

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OA/TA/RA/CP/MA/ET 99/1990 of 20

...Applicant(S)

Versus

The Assistant Director, Genus..... Respondent(S)

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Certified that the file is complete in all respects.

B. & C. Weeded & disengaged.

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

D.A. / I.A. No. 99 of 1990

Hari Nath

Name of Parties

Applicant

U.O.G.S.

Versus

Union Of India & Others

Respondents

Sl. No. Particular Of Documents No. of page

PART A

1. CHECK LIST 1. to 2
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9. SUPPLEMENTARY REJOINDER to

PART B

30 to 49

PART C

One petition copy
CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the record room (decided)

(Signature of dealing Asst.)

COUNTER SIGNED :-

Dated:- 12-6-98

V.K. MISHRA

(SECTION OFFICER / COURT OFFICER)

28.9.98

AC

2-4-80

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 29 of 1980

APPLICANT(s) Sri Hanu Halli

RESPONDENT(s) U.P.

| | <u>Particulars to be examined</u> | <u>Endorsement as to result of examination</u> |
|-----|--|--|
| 1. | Is the appeal competent ? | Ys |
| 2. | a) Is the application in the prescribed form ? | Ys |
| | 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 ? | Ys |
| | 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 the document of authorisation/ Vakalatnama been filed ? | Ys |
| 5. | Is the application accompanied by B.D./Postal Order for Rs.50/- | Ys |
| 6. | Has the certified copy/copies of the order(s) against which the application is made been filed ? | Ys |
| 7. | a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | Ys |
| | b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | Ys |
| | c) Are the documents referred to in (a) above neatly typed in double space ? | Ys |
| 8. | Has the index of documents been filed and paging done properly ? | Ys |
| 9. | Have the chronological details of representation made and the outcome of such representation been indicated in the application ? | Ys |
| 10. | Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ? | No |

Particulars to be ExaminedEndorsement as to result of examination

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

12. Are extra copies of the application with Annexures filed ?
 a) Identical with the Original ?
 b) Defective ?
 c) Wanting in Annexures
 Nos. _____ pages Nos. _____ ?

13. Have the file size envelopes bearing full addresses of the respondents been filed ? *No*

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

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

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

17. Are the facts of the case mentioned in item no. 6 of the application ?
 a) Concise ?
 b) Under distinct heads ?
 c) Numbered consecutively *N*?
 d) Typed in double space on one side of the paper ?

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

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

dinesh/

12.4.990

Hon'ble Mr. P.S. Habib Mohammad, A.M.

Hon'ble Mr. J.P. Sharma, J.M.

A3

Heard the learned counsel for the applicant.

Issue notice to respondents to show cause
 why the petition be not admitted. Notice returnable
 on 3.8.1990.

Sd/-

J.M.

Sd/-

A.M.

notice given

10/5/90

// True Copy //

2

rrm/

3-8-90

No sitting adj. to 31/8/90 *by*

3.9.90

No sitting adj. to 11.9.90

2

11.9.90

Hon'ble Justice K. Math. V.C
 " Mr. M.M. Singh A.M

OR

Notices were issued
 on 10.5.90.Neither reply
 nor any written
 resp. under the
 relevant laws
 S. F. A.

6/9/90

Due to sick demise of
 Hon'ble Justice Kaul, case is
 adjourned to 12.11.90

A.M.

B.O.C

H.C

4c for the applicant
 No filed M.P No 57714
 (w) for limitation
 Notices were issued
 on 10.5.90.

Neither reply nor
 any written resp
 under the laws
 been given.

S.F.A.

M

/10/90
10/5/90R.C.O.
15/4/90

Date

#4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW.

Q.A. N^o. 99/90(L)

Hari Nath

Applicant

versus

Union of India & others

Respondents.

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

Hon. Mr. M.Y. Priolkar, A.M.

