

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE C.A. 130 of 1990 (L)

Name of the parties _____

Deepak Kumar

Applicant.

Versus.

Station Director All India Radio

Respondents.

Part A.B.C.

Sl. No.	Description of documents	Page
1.	check list	A1-A2 ✓
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	Beach copy	B1 - B54
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Fdls B/c. needed out / ditrayent.

20/5/91

(11)

Central Administrative Tribunal
Circuit Bench
Date of Filing 16-4-90
Date of Receipt

GENERAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Deputy Registrar(J)

Registration No. 130 of 1990(L)

APPLICANT(S) Deepan Kumar
RESPONDENT(S) G.O.R.

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

A2

Particulars to be Examined

Endorsement as to result of examination

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

dinesh/

(A3)

26/4/90

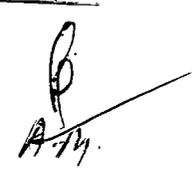
Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. K. Ojha, A.M.

Shri AKHILISH SAHAI, for the applicant. The application is not in the format as required under the Tribunal's Rule. Let it be brought under the format the provision of Act

list it for admission on

4/5/90

SI


A.M.

Dec
J.M.

4-5-90 Hon Mr. Justice K Nath, re
Hon Mr K. Ojha, AM.

OR
The l/c for the applicant has not compliance, the Court's order dt. 26.4.90 S. F. A.

Issue notice to show cause why the application be not admitted and list for admission on 17/7/90 on which date the opposite parties shall produce ~~copy~~ record.

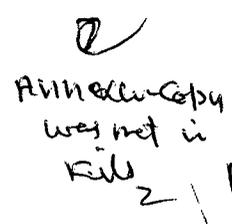


A.M.



3/5/90

OR
noted on
16/5/90


A.M. & copy was not in File 2

17-7-90

NO sitting adj. to 3/8/90.

3-8-90

NO sitting. Adj. to 13-9-90

13-9-90.

Hon. Justice K. Nath, V.C
Hon. Mr. M.M. Singh, AM


OR

See original order on main petition.

Admit.
lit before the D.R(J) on 25.8.90 for fixing a date if possible.
A.M. V.C

Notices were issued on 16-5-90. Neither reply nor any resumed reply. Cases has been return back

No reply filed
L
24/4

SFA. 2
11/5

8-1-91 Hon Mr. D.K. Agarwal, J.M.
Hon Mr. K. G. Ganga, P.M.

(F.A.)

13.12.90

D.R.

श्री अक्षय साहू for applicant
श्री V.K. Chandhosi appears for
O.P. and wants time to file
Counter within the course of
the day. Let it be filed.
Rejoinders may be filed within
3 weeks list for hearing
on 18-4-91

Mr. Akhlesh
Shahai Id.
Counsel for the
applicant is
present today.
O.P. is not present.
Id. Counsel for
the applicant
states that O.P.
will not file
C.A. in this case
and sufficient
opportunity has
already been
given to Respon-
dents. List it
before the Hon.
Bench on 8.1.91

AM

Dec
J.M.

18.4.91 No sitting held to 2.7.91.

अनुचित

वेनल कॉफ
O.P. मूले
श्री V.K. Chandhosi
11/7/91, 18/1/91
Applicant

Recd file & Reflt
M. P. 12 (4P) 8P-5/2
in Draft K...

Chandhosi
Counsel for O.P.
2/8/91

OR

CA filed duly
Served on the applicant
but no RA has been
filed.

S.F.H
17/91

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. 130/90(L)

Deepak Kumar

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B.Gorthi, A.M.

(Hon. Mr. Justice U.C.S., V.C.)

The applicant who was appointed on the permanent post of Engineering Assistant on the basis of a selection held on 5th May, 1987 by a Selection Committee, has challenged termination order dated 24.12.1988 terminating his services in pursuance of the proviso at serial Nos. 3 and 4 of the Offer of Appointment. Offer of appointment, which is on record, indicates that the post was temporary till further orders, and that his services can be terminated without assigning any reasons under Central Civil Services (Temporary Services) Rules, 1965 and on being appointed he will be on probation of two years which period can be reduced or extended and during the probationary period his services can be terminated without assigning any reasons. The applicant was first posted on the North Zone under Director, Doordarshan Kendra Punjab, on his request

(A2)

he was transferred from Jalandur vide order dated 27.7.1988 and was posted at Almora. As per allegation, at Almora, the applicant became ill and it also became ~~difficult~~ difficult for him to continue Postgraduate diploma in Computer Education. He applied for study leave for 90 days and was allowed vide order dated 27.8.88 w.o.f. 6.9.88 to 3.12.88 with a specific order to suffice 4.12.88 and 5.12.88 being weekly rest and ~~was~~ ^{was} required to join on 6.12.88. He was granted ^{permission} to join ~~leave~~ station and after availing the holiday on 2.9.88 and 3rd and 4th weekly off and 5th compensatory off he came to Lucknow. But in view of his ailment he had to go to the hospital and he was advised to get himself admitted. As per allegation he gave information to the Station Director ^N All India Radio ~~Almora~~ on 6.9.88. It has been admitted in the counter affidavit in which it has been stated that vide telegram dt. 6.9.88 it was intimated that he has been hospitalised w.e.f. 6.9.88, (wrongly mentioned as 90 in the counter, by respondent No. 1). The applicant was discharged but advised 42 days bed rest. The applicant pursued his study and after his discharge he informed through registered post on 10.0.88 alongwith a medical certificate of the doctor who treated him in the hospital as outdoor patient. The applicant was required to obtain a certificate from C.M.O. from the District hospital in proper form, otherwise disciplinary action was to be taken under C.C.S(C.C.A) Rules and submit the same within 15 days. The applicant received the letter on 29.8.88 and submitted a reply stating thereto that in case such a certificate is required the proforma may be sent to enable him to comply with the said

A7

requirement. The respondent No. 1 has stated that a specimen copy of the proforma medical certificate was sent on 12.10.88 and the applicant was advised to obtain medical certificate from C.M.O. from Lucknow and he was also advised to obtain a certificate regarding information completion of computer course. He was also advised to give a declaration that he was not doing any course and without written permission he cannot pursue any type of studies.

It appears that even though such letters were sent a memo was sent on 6.10.88 stating that as required the medical certificate in proforma has not been received and office will proceed with the disciplinary action. On 25.10.88 the applicant submitted the information which he says was required from him after checking the record the copy of the certificate already submitted. The applicant was again hospitalized on that very date and was discharged on 7.11.88 and was advised to take rest for 6 weeks. After obtaining the required certificate from C.M.O. Lucknow, he submitted on 15.11.88, he submitted the same on 16.11.88. As per allegation the applicant was discharged on 7.11.88 and was given the outdoor for checkup and he accordingly visited the hospital on 17.11.88, 29.11.88 and again on 8.12.88 and thereafter again on 17.12.1988. During this period he was served with the termination notice dated 24.12.88 mentioning therein that he was not entitled for any pay and allowances for the period of notice. The applicant submitted an appeal / a review application against the termination order to the Chief Engineer, North Zone, New Delhi who is the Head of Department and appointing authority but he was advised that he should

AB

take up the matter with the respondent No. 1 vide letter dated 29.7.89 received on 8.8.89. The applicant requested respondent No. 1 to intimate order received by respondent No. 3 and 4 and on 21.10.89 the respondent No. 1 communicated the gist of the order said to have been passed and as per allegation his representation dated 9.1.91 was not considered but the one which was sent on 18.9.89 was considered. In the counter affidavit by respondent 1 it has been stated that no study leave was granted to the applicant and only condition on BCL sanctioned which was sanctioned on 31.8.88, the intimation of which was given to the applicant verbally. In response to this cancellation he applied for leave with the condition that he will resume duty on 6.9.88 and it was Station Director appointing authority and Chief Engineer was the recruiting authority. It has also been stated by the affidavit that the applicant had obtained the certificate from a Consultant physician and not from the C.M.O. who is the competent authority.

The question that has been conveyed by the learned counsel for the applicant that his service could have been terminated only by the appointing authority and not by the respondent No. 1 who was not his appointing authority. Offer of appointment to the applicant was given by the Chief Engineer Northern Zone, All India Radio and in pursuance of the same the applicant was posted at Door-darshan Kendra Jalandur where he joined. The applicant was transferred under the orders of Chief Engineer, Northern Zone, Almora on ^{his} representation which was one of the Stations in the northern zone like Jalandur. The applicant has also filed document indicating that for

OK

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such post advertisement was subsequently issued by the Chief Engineer, Northern Zone. These facts indicate that it was the Chief Engineer who was the appointing authority. The Station Director All India Radio who transferred the applicant, could not be the appointing authority and consequently the termination order has been passed by the authority who is lower than the appointing authority and the termination order is liable to be quashed on this ground alone. Even the version of the respondent No. 1 that the leave was cancelled orally which was granted in writing obviously, is not correct, although the respondent No. 1 has vaguely asserted this fact but it is regrettable that an officer will not come to the extent of saying such thing. An official order which is passed in writing can be cancelled only in writing and not orally. It is true that the applicant was on probation and he was a temporary employee, he was governed under C.C.S. rules under which notice or salary in lieu thereof is given. In the instant case neither notice, nor salary was given and thus the termination order is violative of the C.C.S. rules. A reference may be made to the case of Kusum Gupta vs. Haryana State Small Industries (1986) 3 SCC 506) in which the facts stated above will indicate that the order of termination was passed as a result of annoyance or by way of punishment. Medical certificate was demanded by the respondent No. 1 in the prescribed proforma and the prescribed proforma was despatched from the office on 12.10.88 which was received by the applicant on 21.10.88 and even prior to the sending of the proforma and even before that the respondent No. 1 vide his

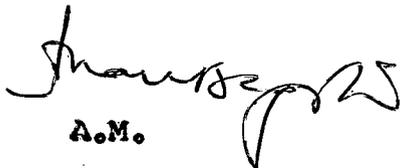
which case the termination order was held invalid as no notice or salary in lieu thereof was given.

