Lucknow.
6. That the contents of para 2 and 3 need no comments.
7. That the contents of para 4.1 and 4.2 are admitted.
8. That the contents of para 4.3 and 4.4 need no comments.
9. That the contents of para 4.5 to 4.14 are admitted.
10. That in reply to the contents of para 4.15 it is stated that the name of the respondent No. 4 who is intermediate was sponsored by the Employment Exchange, Lakhimpur Khari alongwith four other

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-: 4 :-

candidates including the applicant. The applicant was found the most suitable candidate amongst all the five candidates and was accordingly appointed on the post of Extra Departmental Branch Post Master, Ganeshpur. A complaint was made by Respondent No. 4 to the Director Postal Services, Lucknow against the appointment of the applicant who set aside the order of the applicant vide his letter No. RDL/STA/89/3 dated 5.2.90, ordered that Shri Kamal Singh may be appointed in his place. Accordingly the services of the applicant were terminated on 14.2.90 under Rule 6 of the EDA, Rules 1964 and respondent No. 4 was appointed on the post on the same day i.e. 14.2.90.

11. That in reply to para 4.16 & 4.17 it is stated that the services of the applicant were terminated under Rule 6 of the EDA Rules 1964 which does not provide for giving any notice. There has been no violation of the letter dated 4.5.1965 issued by the Director General, P & T.
12. That in reply to para 4.18 it is stated that the services of applicant were not terminated on medical ground or on abolition of post held by him. The services of the applicant were terminated in pursuance of the order of the Director of Postal Services, Lucknow as referred to in paragraphs 10 above.
13. That in reply to the contents of para 4.19 it is stated that the averment made by the applicant with regard to Rule 6 of the EDA Rules 1964 are misconceived. The said rule has not been deleted. It is still in force and the termination order has been passed

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-: 5 :-

under the provisions of the said rules.

14. That in reply to para 4.20 it is stated that the applicant was appointed provisionally and his appointment was in the nature of contract and that it was governed by the provisions of P & T EDA (Conduct & Service) Rules, 1964.
15. That the contents of para 4.21 are admitted to the extent that the Sub Divisional Inspector of Lakhimpur Kheri division took provision of certain documents from the applicant on 16.2.90 and served the termination order upon him but the applicant did not hand over the complete charge of the Post Office. Rest of the contents are denied.
16. That the deponent has no knowledge about the contents of para 4.22 and hence no comments are made.
17. That the contents of para 4.23 are misconceived. There has been no violation of Article 14 and 16 of the ~~xxxxxxx~~ constitution.
18. That the contents of para 4.24 need no comments. However, it is submitted that the termination order was issued without any bias or motive. It was issued in compliance to the order of the Director Postal Services, Lucknow.
19. That in reply to the contents of para 4.25 it is submitted that the appointment order was set aside by respondent No. 2 and the termination order dated 14.2.1990 was issued by the deponent under

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APC

-: 6 :-

Rule- 6 of the EDA, Rule, 1964.

20. That in reply to para 4.26 it is submitted that Rule 6 of the EDA Rules, 1964 does not envisage any enquiry prior to termination of service.
21. That the contents of para 5 and 6 need no comments,
22. That in view of the submissions made in the above paragraphs, the relief sought for in para 7 and Interim Relief prayed for in para 9 of the application are not admissible and are liable to be rejected.
23. That the grounds mentioned in para 8 have adequately been dealt with in the foregoing paragraphs.
24. That the contents of para 10 and 11 need no comments.
25. That it is respectfully submitted that the applicant did not exhaust the departmental remedies available to him under Rule 16 of the EDA Rules, 1964 before coming to this Hon'ble Tribunal for relief.

Lucknow ;

Dated : 22-3-9.

x Glan
Deponent
(Respondent).

contd. 7...

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-: 7 :-

Verification

I, Daya Ram, Supdt. of Post Offices, Kheri Dn.,
Lakhimpur Kheri, do hereby verify that the contents of para 1 to
3 are true to my personal knowledge and those of paras ~~4 to 25~~ 4 to 25
are based on records and as per legal advice. That I have not
suppressed any material facts.

Signed and verified this the ~~22nd~~ ^{March} day of ~~March~~ 1990
within court compound at Lucknow.

Lucknow ;

Dated : 22-3-90

X
Deponent.
Respondent.

Lalla Chann vs Laxmi Chandra
Insured for Rs 1000

Annexure R-2

492

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पत्र-व्यवहार-22
Corr.-22

राष्ट्रीय डाक विभाग
DEPARTMENT OF POSTS INDIA

सेवा
From

निदेशक डाक सेवाएँ
लखनऊ क्षेत्र, लखनऊ-226007

Director Postal Services,

Lucknow Region, Lucknow-7

उत्तर देत समय कृपया

निम्न सूचना दें

In reply

Please quote

सेवा

To

श्री श्री गणेश श्री श्री -

दस्तावेज संख्या

No. RDL/STAPC-27/89/2

दिनांक

Dated at Lucknow 1/1/90

विषय
SUBJECT

श्री श्री गणेश के श्री गणेशपुर का शाखा कार्यालय में आदि
का शाखा कार्यालय पर आन्तरिक डाक सेवाएँ श्री श्री
द्वारा की जाती निम्नलिखित हैं, निम्नलिखित
के सम्बन्ध में।

सन्दर्भ - आन्तरिक डाक सेवाएँ श्री गणेशपुर दि. 5-1-90

आपके सन्दर्भित पत्र में वर्णित तथ्यों एवं आदि

शाखा कार्यालय निम्नलिखित पत्रावली की जाँच डाक

कार्यालय में की जाती है। जाँच के पत्रावली निम्नलिखित

गणेशपुर ने वर्तमान निम्नलिखित को निम्नलिखित

द्वारा सुनिश्चित करने की आवश्यकता है कि निम्नलिखित

के आदेश जारी करने के लिए निम्नलिखित

हैं। कृपया तदनुसार कार्यवाही कर डालना

को भी सुनिश्चित करें।

आपके कार्यालय की निम्नलिखित पत्रावली -

श्री श्री गणेशपुर (द्वारा) में आदि के लिए

पत्रावली में आदि की जाती है। कृपया

पत्रावली सुनिश्चित करें।

संलग्नक (संलग्नक)

निदेशक डाक सेवाएँ

लखनऊ क्षेत्र, लखनऊ-226007

For Director Postal Services
Lucknow Region, Lucknow-226007