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

This application under section 19 of the Administrative Tribunals Act, 1985 is for reinstatement of the applicant with back wages and continuity of service, and has been opposed inter alia on the ground bar of limitation. We have heard Shri J.N. Srivastava for the applicant and Dr. Dinesh Chandra for the respondents. We have also considered the application dated 10.5.90 for condonation of delay made under section 14 of the Limitation Act.

The applicant was engaged as daily rated casual labour in the office of respondent No. 2, Director, of Census at Lucknow sometime in July, 1979. He was ceased from work on 23.7.85. This application under section 19 of the Administrative Tribunals Act, 1985 was filed on 2.4.90.

The explanation for delay set forth in the application under section 14 of the Limitation Act is that he had filed a writ petition in the Hon'ble

AS

High Court of Judicature at Allahabad, Lucknow Bench in the year 1986 which was dismissed on the ground that the Hon'ble High Court had no jurisdiction. He, thereafter, moved an application to the Assistant Labour Commissioner (Central) at Lucknow for settlement of the dispute on the ground that the Census Department of the Govt. of India was an 'Industry', that the applicant was a 'workman' within the meaning of Industrial Disputes Act and that since the applicant's termination was accomplished ^{contrary to} the manner prescribed under section 25 F of the Industrial Disputes Act, the termination was invalid. That question seems to have remained pending before the Assistant Labour Commissioner and ultimately, the Government communicated a decision by a letter dated 28.8.89 (Annexure A-2) that for reasons recorded on the reverse of the letter there was no *prima facie* case for referring the matter to Industrial Tribunal. The letter Annexure A-2 refers to the letter dated 27.12.88 of the Assistant Labour Commissioner (Annexure A-1). Annexure A-1 mentions that the functions of the Registrar General's under the Census Act of 1948 as also under the Registration of Births and Deaths 1969 are statutory functions and the Census department is a department of the Central Govt. performing the sovereign functions, hence could not be an industry within the meaning of Industrial Disputes Act.

The stand taken by the applicant ^{is} that on account of erroneous advice the case was filed before the Hon'ble High Court and when the High Court dismissed the case for lack of jurisdiction, the case was taken up before the Assistant Labour Commissioner under the Industrial Disputes Act because there was a decision of the Rajasthan High Court

which held the Census Department to be an Industry. It is, however, stated in the application under section 14 of the Limitation Act that the operation of the judgment was stayed by the Hon. Supreme Court of India but the information of stay was received by the applicant on 28.8.89, hence the delay in filing this application deserves to be condoned.

In the first place, we are not at all satisfied that the error was bonafide ~~xxx~~ in filing the writ petition before the High Court in the year 1986 when the Administrative Tribunals Act, had already come into force on 1.11.1985. It is a patent case of lack of jurisdiction and one can not be heard to say that this patent lack of jurisdiction specified in the statute was erroneously appreciated by the counsel. It must be shown that the lawyer's error itself is bonafide; every error of a lawyer does not give a ground of bonafide of the litigant.

In the second place, we do not think that the decision of the High Court of Rajasthan on the question of Census Department being an Industry should be relied upon, especially in view of the stay order issued by the Hon. Supreme Court. Further, the jurisdiction, which is exercised by the Tribunal is not subject to the views of any High Court; it is only subject to the orders of the Supreme Court. We do not think therefore, that the so called error in moving the Assistant Labour Commissioner, should be proper ground for condoning the delay in the present case. The application must be dismissed as barred by time.

However, before we part with this case, we may mention that a preliminary objection taken by the respondents is that the applicant did not pursue the alternative remedy of representation. We think that in view of the fact that

(A)

the applicant had worked with the department for almost six years before he was terminated in 1985, the respondents may consider re-engagement of the applicant ^{fresh} on compassionate grounds if the applicant makes a representation to that effect within a period of one month from the Date of receipt of a copy of this judgment. If a representation is made, the respondents may dispose it of as early as possible say within 3 months from the date of receipt thereof.

With the above observations, this application is dismissed.

A.M.

V.C.

Lucknow Dated: 12.11.90

24-80

A2

In the Central Administrative Tribunal, Lucknow Bench, Lucknow.