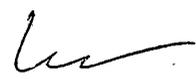
lu

A/10

letter dated 6.10.88 threatened that in case a medical certificate in prescribed form will not be received on due date the disciplinary proceedings against the applicant will be taken. The facts indicated above show that instead of taking disciplinary action it was the penal action taken against the applicant. Undoubtedly probationer's services can be terminated without assigning any reason, no such order can be arbitrarily passed as an arbitrary order is violative of Article 311 of the Constitution of India. In the instant case it has not been stated that post has been abolished but the applicant has proceeded on leave and without enquiry his services were terminated. The termination order being penal in nature and without giving an opportunity of hearing is violative of Article 311 of the Constitution of India. The termination order dated 24.12.88 is quashed and the application is allowed. The applicant will be deemed in service from the date of termination with all consequential benefits.

No order as to costs.


A.M.



V.C.

Lucknow Dt. 5.7.91.

Shakeel/

16-4-88

(All)

Deputy Registrar (J)

Before the Central Administrative Tribunals, Allahabad

(Circuit Bench)

Sitting at Lucknow.

C.A.T. Case No. 130 890. (L)

Deepak Kumar-----Petitioner

Versus

Station Director, All India Radio
and others.Opposite parties.

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(iii)	Letter no.AIM-12/48/88-S/23327 dated 27.8.1988	5
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contd...2/-

Noted for
25/4/90
A.K.L.
22/5/94

f.T.
S.S.
16/4/90

A12

~~XXXXXXXXXXXXXXXXXXXX~~

- (v) Opposite party no.2 letter no.AIM-12 (48)/88-S/24038 dated 21.9.88. 7
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Iucknow:

Dated: March 11, 1990
April


(Deepak Kumar)
Applicant.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, RAIPUR (1)

(CIRCUIT BENCH)
SITTING AT LUCKNOW

A13

C.A.T. Case No. 130 /090 (L)

Deepak Kumar, aged about 26 years, S/o Sri B.B.Saxena,
resident of 18, Din Dayal Road, Asharfabad, Lucknow.

..... Petitioner.

VERGES

1. Station Director, All India Radio, Almorah.
 2. Station Engineer, All India Radio, Almorah.
 3. Chief Engineer, North Zone, } Govt. of India, Akashvani
 4. Director Engineer, North Zone, } & Door Darshan, Jamnagar
- House, Shahjahan Road,
New Delhi- 110011.

Claim Petition Under Section 19 of the
Central Administration Tribunal Act against the
order of termination No. AIM-1(2) Tech/88-3/26460
dated 24.12.1988 and the order passed on Representa-
tion dated 24.10.89.

The Petitioner begs to state as under :-

1. That the Petitioner was appointed on the basis of selection held on 5th May, 1987 by the Selection Committee constituted by the opposite party no.3 vide letter No.A-13/II/(i)/86-E.P.C. dated nil in the scale of Rs.1400-40-1600-50-2300-EB-60-2600 on the regular and permanent post of Engineering Assistant and was also posted by opposite party no.3 on the North Zone under the Director, Doordarshan Kendra, Punjab and

contd....2/-

Appointment order paper No.1 in compilation 2

Handwritten signature/initials

AMU

the conditions of appointment were as are contained in paras two to sixteen of the Appointment order.

Paper no.2 in compilation no.2

2. That as the Petitioner was unable to continue at Jullundhar because of certain unavoidable reasons hence he requested opposite party no.3 for the change of his station and this request was allowed vide No.A-13/II(1)/88-E.P.C. dated 27.7.1988 and it was also intimated that the place of posting has been changed from Doordarshan Kendra Jullundhar to All India Radio, Almorah under opposite party no.1.

3. That in compliance of the order of posting at Almorah by opposite party no.3 the Petitioner joined at Almorah on the post of Engineering Assistant under opposite party no.1 on August 1988

4. That as the Petitioner was from plains and always resided in plains and before he could acclimatise with the climate surroundings and atmosphere of the Hill Area he because of irregular fooding and lodging at Almorah became seriously ill and it also became difficult to continue his Post-Graduate Diploma in Computer Application in telecommunica-
~~tion~~ then ~~from~~ there he applied for study leave for the purpose vide application dated 25.5.1988 for 90 days.

Paper no.3 of compilation no.2

5. That the study leave applied for was allowed vide No.ALMO-12/48/88-S/23327 dated 27.8.88 Ninety days W.e.f. 6.9.88 to 3.12.88 with a specific order to suffix 4.12.88 and 5.12.88 being weekly rest and was required to join on 6.12.88. The Petitioner

comtd...3/-

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also obtained permission to leave station and the address during leave was a-s given in the array of parties

6. That the petitioner because of his continuous hill sickness and illness availed Gazetted Holiday leave on 2.9.1988 being Janmeashtimi, 3rd and 4th Sept.88 weekly off and on 5th Sept.88 compensatory off and came to Lucknow with the intention of taking rest before starting his studies for which leave was already sanctioned.
7. That unfortunately because of the strains at Almorah after joining there and due to not getting proper and regular diet and required rest and because of the strains while coming to Lucknow, he apprehended of some serious ailment and the petitioner want to Balrampur Hospital at Lucknow, for getting himself checked up and if necessary then for some treatment, on 4.9.1988 and after complete check up on 5.9.88 the petitioner was advised by Dr. P.N.Awasthi, Senior Consultant Physician Balrampur Hospital, Lucknow for taking admission in the Hospital as an in-door patient for treatment and petitioner informed about these happenings at Lucknow on 6.9.1988 to the opposite party no.1.
8. That on 6.9.1988 after having the course of medicine and ~~check up~~ complete check up he was discharged but petitioner was advised complete bed Rest for 42 days and was also required under the follow up instructions for follow up check after every ten days in Room no.29 of the Hospital.
9. That during the illness and bed rest as and when the petitioner became somewhat fit during that period he also persued his studies for which he obtained leave.

contd...4/-

Sl.
M

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Paper no.4
of Compilation
no.2.

10. That after discharge the petitioner informed opposite party no.2 by Registered Letter dated 10.9.1988 from Lucknow about the happenings at Lucknow from 6.9.88 to 10.9.1988 alongwith the Medical Certificate issued by the Doctor who treated the petitioner in the hospital and as an outdoor patient.

11. That after receiving the letter dated 10.9.1988 the opposite party no.2 vide telegram which was sent to Lucknow required the petitioner to report for duty immediately with a threatening or to face action under CCS rules. This telegram was received at Lucknow Telegraph office on 14.9.1988 and was delivered there after and the confirmation letter signed on 12.9.1988 was received thereafter. Which was also sent to Lucknow address.

Paper no.5 of
compilation 2.

12. That after the aforesaid telegram and confirmation letter the opposite party no.2 vide No.AIM-12(48) 88-8/24038 dated 21.9.1988 which was despatched on 23.9.1988 under registered letter No.9099 ^{at Know} ~~Lucknow~~ -ldging the registered letter dated 10.9.1988 sent by the petitioner from Lucknow and although the Medical Certificate submitted by the petitioner according to opposite party no.2 was not found as per rules, as such the petitioner was required to obtain medical certificate from Chief Medical Officer, Lucknow and was required to submit the same within 15 days of issue of the letter in question failing which it was threatened that action will be taken under the Rules. The petitioner received the letter in question on 23.9.1988 and submitted its reply on 3.10.1988 wherein he

Paper no.6 of
compilation 2.

contd...5/-

APX

requested that in case if such a certificate^{is} at all required then the required ~~for~~ proforma of the form to be filled be sent to enable the petitioner to comply with the requirement.

Paper no.7 of compilation 2.

13. That before the expiry of 15 days from the date of the letter referred to above the opposite party no.2 despatch another Memorandum No.AIM.-12(48)/88-S/24410 dated 6.10.1988 at Lucknow saying that as the required medical certificate on prescribed proforma from Chief Medical Officer, Lucknow has not been received on due date hence the office is proceeding with Disciplinary Action against the petitioner as per CCS(CCA) Rule-11.