O.A. No. 99 of 1990(L)

Between

Sri Hari Nath.

Applicant.

And

The Assistant Director Census
C-9 Mahanagar, Lucknow and others.

Respondent.

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filed today
Sgn
21/4/90

Lucknow.
Dt. March 2, 1990.
APRIL 2

हरी नाथ
(Hari Nath)

Applicant.

Noted
21/4/90
JH

General Administrative
Central Bench
Date of filing 2-4-80
Date of hearing
Recd

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW.

BETWEEN
MA 99/90 (C)

Sri Hari Nath.

Applicant.

AND.

1. The Assistant Director Census,
C-9 Mahanagar,
Lucknow
2. The Director, Census,
Govt. of India,
25, Nawal Kishore Road,
Lucknow.
3. The Registrar General, Census,
Man Singh Road,
New Delhi.

Respondents.

DETAILS OF APPLICATION.

1. Particulars of Applicant.

(i) Name of Applicant:

Sri Hari Nath.

(ii) Name of the Father:

Sri Ram Krishan.

(iii) Age of applicant:

34 years.

(iv) Designation and
Particulars of office
(name and station)
in which employed:

The applicant was appointed as
daily rated casual worker by
Asstt. Director Census, Respondent
No. 2, in July 1979. No appoint-
ment letter was given to him.

Originally he was posted at
6 Park Road, Lucknow and after
which this office was shifted to
C-9, Mahanagar, Lucknow.

(v) Office Address.

1. The Registrar General Census,
Govt. of India, Man Singh Road,
New Delhi.
2. The Director Census,
25, Nawal Kishore Road, Lucknow.
3. The Assistant Director Census,
C-9, Mahanagar, Lucknow.

(vi) Address of Service
of notices.

Same as above.

2. Particulars of Respondents:

(i) Names of the Respondents:

1. The Registrar General Census
Govt. of India, Man Singh
Road, New Delhi.

2. The Director Census,
25, Newal Kishore Road,
Lucknow.

3. The Assistant Director Census
C-9, Mahanagar, Lucknow.

(ii) Name of Father:

Sri Ram Krishan.
Assistant Director Census,
C-9, Mahanagar, Lucknow. etc.

(iii) Designation and
particulars of office
(Station and name)
in which employed.

(iv) Office Address:

Same as above.

(v) Address of service of
notices.

Same as above.

3. Particulars of Orders
against which application
is made.

(i) Orders No with Reference
to Annexure.

Order no. etc is not available
because the applicant was
terminated verbally.

(ii) Date:

23rd. July 1985.

(iii) Passed by:

Immediate Officer i.e.,
Assistant Director Census,
C-9, Mahanagar, Lucknow.

(iv) Subject in brief:

The applicant then move a writ
petition in the Hon'ble High Court
of Judicature at Allahabad,
Lucknow Bench, Lucknow which was
registered as Writ Petition
No. 6152/86. The Hon'ble High
Court dismissed the writ petition
on account of provision of Sec.
28 of Administrative Tribunal Act,
1985.

27/11/85

-3-

Thereafter the applicant moved application before the Asstt. Labour Commissioner, (Central), Lucknow about his wrongful termination of service as case No. KB 82/82/88

ALC After hearing the details of the arguments of the respective parties the report was sent by the Asstt.

Labour Commissioner Central, to the Secretary to Govt. of India, Ministry of Labour, New Delhi vide his letter dated 7th Decr. '88 Annexure No. 1. Subsequently Sri Hari Singh Desh Adhikari vide his communication No. 42012/3/89

IRD dated 28.8.89 refused the reference of the dispute on the ground that whether Census Department is an Industry or not is subjudice before the Hon'ble Supreme Court of India Annexure No. 2. The applicant is also an employee of Govt. of India and is therefore entitled to the benefits to which a Govt. servant of his category is entitled to.