Paper no.8 of compilation no.2

14. That thereafter the opposite party no.2 vide letter No.AIM-12(50) 88-S/24652 dated 12.10.1988, which was received by the petitioner on 21.10.1988, sent the required proforma and by this letter the petitioner was also required to submit in writing that he is not pursuing any Computer Course for which study leave was granted to him by the opposite parties.

Paper no.9 of compilation no.2

15. That on 25.10.1988 the petitioner submitted the required information after checking the required proforma as supplied besides the copies of the certificate already submitted. The petitioner who was still continuing with the ailment because of mental tension and strains so he was again admitted in the Hospital on 25.10.1988 and was discharged on 7.11.1988 and was advised to take absolute bed rest for six weeks and after obtaining the required certificate from the Chief Medical Officer, Lucknow on 15.11.1988 submitted the same under registered cover on 16.11.1988.

contd...6/-

M. G.

AWD

16. That although the petitioner was discharged on 7.11.1988 but he was required to come to the Outdoor for his check up after one week and the petitioner was regularly checked up as advised as an Outdoor patient on 17.11.1988, thereafter on 29.11.1988 again on 8.12.88 and lastly on 17.12.1988.

Paper no.10
of compila-
tion no.2

17. That while the petitioner was undergoing treatment at Lucknow Hospital, he was served with a termination notice No.AIM-1(2) Tech./88-S/26460 dated 24.12.1988 starting therein that he is not entitled for any pay or allowances for the period of notice and the notice has been issued by the opposite party no.1.

Paper no.13
of compila-
tion no.1

18. That the termination order was passed without considering the registered letters dated 16.11.1988 letter dated 6.12.1988, the application for further leave and registration letter dated 21.12.1988 by which reminder was sent for grant of leave as nothing was heard on the leave application dated 6.12.1988 and the petitioner was not informed in any manner that his further leave applica- tion was rejected or is under consideration nor any intimation from opposite party no.1 that no further leave can be granted.

19. That the petitioner on receiving the impugned ~~in~~ termination order when he was still undergoing medical treatment as an outdoor patient under the same Doctor who has treated him as and when necessary as indoor patient and ^aremained under his treatment upto second week of January, 1989.

20. That thereafter the petitioner submitted an appeal/ Review Petition to the Opposite Party no.3 who is the Head of the Department and the appointing authority of the petitioner stating therein the aforesaid facts in

contd...7/-

Paper NO 11 A
Compilation No 2

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brief vide Registered Postal Receipt no.1364 dated 9.1.89 and thereafter sent several reminders dated 15.2.1989, 29.3.1989 and personal meeting on 5.6.1989 and 13.6.1989 and thereafter on 17.7.1989 but the opposite parties no.3 & 4 instead of deciding the matter vide letter No.A-34/14(EA) -/89/EPC dated 28.7.1989 advised the petitioner to take up the matter again with the opposite party no.1 and this letter was received by the petitioner on 8.8.89-

Paper no. 1 of compilation no.2

21. That after receiving the aforesaid letter when petitioner did not receive any order from opposite party no.1 there on 23.8.89 the petitioner requested opposite party no.1 to ^{submit} ~~submit~~ the order received by him from opposite parties no. 3 & 4.

Paper no. 2 of compilation no.1.

22. That thereafter the opposite party no.1 vide no.AIM-12(43)/88-S/10340 dated 24.10.89 communicated the gist of the order alleged to have been passed and it appears that the mind has not been applied to the facts stated in the Representation/Review dated 9.1.90 as provided in the Rules but it appears that some representation dated 18.8.89 alleged to have been sent by the petitioners has only been considered in passing the impugned order and when the fact is that petitioner never submitted any representation dated 18.8.89.

23. That as the petitioner aggrieved from the termination order dated 24.12.88 as well as by the order dated 24.10.89 hence the present petition on the following :-

G R O U N D S

A. Because the petitioner was already granted study leave when the proceedings for alleged absence from duty were stated on 12.9.1988 as such the termination order as well as the order confirming the termination on

contd...8/-

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the basis of Absence from duty is not only without jurisdiction against the provision of law and rules but is also by an Authority who is not competent to pass the impugned order of termination when no intimation of cancellation of leave or not granting further leave was ever sent by opposite parties 1 & 2 under whom the petitioner was working after his posting by opposite party no.3.

B. Because in the entire correspondence with the petitioner starting from 12.9.1988 upto the date on which termination order was passed are without authority of law as no letter or intimation was sent or received by the petitioner from opposite parties cancelling the leave order granted vide ALM-12-48(88-S/23327 dated 27.8.88, ^{from 3.9.90} Leave upto 5.12.1988 and thereafter when further leave application dated 6.12.1988 was sent well within time and nothing was heard for a fortnight then by registered reminder also it was requested to extend the leave but till today no orders have been passed by the opposite parties and during this period passing of termination order is against the Rules on the ground of absence from duty when actually the petitioner was not absent from duty, hence the termination order is without jurisdiction and against the law.

C. Because sanctioned leave has not been cancelled in any manner, hence p-roceedings on the basis of absence from duty are not only wholly mala fide and arbitrary but is also against the established norms and Rule as such the termination ~~under~~ ^{under} order Rule 5(1) on the basis of letter No.A-13/11(i)88-EPC dated 27.7.1988 is wholly without applying the mind to the facts of the case as

contd...9/-

[Handwritten signature]

(12)

there are no proviso to the condition at serial no.3 and 4 in the aforesaid letter.

D. Because there is an error ~~of~~ apparent on the face of the record in as much a-s that the petitioner was appointed by opposite party no.3 after being selected by the Selection Committee alongwith several others after successfully standing in the merit after Viva-voce, as stated in the petition hence the opposite party no.1 is not competent to pass order of termination in question as he is subordinate to opposite parties nos. 3 & 4.

E. Because the termination order is not only against the Rules but is due to ^{incorrect information} ~~the~~ because it is said that the petitioner was absent without leave from the office which fact is incorrect on record and the impugned order itself is in violation of Rule 5(b) of Central Civil Service (Temporary) Service Rules 1965 under which the termination notice has been given.

F. Because the Appeal/Representation was sent to opposite parties nos.3 & 4 who are the Appellate Authority as well as the Appointing authority but the appeal representation has not been ~~decided~~ by opposite party no.3 & 4 after affording an supporting in person as claimed by the petitioner.

24. That the present petition is within limitation as the last impugned order was passed on 24.10.89 and received by the petitioner at Lucknow on 30.10.89 and a period of one year will expire on 29.10.90.

25. That the required postal order worth Rs.50/= being postal order no. 8 02 449373 dated 11.4.90 is affixed on

contd....10/-

A22

the petition as a fee for the claim petition.

26. That the petitioner is now left with no ^{other} alternative and efficacious remedy and the alternative remedy ~~is~~ available to him has already been availed with no positive result and the cause of action has accrued firstly on 24.12.88 i.e., the day on which the termination order was passed and thereafter on 9.1.89 i.e., when the appeal was filed and thereafter on several dates ~~as~~ stated in the petition ^{as} reminders were sent for the disposal of the appeal and lastly on 24.10.89 when information deciding the appeal/representation by opposite party no.1 and this information was received on 30.10.89. The cause of action accrued within the territorial jurisdiction of the Tribunal as the termination order was served at Lucknow and the Appellate order was also sent to Lucknow and was received at Lucknow as stated in the body of the petition.

Wherefore, it is prayed that this Hon'ble Tribunal be pleased to quash the Termination order No.AIM-1(i)Tech-88-S/26460 dated 24.12.1988 along with the order No.AIM-12-(43)/55-S/10343 dated 24.10.89 and direct the opposite party to treat the petitioner in continuous service with all service benefits which he would have been entitled if he could have continued in service as before and after allowing the petition the opposite parties be also directed to decide the matters relating to payment of the salary and allowances for the period during the pendency of claim petition till he ^{is} allowed to join then duties within the time fixed by the Tribunal.

contd....11/-

125

The petition be allowed with cost against the opposite parties.

Lucknow:

Dated:

Petitioner.

VERIFICATION

I, Deepak Kumar S/o Sri B.B.Saxena aged about 26 yrs. who was working as Engineering Assistant in the Office of Station Director, A.I.R., Almorah r/o 18, Deen Dayal Road, Asherfabad, Lucknow, do hereby verify that the contents of paras 1 to 22, 24, 25 & 26 of the petition are true to my own knowledge and those of paras 23 to 26 sub paras. of the petition are believed by me to be true.

Nothing material has been concealed so help me GOD.

Signed and verified this day on 11. 4 90 in the Chamber of my Advocate at Naubasta, Lucknow.

Lucknow: 11. 4 90

Dated:

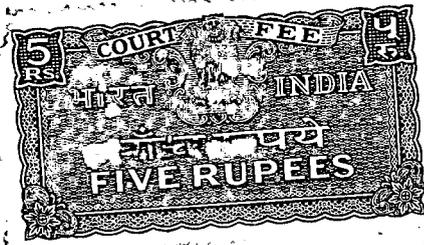
Petitioner.