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

4. Jurisdiction of the Tribunal.

ER/919

-4-

5. Limitation:

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

6. The facts of the case:

Please see the enclosure No. 3

7. Details of Remedies exhausted.

The applicant declares that he was availed of all the remedies available to him under the relevant Service Rules etc.

A writ Petition bearing No. 6152/06 was filed in the Lucknow Bench of the Hon'ble High Court which was dismissed. Thereafter an Industrial Dispute was raised under the Industrial Disputes Act, 1947 before the Asstt. Labour Commissioner (Central), Lucknow. The said dispute was not referred to Adjudication as stated earlier on the ground that the matter is subjudice before the Hon'ble Supreme Court of India.

8. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously, with writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench

E12-0114

-5-

of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

In case the applicants had filed any application writ petition or suit, the stage at which it is pending and if decided the gist of the decision should be given with reference to the Annexure.

(Kindly see the reply to column No. 7).

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs:-

"Reinstatement with back wages and continuity of service and other consequential reliefs".

The applicant prays that an interim order may be issued to the Opp. Parties immediately to engage the applicant in any class IV job. It is to be mentioned that Opp. parties are making recruitment even at present, pending final decision of the present application such recruitment should stopped.

ER 1791

11.

In the event of application being sent by Registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so, he shall attach a self-addressed Post Card/Inland letter, at which intimation regarding the date of hearing could be sent to him.

12. Particulars of Bank Draft/Postal Order in respect of the application fee.

(i) Name of the Bank on which drawn.

Bank of Baroda
Hewitt Road Lucknow
CA/03 449763

13. List of Enclosures:-

1. Copy of letter dated 7th Decr. '88 of the Asstt. Labour Commissioner (Central) sending thereby his report to Govt. of India, Ministry of Labour, New Delhi.
2. Copy of letter dated 28.8.89 from Sri Hari Singh Desh Adhikari, Govt. of India, Ministry of Labour, New Delhi.
3. Enclosure No. 3 giving facts of the case.

VERIFICATION.

I, Hari Nath S/o Sri Ram Krishan aged 34 years working as daily rated casual worker in the office of Asstt. Director Census C-9 Mahanagar, Lucknow R/o Beschenwal do hereby verify that the contents of paras 1 to 6, 8, 10 are true to my personal knowledge and paras 7 to 9, 11 believed to be true on legal advice and that I have not suppressed any material fact.

EROTIY
(Hari Nath)
Applicant.

Dated:
Lucknow.

Government of India
Ministry of Labour
Office of the Asstt. Labour Commissioner(C)
B-12, Sector-B, Allganj, Lucknow.

A-1

AS
7

1

No. LKO-8/2-82/88-ALC

Dated the

The Secretary (Sh. Hari Singh, Desk Officer),
Govt. of India,
Ministry of Labour,
New Delhi.

7 DEC 1988

Subject : I.D. between the management of Census Deptt. and
their workman Shri Hari Nath over alleged illegal
termination of his services.

Sir,

Shri Hari Nath raised an individual Industrial Dispute against the management of Census Department over his alleged illegal termination of services w.e.f. 23-7-85. The dispute was discussed on several dates and finally on 25-11-88, when it was seized in conciliation. During the course of discussions the representative of the workman submitted that the workman was appointed as Casual labour on 9-5-79 and he continued to work till 25-7-85, when his services were terminated abruptly in violation of Sec 25 P of I.D. Act, 1947. Accordingly he demanded the reinstatement of workman with continuity of service and back wages. On the other hand the representative of management submitted that this is a Department of Central Govt. and perform the sovereign functions of the Govt. Hence it can not be treated as an Industry under I.D. Act, 1947. Further he also submitted that the office of Registrar Generals is mainly responsible for carrying out statutory functions under Census Act, 1948 and also the Registration of Births and Deaths Act, 1969. Hence the workman has no right for any protection under I.D. Act, 1947.

Since there was not any possibility of settlement, the dispute ended in failure. The workman is willing for arbitration, but the management has declined the same.

Yours faithfully,

R.M. Chellani
(R.M. CHELLANI)
ASSTT. LABOUR COMMISSIONER(C)...
LUCKNOW.