बअदालत श्रीमान Joint Central Administrative Tribunal महोदय

वादी (मुद्दे)
~~मुद्दे~~ (मुद्दालेह)

का

वकालतनामा



Jelpat Kumar

vs

Shahendra A/R Alumbhal

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकद्दमा

सन

पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Akhilish Sahai

Shri Akhila Kothi Raja Din Dayal Naubala, Lucknow

~~वकील~~

एडवोकेट

महोदय

को अपना वकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा 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 मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्ष (फरीकसानो) 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 मुकद्दमा 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।

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

11

महीना

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(A25)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
(Circuit Bench)

SITTING AT LUCKNOW

C.A.T. Case No. .. /1989

Deepak Kumar

...

Petitioner

v/s

Station Director, All India Radio,
Almerah.

Opposite parties.

Schedule - I

1. The photo copy of termination order No. AIM-1-(2) Tecl/88-s/26460 dated 24.12.88 referred to in para 17 of the petition.
2. Copy of Appeal ^{only} dated 25.12.89 through registered A.D. letter.

LUCKNOW :

Dated.

PETITIONER

GOVERNMENT OF INDIA
ALL INDIA RADIO : ALMORA

No: ALM-1(2)Tech./88-S/ 26,460

Dated: 24.12.88

OFFICE - ORDER

In pursuance of the proviso at S.No. 3 & 4 of the offer of appointment No. A-13/11(1) 88-EPC dated: 27.7.88 to Sh. Deepak Kumar for the post of Engineering Assistant issued by the Chief Engineer (North Zone), Akashvani & Doordarshan, Jam Nagar House, Shahjahan Road, New Delhi, I, Suhas Chaudhury, Station Director hereby terminate forthwith the services of Shri Deepak Kumar, Engineering Assistant and direct that he shall not be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service, or, as the case may be, for the period by which such notice falls short of one month.

Shri Deepak Kumar,
Engineering Assistant,
18, Din Dayal Road,
Ashrafabad,
Lucknow - 226003.

(SUHAS CHAUDHURY)
STATION DIRECTOR

SIGNATURE OF APPOINTING AUTHORITY:

Copy to: The Chief Engineer (North Zone), Akashvani & Doordarshan
Jam Nagar House, Shahjahan Road, New Delhi - 110011.
with reference to this officer warning No:
ALM-12(48) 88-S/25099 dated 31.10.88 & memo No:
ALM-12(48) 88-S/25208 dated: 4.11.88 with the request
that the vacant post may kindly be filled up at an
early date.

2. Bill Clerk in duplicate.
3. Steno to S.D., AIR, Almora.
4. Steno to S.E., AIR, Almora.
5. Copy to his personal file.

STATION DIRECTOR

certified that the photocopy is the
true photocopy of the copy received
by me.

(A27) 13

Regd. A/D

GOVERNMENT OF INDIA
ALL INDIA RADIO:::ALMORA

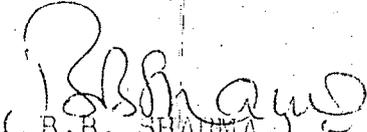
NO. ALM-12(43)/88-S | 10, 340

Dated:- 24.10.89

Subject:- Representation of Shri Deepak Kumar, reg.
termination of services as Engineering Assistant.

.....

Representation of Shri Deepak Kumar dated 18.9.89 has been considered by Chief Engineer (NZ), All India Radio & Doordarshan, New Delhi and the orders issued by the Appointing Authority Viz: Termination of Services of Shri Deepak Kumar from the post of Engineering Assistant at All India Radio, Almora, has been found in order.


(B.B. SHARMA)
STATION ENGINEER

Shri Deepak Kumar,
18, Deen Dayal Road,
Asherabad,
Lucknow-226003.

*certified that the photocopy is the
true photocopy of the copy received
by me.*



DEPTO DE LA SALUD ADMINISTRATIVO ESPECIAL, ALIENADO

(Cámara Social)

SISTEMA DE LUBRICO

Excmo. Sr. D. ... /60

Depart. Ruber

...

Político

V/O

Sección Director: All Emilio Rubio, Alborná

Espejo político

Concilio - 10

- 1. Appointment order referred to in para 2.
- 2. Change of station request allowed referred to in para 2.
- 3. Down allowing order referred to in para 3.
- 4. Medical Certificate & Prescription referred to in para 7 and 8.
- 5. Bonus sum by Politician extra 0.9.00 to 13.00 from opposite party No. 1 & 2 referred to in para 7, 10.15.
- 6. Medical Certificate:
- 7. ~~Contract dated 15.2.63 and 27.5.67 to opposite party No. 1 for company and appeal referred to in para 10. Memorandum WPAK~~

LUBRICO

D. ...

DEFINICION

1/12
A23

पंजीकृत डाक द्वारा

भारत सरकार

कार्यालय: मुख्य अभियन्ता (उत्तरी क्षेत्र)
आकाशवाणी एवं दूरदर्शन

जामनगर हाउस, शाहजहाँ रोड,
नई दिल्ली - 110011.
दिनांक:-

संख्या - ए-13/11/1/26-ई.पी.सी./

उम्मीदवार का नाम और पता संख्या

कार्यालय जहाँ के लिए उम्मीद-
वार नामित किया गया है

100.25042.54
Sh. Deepak Kumar,
18 Din Dayal Road,
Asherabad, Lucknow-226003.

U.R.

The Director,
Doordarshan Kendra,
Jalandhar,
Punjab

विषय:- उत्तरी क्षेत्र में इंजीनियरी सहायकों की नियुक्ति।

महोदय,

आकाशवाणी/ दूरदर्शन (उत्तरी क्षेत्र) में इंजीनियरी सहायक के पद के लिए हुए
जांच परीक्षण एवं इंटरव्यू के संदर्भ में, मुख्य अभियन्ता (उत्तरी क्षेत्र) चयन बंदन की सिफारिशों
के आधार पर आपको निम्नलिखित शर्तों पर उपर्युक्त कार्यालय में नियुक्ति के लिए
नामित करते हैं :-

1. ²³⁰⁰रु 1400-40-1600-50+द.रो.-60-2600/- के वेतनमान वाला या पद सामान्य
केन्द्रीय सिविल सेवा, वर्ग -3, अराजपणित, अलिखित/अर्थात् पद है। उम्मीद-
वार वेतनमान के अन्तर्गत आपको 1400/- रु प्रतिमाह प्रारम्भिक वेतन दिया जाएगा।
समय-समय पर विभिन्न भत्तों के नियमन हेतु जारी नियमों एवं आदेशों में
निर्धारित शर्तों के अधीन आपको स्वीकार्य ढर्रे पर विभिन्न भत्ते भी दिए
जाएंगे।
2. आपकी नियुक्ति आगामी आदेशों से पूर्णतः अस्थायी है।
3. केन्द्रीय सिविल सेवा/अस्थायी सेवा के नियम, 1975 के अनुसार आपकी सेवाएं
बिना कोई कारण बताए किसी भी पक्ष की ओर से एक माह का नोटिस देने
पर समाप्त की जा सकती है। किन्तु, नियुक्ति या विभागीय को उम्मीदवार
को एक माह की नोटिस-अवधि या उसी आंशिक अवधि के लिए देश वेतन एवं
भत्तों के बराबर की राशि का धुपताज करके उसी सेवा निर्धारित अवधि से
पहले भी समाप्त करने का अधिकार है।
4. नियुक्ति हो जाने की स्थिति में आप दो वर्ष परीक्षाधीन रहेंगे और यह
अवधि सक्षम प्राधिकारी के विवेक पर धटाई-बढाई भी जा सकती है। परीक्षा
काल में आपकी सेवाएं बिना कोई नोटिस दिए या बिना कोई कारण बताए
समाप्त की जा सकती है।

..... 2/-

16 (129)

संबंधित मुख्यालय के ड्यूटी के लिए रिपोर्ट करते समय आपको निम्नलिखित प्रमाण-पत्र प्रस्तुत करने होंगे ताकि कार्यालय/अध्यापक आपको विधिकार/नियुक्ति पत्र दे सकें :-

1. शैक्षणिक एवं अन्य तकनीकी योग्यताओं के प्रमाण-पत्र.
2. आय संबंधी प्रमाण-पत्र.
3. अनुसूचित जाति / अनुसूचित जनजाति, विकलांग अथवा भूतपूर्व सैनिक वर्ग के समर्थन में निर्धारित फार्म में प्रमाण-पत्र.
4. उपर्युक्त पैरा "8" से संबंधित वचनबंध ।
5. सिविल सर्जन/ मुख्य चिकित्सा अधिकारी से सरकारी सेवा हेतु स्वस्थता प्रमाण - पत्र ।

12. आपकी कोई धोखा या सूचना असत्य सिद्ध हुई या आपके द्वारा कोई सच्य जान बूझ कर छिपाया गया सिद्ध हुआ तो आपकी सेवा से हटा दिया जाएगा और सरकार आपके खिलाफ यथासंभव कार्रवाई करेगी ।

13. यदि भविष्य में आकाशवाणी एवं दूरदर्शन के लिए किसी निगम का गठन किया जाता है तो आपकी कभी भी कहीं भी बदली की जा सकती है और आप उस निगम के कर्मचारियों के लिए निर्धारित सेवा शर्तों के अधीन की जाएंगे ।

14. यदि आप कभी धर्म परिवर्तन करते हैं तो तत्काल इस कार्यालय को सूचित करें ।

15. यदि आपको उपर्युक्त शर्तों पर आपना यह निष्पक्ष प्रस्ताव स्वीकार्य हो तो आप उपर पैरा - 11 में दिए गए प्रमाण-पत्रों सहित उपरिलिखित कार्यालय में इस पत्र के जारी होने के दो सप्ताह के अन्दर ड्यूटी के लिए रिपोर्ट करेंगे । अन्यथा समझा जाएगा कि आप इस निष्पक्ष में दिलचस्पी नहीं रखते और आपका नाम चयन सूची में से निकाल दिया जाएगा ।

16. इस पत्र में उल्लिखित नाम और पते के ऊपर कोड नम्बर दिया गया है । जो कार्यालय में या अपनी तैनाती के कार्यालय से पत्र-व्यवहार करते समय वह कोड नम्बर अवश्य लिखें ।

भवदीय

Certified that the photocopy is the true photocopy of the copy received by me.