Copy to :

1. The Regional Labour Commissioner(C), Kanpur.
2. The Director, Census Operations, U.P., 25-Nawal Kishore Road, Lucknow.
3. Shri Hari Nath, S/o Shri Ram Kishan, Manpur Dihwa, P.O. Takre, Distt. Barabanki.

ASSTT. LABOUR COMMISSIONER(C)
LUCKNOW.

DINESH

Sh. 19/11/88
Attested
Sh. 19/11/88

संख्या एल- 42012/3/89-ग्रा.प्रा.प्रा.दी.यू।

भारत सरकार

ॐ मंत्रालय

नई दिल्ली, दिनांक ८१८

ANX 2

A-2

सेवा में,

x रजिस्ट्री
डाक द्वारा

प्रेस अपरेटर १२-८८१
२५ - नव डिलीर रोड
८८१८३ ।

x2:

ਹੈ ਹਾਰੀਵਾਥ, ਹੈਂਡ ਵੀ ਰਾਮ ਫਿਲਮ
ਦੱਸਾਉਂਦ ਫਿਲਮ, ਪੀ.ਐਚ. ਕਾਨਾਰਾ
ਫਿਲਮ ਵਰਤੋਂਦੀ । — 225 (੮)

विषय:- यह विषय भौतिक विज्ञान की एक शाखा है जो जल और धूप की विद्या है।

महोदय,

उपर्युक्त विषय पर सहायक श्रमायुक्त केन्द्रीय विभाग की संराधन विफलता रिपोर्ट संख्या शा.रे.ओ-३/२-३२/०३-४.प्र.मी. दिनांक १२.०० का हवाला देते हुए मुझ यह कहने का नियंत्रण हुआ है कि केन्द्रीय सरकार की राय है कि उपर्युक्त विवाद को प्रीछे दिये गये कारणों से न्यायनिर्णयन हेतु औधीणिक अधिकरण को निर्दिष्ट करने के लिए प्रत्यक्षतः कोई आधार नहीं है।

भवदीय,

2008

ੴ ਹਰੀ ਸਿੰਘ ੴ

ਡੈਟਕੁ ਅਧਿਕਾਰੀ

प्रतिलिपि ऐचितः -

१. खेडीध श्रमायुक्त ४के०५ कानपुर ।
२. सहायक श्रमायुक्त ४के०५ मुमुक्षु ।
३. गार्ड फाइल ।

ੴ ਹਰੀ ਸਿੰਘ ੴ

ਡੈਸ਼ ਅਧਿਕਾਰੀ

ପାତ୍ରାମ

Afected by
~~Samy~~ 2nd 90

(ENCLOSURE NO.3)

FACTS OF THE CASE.

1. That the applicant above named was employed as a daily rated labour by the Opp. Party at its Lucknow Office on 9.5.1979.
2. That since then the petitioner continued to work upto 23.7.85 when he was verbally informed that his services have been terminated.
3. That no appointment letter or termination order was given to the applicant.
4. That aggrieved by the above termination of service of the applicant he filed a case under the Industrial Disputes Act, 1947 before the Asstt. Labour Commissioner, Central cum Conciliation Officer, Lucknow which was registered as case No. _____
5. That a preliminary objection was raised from the side of the Opp. Parties that the applicant's application under the Industrial Disputes Act was not maintainable inasmuch as the census department was not an industry within the meaning of that term given in the I.D. Act and therefore, the applicant cannot claim to be a workman.
6. That the learned Asstt. Labour Commissioner Central submitted a failure report to the authorities concerned who have vide their communication dated 28.8.89 informed as under:-

" It is reported that the same issued has been raised before the High Court of Rajasthan which has granted stay. The matter is thus sub judice".
7. That on account of the above fact the Govt. has refused to refer the dispute to adjudication.

EIR/01/94

A/12/94
A/12/94

...2.

-2-

8. That it will appear from the above that so far the dispute of the petitioner raised under the Industrial Disputes Act has been closed because of the refusal of the Govt. to refer the dispute to adjudication.
9. That the applicant is an extremely poorman and is without job and has,therefore, decided to approach this Hon'ble Tribunal as a servant of Govt. of India for getting proper relief. The other relevant facts in this behalf may be stated as given below.
10. That persons junior to the petitioner/applicant such as S/Sri Ram Chandra No.1, Sudhakar, Suneel, Madan were retained in service and many of them were made regular ignoring the claim of the petitioner.
11. That it may also be mentioned here that even now new hands are being recruited on the job which the applicant was doing and can do even now.
12. That the above action of the Opp.PARTIES is illegal and against the principles of natural justice.
13. That the action of the Opp.PARTIES in terminating the services of the applicant is unjustified and illegal and cannot be justified.

E.R.0114

- II -

The Central Administrative
Tribunal

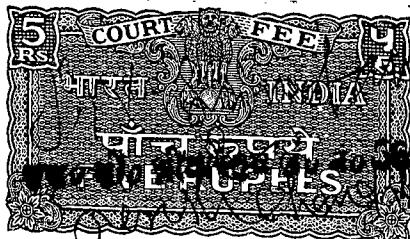
महोदय

व अदालत श्रीमान

[वादी] अपीलान्ट

श्री Hari Nath का वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]



वादी (अपीलान्ट)

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं.

सन्

पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

J.N. Smileyland, Advocate

Council for the Affluent

वकील

महोदय

एडवोकेट

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 जबाबदेही व प्रश्नोत्तर करें या कोई कागज़ दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा 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 कीं 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 अपर 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।

Accepted
John
Accepted

हस्ताक्षर हुए नाम

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक २५ मई १९८१ महोना

सन् १९८१ ई०

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

APPLICATION TO OPPOSE ADMISSION

M.P.No. 657 of 1990(2)

Union of India & Others.....Applicant.

In

O.A.No.99 of 1990(2)

Shri Hari Nath

v/s Union of India & Others.

To,

The Hon'ble Vice Chairman & his companion members of the aforesaid Tribunal.

The humble application of the above named applicant most respectfully sheweth :-

1. That the facts and circumstances of the case have been set out in the accompanying affidavit.
2. That it will be expedient in the interest of justice that the accompanying affidavit may be brought on record.
3. That in view of the facts and circumstances indicated in the accompanying affidavit, the application is not tenable in law and facts & is liable to be dismissed with costs.

filed today

OTW
12/11

-: PRAYER :-

Wherefore, it is respectfully prayed that this Hon'ble Tribunal may not admit the application filed by Shri Hari Nath as the same is not main tenable and is liable to be dismissed with costs.

1. (2nd)

(DR.DINESH CHANDRA)
COUNSEL FOR RESPONDENT.

A 21

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

AFFIDAVIT ON BEHALF OF RESPONDENT NO.1 & 2.

In

O.A.No.99 of 1990(2)

Shri Hari Nath.....Applicant.

Versus

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

I,...R. M. SINGH., Asst. Director aged about 55...
years, son of ^{Late} Shri.....C. P. SINGH..... do
hereby solemnly affirm and state as under.

1. That the deponent has read the application filed by
Shri Hari Nath and has understood the contents thereof. He
is well convercent with the facts of the case deposed
hereinafter.

PRELIMINARY OBJECTIONS

(i) The applicant has not impleaded the Union of
India, through the Secretary to the Govt. of
India, Ministry of Home Affairs, New Delhi.

(ii) The facts of the case have not been mentioned
under para 6 of the application.

(iii) The applicant has not exhausted the depart-
mental ^{remedies} ~~reminders~~ available to him. He should
have sent a representation to the Registrar

Contd...2/-

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General of India, Ministry of Home Affairs,

New Delhi about his reinstatement in the department.

(iv) The application is barred by limitation under Sec.21 of the Central Administrative Act, 1986.