M. S.

[Signature]
श्री. पी. भदती
उप-निदेशक (कार्यिक)
कृते मुख्य अभियन्ता (उ.के.ओ.)

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REGISTERED.

GOVERNMENT OF INDIA
OFFICE OF THE CHIEF ENGINEER (NORTH ZONE)
AKASHVANI & DOORDARSHAN

JAMNAGAR HOUSE: SHAHJAHAN ROAD
NEW DELHI-110011.

No. A-13/11(1)/88/EPC/

Dated the, 27.7.1988

Shri Deepak Kumar,
18, Din Dayal Road,
Asherfabad,
LUCKNOW-226003.

SUBJECT:- Appointment of Engineering Assistants in
Northern Zone of Akashvani & Doordarshan.

.....
& Dear Sir,

This has reference to this office letter of even number dated 15.10.1987 vide which offer of appointment for the post of Engineering Assistant at Doordarshan Kendra, Jalandhar was sent to you.

Your place of posting has since been changed from Doordarshan Kendra, Jalandhar to All India Radio, Almora. Other terms and conditions of the offer of appointment will remain unchanged. You are requested to report for duty to the Station Engineer, All India Radio, Almora within 15 days of the issue of this letter, failing which it will be presumed that you are not interested in the offer and your name will be dropped from the panel without making any further reference to you.

Yours faithfully,

J.P. Bhatti

(O.P. BHATTI)
DEPUTY DIRECTOR ENGINEERING,
for CHIEF ENGINEER (N.Z.)

*Certified that the photocopy is the true
photocopy of the copy received by me.*

[Signature]

भारत सरकार
आकाशवाणी : अल्मोड़ा

18
481

अक्रमांक- 128/08/08-100/ 23324

दिनांक 27.9.88

ज्ञापन

श्री दीपक कुमार पत्रिका पत्र दिनांक 25.9.88 के अनुसार
उपरोक्त विना लिखित अवकाश स्वीकृत किया गया :-

- 1- अर्जित अवकाश दिन दिनांक से तक
 - 2- अर्जित अवकाश 90 दिन दिनांक 6.9.88 से 3.12.88 तक
 - 3- दिन दिनांक से तक
 - 4- दिन दिनांक से तक
- साथ में उपरोक्त के पूर्व और अकाश के पत्राचार 4.12.88
और 5.12.88 (आकाशवाणी अल्मोड़ा) के द्वारा प्रदान की गई।

प्रमाणित किया जाता है कि श्री दीपक कुमार उपरोक्त अवकाश अपने
उसी पद पर वापस आये और उपरोक्त अवकाश की अवधि उनकी वार्षिक वेतन-सूची
के अंतर्गत मान्य की जायेगी।

उनकी सलाह दी जाती है कि छुट्टी जाने से पहले वे अकाश-पत्र

अपने देवें पर उपरोक्त अवकाश का पत्र पर स्वीकृत हुआ है कि यदि आपकी
कभी सल्लोकात में छुट्टी रद्द करने की आवश्यकता पड़ी तो उपरोक्त छुट्टियों की
रकम किया जा सकता है तथा उनको अवकाश के बीच में ही अपनी छुट्टी पर
अपनी अवकाश उपस्थित होना होगा।

श्री दीपक कुमार आशा अवकाशकालिक यात्रा वर्ष

अपने की छुट भी प्राप्त करने की अनुमति दी जाती है।

दिन अर्जित अवकाश व दिन अर्जित अवकाश

अपने खाते में अवशेष है।

श्री दीपक कुमार, आशा
आकाशवाणी,
अल्मोड़ा

श्री दीपक कुमार
श्रद्धा-केन्द्र, सिद्धिक
केन्द्र, अधिभारता

- 1. लेखा-भाग, आकाशवाणी, अल्मोड़ा
- 2. विलास-वर्क, श्री प्रथियारा
- 3. अधिभारता, केन्द्र अधिभारता को सूचनाई पेशित।

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[Signature]

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132

MEDICAL CERTIFICATE FOR LEAVE OR EXTENSION OF LEAVE OR COMMUTATION OF LEAVE

Signature of the Government servant..... *Kumar*

I, Dr. P. N. Awasthi after careful personal examination of the case hereby certify that Shri/Srimati/Kumari. DEEPAK. KUMAR..... whose signature is given above, is suffering from SOLY & E. NERVA and I consider that a period of absence from duty of 51 weeks... with effect from 06.09.1988... is absolutely necessary for the restoration of his/— health.

11/0/88

P. N. Awasthi, M.D.
Senior, Consultant Physician,
Balrampur Hospital, Lucknow.

Note:- The nature and probable duration of the illness should be specified.

Note 2:- This Form should be adhered to as closely as possible and should be filled in after the signature of the Government servant has been taken. The certifying officer is not at liberty to certify that the Government servant requires a change from or to a particular locality, or that he is not fit to proceed to a particular locality. Such certificates should only be given at the explicit desire of the administrative authority concerned, to whom it is open to decide, when an application on such grounds has been made to him, whether the applicant should go before a Civil Surgeon or Staff Surgeon to decide the question of his/her fitness for service.

Note 3:- Should a second medical opinion be required, the authority competent to grant leave should arrange for the second medical examination to be made at the earliest possible date by a medical officer not below the rank of a Civil Surgeon or Staff Surgeon, who shall express an opinion both as regards the facts of illness and as regards the necessity for the amount of leave recommended and for this purpose he may either require the Government servant to appear before himself or before a medical officer nominated by himself.

Note 4:- No recommendation contained in this certificate shall be evidence of a claim to any leave not admissible to the Government servant.

Certified that the photocopy is the true photocopy of the copy ~~original~~ send by me.

[Signature]

20

123

REGISTERED 4/10

GOVERNMENT OF INDIA
ALL INDIA RADIO: ALL INDIA

GO. No. 12(46)/7-1/ - 24,410

Dated: 6.10.59

MEMORANDUM

With reference to this office memo of even No. Dated 21.9.59, the requisite medical certificate on prescribed proforma from C.M.C., Distt. Hospital, Lucknow has not ^{been} received on due date from you. The office is proceeding with disciplinary action against you as per C.C.S.(C.C.A.) rule 11.

Sri Deep Kumar,
Engineering Assistant,
13, Bin Jayal Road,
Ashrahabad,
Lucknow-226005.

S. Chaudhary
(SUNIL CHAUDHARY)
STATION DIRECTOR

*Certified that photocopy is the true
photocopy of the copy received by
me.*

M. S.

भारत सरकार
आकाशवाणी-अल्हाड़ा

पंजीकृत

2
A34

सं०- अल्हाड़ा-12888-एल. / -24,652

दिनांक: 12.10.88

:-ज्ञापन:-

श्री दीपक कुमार, अभियांत्रिकी सहायक को पुनः उनके दिनांक 3.10.88 के अन्तर्देशीय पत्र के सम्बन्ध में निर्देश दिया जाता है कि वे संलग्न प्रारूप पर मुख्याधिकारिता अधिकारी के हस्ताक्षर एवं मुहर सहित अधिकृत प्रमाण पत्र इस कार्यालय को भिजवायें एवं एक प्रमाण पत्र ^{Shia} कम्प्यूटर कालेज, लखनऊ से इस प्रकार का भिजवायें कि श्री कुमार उक्त कालेज से किसी प्रकार का कम्प्यूटर कोर्स नहीं कर रहे हैं एवं अपना सम्बन्ध पूर्णतया कालेज एवं कोर्स से समाप्त कर लिया है। इसके अतिरिक्त श्री दीपक कुमार तकतेना, अभियांत्रिकी सहायक स्वयं भी लिखित रूप में यह उद्घोषणा करें कि वह सिया कम्प्यूटर कालेज, लखनऊ या अन्य किसी माध्यम से किसी प्रकार की पढ़ाई/पाठ्यक्रम जारी नहीं किये हुए है।

यहाँ श्री दीपक कुमार को यह बताया जाता है कि आकाशवाणी में अभियांत्रिकी सहायक की नियुक्ति के पश्चात् वह इस कार्यालय की अनुमति के बिना किसी भी प्रकार से न तो पढ़ाई जारी रख सकते हैं व न ही किसी प्रकार का पेशेवर पाठ्यक्रम जारी रख सकते हैं। अधिकृत प्रमाण पत्र एवं उपरोक्त दो उद्घोषणाएँ इस कार्यालय को दिनांक 27.10.88 से पूर्व प्राप्त हो जाने आवश्यक हैं।

श्री दीपक कुमार
भारत गूणन मार्ग
केन्द्र अभियन्ता

श्री दीपक कुमार,
अभियांत्रिकी सहायक,
18, दीन दयाल मार्ग,
अशरफाबाद,
लखनऊ- 226003

Encl- As above

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[Signature]

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29

श्री. आर. ए. मूक. चिकित्सा अधिकारी
लखनऊ ।

सेवा में,
स्टेशन डॉक्टर,
आल इंडिया रेडियो अलमोडा ।

संख्या ई-7/88

दिनांक नवम्बर 15, 1988

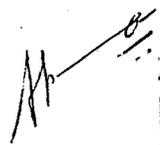
महोदय,

आप के पत्र संख्या एएलएम/ 12 "48" 88-एम/20208 दिनांक 4-11-88 के संदर्भ में सूचित करना है कि श्री दीपक कुमार अपने रक्षाबंध परीक्षा हेतु आज भरे सव्वा उपस्थिति हुये । परीक्षापश्चात् श्री दीपक कुमार अपने कार्य हेतु फिट पाये गये । वर्तमान में चिकित्सा अधिकारी के कोई आदेश इनमें सिद्धमान नहीं है । मूल चिकित्सा प्रमाण पत्र कायम किये जा रहे हैं ।

संलग्नक: - उपरोक्तानुसार 1

2-दिनांक
15/11/1988
ए. ए. ए. ओ. क. क. क.
मूक. चिकित्सा अधिकारी
लखनऊ ।

Certified that the photocopy is the true photocopy of the copy send by me.



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1936

MEDICAL CERTIFICATE FOR LEAVE OR EXTENSION OF LEAVE OR COMMUTATION OF LEAVE

Signature of the Government servant *[Signature]*

I, *[Signature]* (Senior Consultant Physician) after careful personal examination of the case hereby certify that Shri *[Signature]* whose signature is given above, is suffering from *[Signature]* and I consider that a period of absence from duty of *[Signature]* with effect from *[Signature]* is absolutely necessary for the restoration of his health.

[Signature] 25.10.27

Authorised Medical Attendant....
Hospital/Dispensary or other
(D. N. Singh, M.D.) Registered Medical Practitioner.
Senior, Consultant Physician,
Balrampur Hospital, Lucknow.

Note:

That nature and probable duration of the illness should be specified.

Note 2:- This Form should be adhered to as closely as possible and should be filled in after the signature of the Government servant has been taken. The certifying officer is not at liberty to certify that the Government servant require a change from or to a particular locality, or that he is not fit to proceed to a particular locality, or that he is not fit to proceed to a particular locality. Such certificates should only be given at the explicit desire of the administrative authority concerned, to whom it is open to decide, when an application should go before a Civil Surgeon or Staff Surgeon to decide the question of his/her fitness for service.

Note: 3 Should a second medical opinion required, the authority competent to grant leave should arrange for the second medical examination to be made at the earliest possible date by a medical Officer not below the rank of Civil Surgeon or Staff Surgeon, who shall express an opinion both as regards the facts of illness and as regards the necessity for the amount of leave recommended and appear before or before a medical Officer nominated by himself.

Note: 4 No recommendation contained in this certificate shall be evidence of a claim to any leave not admissible to the Government servant.

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the true photocopy of the copy
sent by me.*

[Signature]

JK
A37

The Chief Engineer (NZ),
Govt. of India,
Akashwani & Doordarshan,
Jamnagar House, Shahjahan Road,
New Delhi-110011.

Sub: Deepak Kumar Eng. Asstt. AIR/NZ (Code No. 100.25042.54). Review petition under Rule 5(2) as amended by notification dated 3.11.78 against termination service of Temp. Govt. Servant under Sub Rule (1) of Rule 5 dated 24.12.88

Respected Sir,

The applicant was appointed on being selected by you vide No. A-13/11/1/86 FPC dated nil. The applicant was sent to AIR/Almora under your order No. A-13/11(1)/88/FPC dated 27.7.88 and the applicant in pursuance to it joined on 10.8.88 and submitted his joining report. The applicant vide No. ALM/12//48/88-s/23327 dated 27.8.88 was granted leave by the Station Director/AIR Almora w.e.f. 06.09.88 to 05.12.88.

That while the applicant was at Lucknow, he became so severely ill that under medical advice he was required to be admitted twice in the Balrampur hospital which is a District Hospital of Lucknow and on Doctor's advice I could not go to Almora as on 07.11.88 I was advised absolute bed rest for six weeks. The intimation of it was sent by registered post on 16.11.88 intimating the station Director about the ailment and all required medical certificates with the request that the Doctor has advised me not to strain till I recuperated my health fully and was required to get my self checked up every ten days.

That on 17.12.88 the Doctor ~~XXXX~~ has further advised me rest for at least for three weeks more and this fact was also intimated to the station Director on 21.12.88 through registered post requesting him to allow me the leave admissable to me as under compelling circumstances I am unable to reach Almora after expiry of leave for the reasons which were beyond my control.

That it appears, after receiving the aforesaid letter the Station Director with bias and prejudice, illegally and ~~and~~ against the provisions of law terminated my services when I was not fit to join and he has no right or authority to terminate my services as my absence was bonafide

(contd..2.)

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and it was beyond my control to report for duty after the expiry of my leave.

It is therefore, requested that as the orders of termination on the face of it is by an authority who has neither appointed me nor is my appointing authority and the order has been passed and issued when I was medically not fit to resume duty. As such, it is requested that after annulling the order of termination the station Director, Almora be directed to allow me to resume duty at an early date. I further request you to kindly give me an opportunity to be heard in person.

Yours faithfully,

Dated: 02.01.39.

D. A. Photostat copies
of relevant documents.

(4)

(DEEPAK KUMAR)
Engg. Asstt.
18-Desh Dayal Road,
Asherabad,
LUCKNOW-226003.

Copy to:-

Station Director, All India Radio,
Almora for favour of information.

Deepak

(DEEPAK KUMAR)

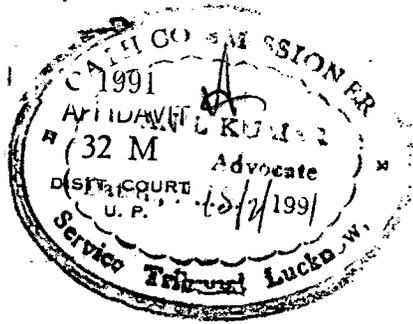
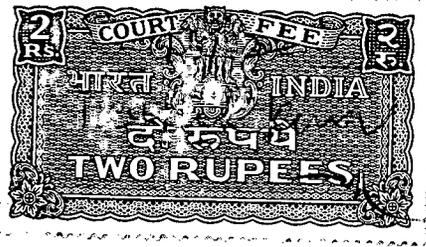
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Send by me.*

AA

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

A39

O.A. NO. 130 of 1990 (L)



Deepak Kumar.....Applicant.

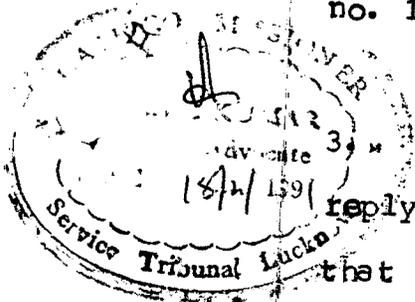
Vs

Union of India & others.....Respondents.

I, Deepak Kumar aged about 28 years s/o Sri B.B. Saxena r/o 18, Deendayal Road Asharfabad, Lucknow do hereby solemnly affirm and state as under:

1. That the contents of paras 1, 2, 3 and 6 need no reply.
2. That in reply to para 4 of the Counter Affidavit replying para 1 of the Original Application it is stated that the Petitioner was appointed by Opposite party no. 3 vide paper no. 1 of compilation 2 and not by Opposite party no. 1 on 20.8.88.

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That in reply to para 5 of the Counter Affidavit replying para 2 of the Original Application it is submitted that the Petitioner was ~~originally~~ appointed and posted by opposite party no. 3 and was posted to Jalandher and, thereafter transferred under the orders of the opposite party no.3 and the Petitioner submitted his joining report on 10th August 1988 in compliance to the letter of opposite party no. 3 no. A-13/II (I)/88 EPC dated 27.7.88 and ~~original~~ ^{giving it} joining report ~~was~~ ^{is} ~~posting~~ order was issued on 20.8.88 vide no.