--: PARA-WISE COMMENTS :-

2. That the contents of para 1 to 4(iii) need no comments.

3. That in reply to contents of para 5 of the application it is stated that the application is barred by limitation under Section 21 of the Administrative Act, 1986. The cause of grievance, as indicated in para 3(ii) of the application arose on 23rd July 1985, when, according to the applicant, his services were terminated verbally.

4. That facts of the case have not been indicated in para 6 of the application. Hence no comments are offered.

5. That in reply to para 7 it is stated that the applicant did not avail of the departmental remedy available to him. He did not make any representation to the Registrar General of India, Ministry of Home Affairs, Government of India, New Delhi. against the alleged verbal order of termination of his services.

6. That the contents of para 8 of the application are denied. The applicant has indicated in para 7 of the

Contd. 3/-

// 3 //

application that the subject matter of the present application was already agitated before the Lucknow Bench of Hon'ble Allahabad High Court and also before the Asstt. Labour Commissioner (Central), Lucknow. The said writ petition was dismissed on 26-7-1988 in favour of the Census Department & his application was also rejected by the Asstt. Labour Commissioner, Lucknow.

7. That in view of the submissions made in the above paragraphs, the relief sought for in para 9 and interim relief prayed for in para 10 of the application are not admissible.

8. That the contents of paras 12 & 13 need no reply.

-: VERIFICATION :-

Ram Mohan Singh
(DEPONENT)
सहायक निदेशक, जनगणना परिवारक
Ass't. Director, Census Operations
उ० प्र० लखनऊ
U. P., Lucknow

I, the above named deponent do hereby verify that the contents of paras 1 & 2 of this affidavit are true to my personal knowledge and those of paras 3 & 4 are believed by me to be true based on records and as per legal advise of my counsel. That nothing material facts has been concealed and no part of it is false, so help me God.

Signed and verified this the _____ day of
1990 within the court compound at Lucknow.

Lucknow.

Dated;

Ram Mohan Singh
(DEPONENT)
सहायक निदेशक, जनगणना परिवारक
उ० प्र० लखनऊ
U. P., Lucknow
I identify the deponent who signed
before me.
Advocate.

A 26

बदलत श्रीमान
[वादी] अपीलान्ट

Central Adishtaktri Triloye

Court House, Lucknow

महोदय

वकालतनामा

प्रतिवादी [रेस्पान्डेन्ट]

श्री

टिकट

(वादीअपीलान्ट)

Hari Nath vs. Univ. of India प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकदमा ११ सन १९७० (२) पेशी को ता० ११ ई०

ऊपर लिखे मुकदमा में अवनी और से भी

Add. Cen. Govt. Standing Comm. वकील

Lucknow महोदय
एडवोकेट

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 करे या सुलहनामा व इकबालदावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करे या मुकदमा उठावे या कोई रुपया जमा करे या हमारी या विषयी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवे या पंच नियुक्त करें वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वदा स्वीकार हैं और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या अपने किसी पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है तुमकी जिम्मेदारी मेरे वकील पर नहीं होगी इसीलिये यह वकालत नामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted
By
Advocate

hastakshar
Signature

साक्षी (गवाह)

साक्षी (गवाह) WITNESS PAGE

निदेशक, जनगणना कार्य

Director, Census Operati

३० सन् १९६१
U. P. Lucknow.

दिनांक

महीना

स्वीकृत

A85

Before the Central Administrative Tribunal, Lucknow Bench,

Lucknow. M.P. No. 577/90 CL

Appn. under Sec. 14 of the Limitation Act

In re:

Petition No. 99 of 1990.

Hari Nath.

Petitioner.

Vs.

1. The Asstt. Director Census,
C- 9, Kahanagar,
Lucknow.

2. The Director Census,
Govt. of India,
25, Newal Kishore Road,
Lucknow.

3. The Registrar General Census,
Govt. of India,
Nan Singh Road,
New Delhi.

Opp. Parties.