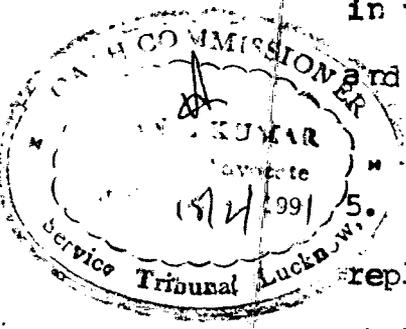
A40

AIM-1 (2) T/88/5/23280 dated 20.8.88. The opposite party no. 3 was also informed of the compliance report as required by him in his letter no. A-13/11 (1)/86-EPC dated 27.7.88 by opposite party No 1

4. That in reply to para 7 of the Counter Affidavit replying para 4 of the Original Application it is stated that so far as the Petitioner is concerned his Appointing Authority is opposite party no. 3 after being declared selected and was never appointed by opposite party no. 1. The opposite party no. 3 is not only a Recruiting Authority ~~but~~ ^{also} is the appointing Authority and the letter of appointment was issued by one Sri. C.P. Bhatti, Dy. Director (Establishment) and was issued on behalf of opposite party no. 3 and opposite party no. 1 & 2 are much subordinate to opposite party no. 3. It is not correct to say that the resignation of Sri Nihal Ahmad was received after the Petitioner applied for leave or was granted leave or was allowed out Station Leave on 31st August 1988. It is also relevant to mention that when the Petitioner was relieved then besides the Petitioner there were 16 other Engineering Assistants at Almora and if the resignation of Nihal Ahmad would have been subsequent to the sanction of leave to the petitioner or after the date he was relieved by the Authorities then it would have been correct to say that because of sudden resignation of Nihal Ahmad there was an exigency of recalling the Petitioner from leave who was granted ^{at Extra ordinary Leave for Completion of} Study ~~leave~~ as is evident from his application for leave dated 25th August 1988. The opposite party no. 1 was also informed by separate application dated 25.8.88 that ~~he is~~ as he is already undergoing the Course of Post Graduate Diploma in Computer Applications sponsored by UGC from the session of December 1987 to November

AC-11

1988 and in the application for leave he requested for leave for the purpose from 6th September to 3 December 1988 and on this application the leave was granted vide No. AIM 12 /48/88-AS/23327 dated 27.8.88 and the order granting leave is paper no. 3 of the compilation no. 2. It is wrong to say that the Petitioner was ^{either} informed verbally or ever intimated in writing by any one till he left Almorah on his sanction leave i.e., after sanction of weekly off on 2nd September 1988. Gazetted Holiday on 3rd September 1988 weekly off on 4th September by the appropriate Authorities, and thereafter there was no question of receiving any information as on reaching Lucknow on 1st September 1988 as already stated in the petition he became ^{unwell and on reaching Lucknow he became seriously ill} ill. It is totally incorrect to say that the Petitioner ^{ever applied for} ~~was allowed~~ any casual leave for 4 days as stated in the Counter Affidavit. The Application for station leave and for granting aforesaid leave will reveal the truth.



That in reply to para 8 of the Counter Affidavit replying paras 5 and 6 of the Original Application it is stated that the Extraordinary Leave ~~was~~ ^{and} was granted for the purposes of completing the Post Graduate studies ^{and} allowed on the conditions mentioned therein and, there was no condition in the leave order that Station Leave was granted with the condition that he will take over charge on 6.9.88 even though he due to any calamity may not be able to reach Almorah ^{on 6.9.88} as there were no need for it because the Petitioner's Extraordinary Leave itself was with effect from 6.9.88 to 5.12.88 as is mentioned in the leave order. The opposite parties never informed the cancellation of leave and the telegram has not stated anything about any order of the cancellation of leave. The contents of telegram dated

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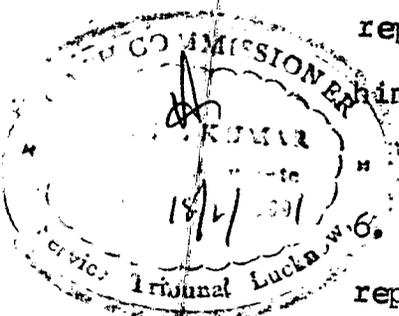
12.9.88 were as below:

"ABSENCE FROM DUTY BEING VIEWED SERIOUSLY REPORT FOR DUTY IMMEDIATELY OTHERWISE ACTION UNDER CCS RULES. NO REMINDER WILL BE ISSUED ANY FURTHER FOR THIS"

The Telegram was received by the Petitioner after 15th September 1988 and by that time the Petitioner has already submitted the intimation to the opposite parties no. 1 and 2 i.e., by letter under certificate of posting and by Telegram on 6.9.88 and 15.9.88 respectively the telegram was received at Almorah on 16.9.88 and the letter sent to opposite parties no. 1 and 2 on 6.9.88 was also received there and inspite of these timely intimations the aforesaid telegram was sent by opposite parties no. 1 and 2. The telegram ^{✓ sent by opposite parties ✓} was not for cancelling the extraordinary leave from 6.9.88 to 4.12.88 but was for taking action under CCS Rules if the Petitioner failed to report for duty when he was already under leave granted to him.

That in reply to para 9 of the Counter Affidavit replying para 7 it is submitted that the telegram was sent on 15.9.88 and not on 16.9.90 and the hospitalisation ^{✓ of the petitioner ✓} was on 6.9.88 and not 6.9.90.

7. That in reply to para 10 of the Counter Affidavit replying para 8 of the Original Application it is stated that it was never ^{✓ ordered ✓} ~~advised~~ by respondent no. 1 that the Medical Certificates submitted by the Applicant has not been found as per Rules before he received ~~the~~ letter paper no. 5 of compilation no. 2 which was issued by the opposite parties no. 1 and 2 ignoring the fact that the Petitioner who was admitted in the Hospital as Indoor Patient had already sub-



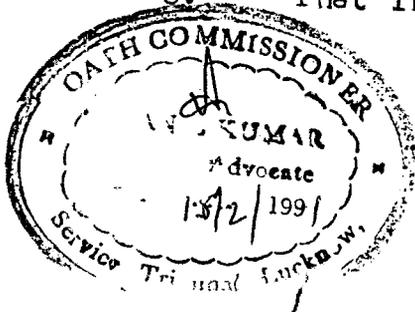
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mitted the certificates issued to him by the Hospital Authority. The opposite parties nos 1 & 2 without giving any opportunity to submit the certificates as required by Rules ~~was~~ threatened that disciplinary action under CCS (COA RULE NO. 11) will be taken against him although the Petitioner in compliance to the letter sent by opposite parties nos 1 & 2 and after receiving the required proformas, ~~and~~ after his discharge from Hospital on 7.12.88 reported to the CMO Lucknow along with the prescription and certificates who ~~ordered~~ that he will submit the report to the Authorities and asked the Petitioner to appear on 15.11.88 and on that date ^{Chief Medical Officer Lucknow only} handed over the letter dated 15.11.88 for sending to opposite parties no. 1 & 2. But ^{as} the Petitioner was advised by the Doctor, who treated the Petitioner in the Hospital twice when he was Indoor Patient to regularly visit the Hospital for his complete check up and final treatment as is evident from the paper no. 9 and paper no. 10 of compilation no. 2 which will show that the Petitioner went regularly to the Hospital out door for complete check up and on 17.12.88 ~~as~~ the Doctor again prescribed certain medicines and also advised to visit the out door patient room no. 29 of the Hospital after 3 weeks for issuing fitness certificate but before the treatment could be completed and could report for duty his services were terminated on the ground of absence from duty by opposite party no. 1 who was neither the Appointing Authority nor the Recruiting Authority and is much Junior to the recruiting and appointing authority. The Petitioner has never been informed by the opposite parties no. 1 & 2 that after discharge from the Hospital on 7.11.88 ^{whether} the CMO Lucknow has reported that he never suffered from the ailment for which he was treated in the Balrampur Hospital as Indoor Patient firstly on 6.9.88 and thereafter from 25.10.88 to 7.11.88; but in the letter dated 15.11.88 the Chief Medical Officer in his letter has stated that on 15.11.88 there were no sign of the ailment for which he was treated in the Hospital.