It is respectfully submitted as under:-

1. That on 12.4.90 when the above petition came up for admission the Hon'ble Judges of this Tribunal observed that an application under Section 14 of the Limitation Act was necessary for condonation of delay in moving the present petition before this Hon'ble Tribunal.

2. That the present application is, therefore, being moved by the petitioner under Sec. 14 of the said Act explaining the time taken by him before filing the present petition.

3. That the petitioner's services were terminated on 23.7.85 verbally. He then moved a writ petition before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow, in 1986 which was registered as petition No. 4652/86.

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4. That thereafter the applicant moved on legal advice, an application before the Asstt. Labour Commissioner (Central) Sector 12, Aliganj, Lucknow for settlement of his dispute. However, after several hearings the learned said Asstt. Labour Commissioner (Central) sent his report to Government of India who final did not consider it worthwhile to refer the dispute for adjudication on the ground that the same issue viz, whether the Census department of Govt. of India is an 'industry' or not within the meaning of Industrial Disputes Act, is pending before the Hon'ble Supreme Court of India on account of stay of the order and judgement of the Hon'ble High Court of Rajasthan which has declared the census department of Govt. of India as an 'industry'. This information was communicated to the petitioner on 28.8.89 for which the present petition has been filed before this Hon'ble Tribunal.

5. That it will appear from the above that the applicant has been prosecuting with diligence proceedings in good faith before the forums mentioned above in respect of the same matter in issue which is before this Hon'ble Tribunal.

6. That in view of the above interest of justice requires that the time spent earlier in prosecuting this matter before the Hon'ble High Court and later on before the A.L.C. (Central) deserves to be excluded in counting the limitation.

P R A Y E R.

Wherefore, it is respectfully prayed that this Hon'ble Tribunal be pleased to exclude the time from 29th.

EIR 71/2

...3.

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A27

-3-

August 1986 to 28.8.1989 when the petitioner was informed by the Govt. of India that his case cannot be referred for adjudication because the matter is sub-judice before the Supreme Court. A copy of the reply of Govt. of India is again enclosed as Annexure -A to this application.

J.N. Srivastava
(J.N. Srivastava)
Advocate,
Counsel for the Petitioner.

Lucknow.

Dt. May 10, 1990.

उत्तरान्

A20
A28

Before the Central Administrative Tribunal, Lucknow Bench,
Lucknow.

Appn. under sec. 14 of Limitation Act

In re:

Petition No. 99 of 1990.



Hari Nath.

Petitioner.

Vs.

The Asstt. Director Census
Mahanagar, Lucknow and others.

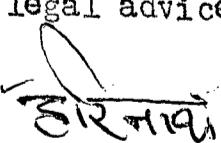
Opp. Parties.

A F F I D A V I T.

I, Hari Nath aged 34 years S/o Sri Ram Krishna
R/o vill. Dihwa, P.O. Tikara, District Barabanki take oath
and state as under:-

1. That the deponent is the petitioner in the
afore said petition before this Tribunal and is, therefore,
well conversant with all the facts stated in the
accompanying application.

2. That the contents of paras 1 to 4
are based on the basis of the deponent own knowledge while
those of paras 5, 6 are based on legal advice which is
believed to be true.


(Hari Nath)
DEPONENT.

...2.



-2-

VERIFICATION.

Verified that the contents of paras 1 and 2 of this affidavit are true on the basis of deponent's own knowledge and belief. No part of it is false and nothing material has been concealed. So help me God.

Verified this the 10th day of May 1990 at Lucknow.

✓ EK 0119

(Hari Nath)
DEPONENT.

I identify the deponent who
has signed before me. *He is personally*
known to me *Jy. Srivastava*
(J. N. Srivastava)
Advocate.

Solemnly affirmed before me by
Sri Hari Nath, the deponent on 10-5-90
at 2 A.M./P.M. who has been identified
by Sri J. N. Srivastava, Advocate.

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

✓ EK 0119



✓ 10/5/90
SATH COMMISSION
High Court, Allahabad
Lucknow Bench

Case No. 19 of Sheet No. 143
Date 10-5-90