8. That in reply to para 11 of the Counter Affidavit

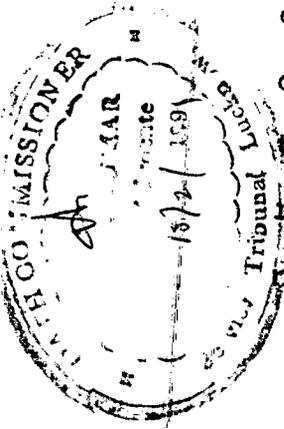
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replying paras 9 to 13 of the Original Application it is stated that it is not correct to say that the telegram dated 15th September 1988 was submitted after receiving the telegrams on 12.9.88. The registered letter of 10th September 1988 intimating the ailment of the Petitioner might have reached on 19.9.88 along with the discharge certificates of the Medical Superintendent, ^{but already before it an intimation dated 6.9.88 was sent} Balrampur Hospital, Lucknow. The letter dated 21.9.88 which was dispatched on 23.9.88 under Regd. letter no. 9099 and was received on 28.9.88 and its reply was sent on 3.10.88 and a request for sending the proformas was made so that the needful can be done in this regard as desired by opposite parties no. 1 and 2. The letter dated 6.10.88 was not for absence from duty or for not obeying the Office Orders Instructions issued. ^{The letter} But ^{was} for not receiving the certificate on prescribed proforma from CMO Lucknow on which ground ^{opposite party not} ~~he~~ ^{was} to proceed with disciplinary proceedings against ^{petitioner} ~~them~~ under CCS (CA Rule 11) ~~when~~ The Proforma was sent after 6.10.88 by opposite parties and after receiving the proformas the Petitioner who was seriously ailing and was admitted again in the Hospital on 25.10.88 and ^{after} being discharged on 7.11.88 from the Hospital he went to the CMO Lucknow with the proformas and certificates and the CMO Lucknow in compliance to it issued letter dated 15.11.88 ^{on the date when he was asked to appear and} the requirement of proformas asked vide letter ^{no. 1100-21/10/88} ~~no. 1100-21/10/88~~ dated 6.10.88 were compiled with after they were received and as such there could not be any cause for proceeding with any disciplinary action against the Petitioner. The required certificate was sent as soon as it was obtained from CMO, Iko. to the opposite party no. 1 and 2 and the Petitioner was under regular post illness check-up till 17.12.88. Hence, he could not join the duty and the Petitioner is not aware that the



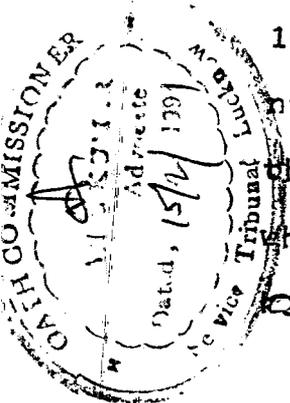
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(7)

CMO Lucknow has submitted any report, Contrary to the certificates by Senior Medical Officer Balrampur Lucknow who treated the Petitioner as an indoor patient and also treated after his discharge as an outdoor patient.

9. That in reply to para 12 ~~sixth~~ replying para 14 of the Original Application it is stated that when the letter dated 12th October 1988 was received ^{When} the Applicant was already admitted in the Balrampur Hospital and the ~~intimation~~ ^{intimation was} ~~was already~~ sent to the opposite party no. 3 and ~~that~~ the teaching had already ^{been} ~~over~~ by that time and only ^{appearing in} ~~an~~ examination was left which was to commence shortly and when after 12.10.88 after discharge when he was allowed to move then in compliance to the letter No. Almorah AIMN/12/48-88-GI/25206 dated 4.11.88 by which the proformas were sent to the Petitioner who after his discharge from Hospital went to the CMO, Lucknow, who gave a letter which was sent to opposite party no. 3 along with application dated 16.11.88 by which the Petitioner intimated that only ^{appearing} ~~an~~ examination for the Post Graduate Diploma Course is to commence shortly and ^{the petitioner is advised} ~~he is~~ not ~~required~~ to strain much at least for 6 weeks more by the Doctor who treated ~~me~~ in the Hospital and also ~~was~~ advised again to take the diet and medicines which were prescribed by him regularly and to report for full check up ^{thereafter} hence, request was made to allow to avail the leave already sanctioned. There was no question of non-continuation of ^{studies of} ~~the~~ Computer Course as the teaching was already over much before and only examination was to be held. In the Application dated ~~16.11.88~~ the Petitioner clearly indicated that he is not continuing the course but is waiting only for his examination. Since the leave was granted on the basis of application dated 25.8.88 which clearly mentions that he is to complete his course which had already started before joining the services and as such



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the Extraordinary Leave was granted only for the specific purpose.

10. That in reply to para 13 of the Counter Affidavit replying para 15 of the Original Application it is stated that on the Petitioner's request for his transfer from Jalandher to anywhere in U.P. he was not allowed any transfer expenses as he had sought his Transfer for completing Post Graduate Course and requested the Authorities for facilitating the completion of the studies which were beneficial for discharge of efficient duties in the services as such, he was posted at Almora and that is why he applied for Study Leave for preparation and appearing in Examination as stated in his application which was granted. The opposite party no. 1 & 2 could not say that his transfer from Jalandher to Almora was not on the ground as stated by the Petitioner. The leave order dated 27.8.88 is as is provided in the Rules and no special condition was imposed in it. ~~There is no~~ order withdrawing the grant of leave either on 31.8.88 ~~was passed~~ or thereafter ^{was passed} till the services were terminated and even if some order has been passed then it was never intimated to the Petitioner till this date or before starting the proceedings under Central Civil Services Rules. The registered letter dated 12.9.88 in confirmation of the Telegram also do not indicate that the leave has been cancelled.

11. That in reply to para 14 of the Counter Affidavit replying paras 16 and 17 of the Original Application it is stated that the CMO Lucknow in his letter dated 15.11.88 has stated that there was are no sign of the illness present on 15.11.88 with which he was suffering but has not stated that the required rest advised by the Doctor of the Hospital was not necessary and the Petitioner is able to discharge his duties in the Hill Station where there is no proper place of

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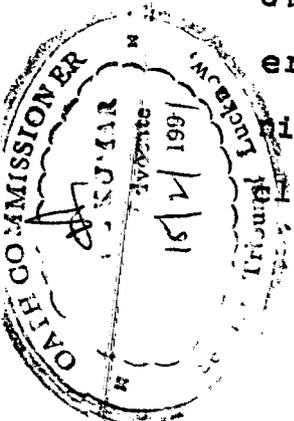
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(9)

residence for him nor there is any proper fooding for him and the ailment with which the Petitioner has suffered will not recur again in those conditions unless fully curred.

12. That in reply to para 15 of the Counter Affidavit replying para 18 of the Original Application it is stated that the Senior Consultant Balrampur Hospital Lucknow was also the Medical Officer Incharge of the Ward under whose treatment and check up ~~of~~ the Petitioner was in the Hospital when he was admitted as indoor patient. As such, the certificate was issued to the Petitioner ~~for~~ by the Hospital under his signature. It is further stated that in view of the fact that the applications dated 25.8.88 clearly mentioned that the Petitioner wanted study leave which was granted to him and the permission is implied. When he was asked to discontinue his studies then the studies were already over. And, only examinations remained to be held so there was no question of discontinuation of studies and it is incorrect to say that there was non-compliance of the orders because after the course was completed and classes were over then there was no question of discontinu~~ing~~ studies. ~~This~~ This fact was intimated in the letter dated 25.10.88 which was received on ~~28.10.88~~ 28.10.88 and when the letter dated 10.11.88 was received the applicant complied it what was required by the letter. Hence, it is not correct to say that the applicant did not comply with office instructions and as such, the warning which was issued was not on correct facts but due to prejudices and bias of opposite party no. 1 and 2 who in the colourful exercise of power decided the issue without affording any opportunity when the charges i.e., absence from duty was wrongly concluded. Because there is no question of disassociation from

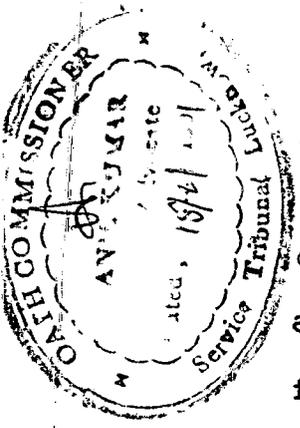
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Academic Course when everything was already over long ago and only examination was to be held. And before 17th Nov. 1988 the compliance report was submitted and the Medical Certificate was sent. The Petitioner who was already granted extra-ordinary leave under Fundamental Rule 32 to 6th December 1988 as such, there was no necessity of requesting for grant of Medical Leave or any other leave as no application for grant of Medical leave was ever submitted by the Petitioner. The Chief Medical Officer in his letter has only stated that now there is no further sign of the ailment with which the Petitioner was suffering on the day when he examined him. The Petitioner never informed that he is continuing his studies but intimated that now the examination remains which is going to be held very shortly and also intimated that attending the classes has already been completed before ~~the~~ ~~so~~ so there is no question of continuing of any class ~~of the course for appearing in the~~ studies. ~~one~~ ~~the~~ ~~preparation~~ ~~for~~ ~~the~~ ~~examination~~ was required ~~and for the purpose of preparation the extraordinary leave was granted for which~~ ~~is~~ granted on the specific statement fact i.e., ~~that~~ for completing the Post Graduate Diploma in Computer Applications ~~by~~ ^{Course} appearing in the examination as such, what transpired after the grant of leave that the completing of the Diploma Course was not allowed ~~and~~ ^{and} he was not being considered fit to be retained as Engineering Assistance has not been stated either in any of the letters sent by the opposite parties no. 1 and 2 who passed ~~Termination Order~~ ^{illegal} Termination Order without holding the enquiry and without giving any opportunity in the enquiry, if any, held by them. From the ~~Termination Order~~ ^{Termination} order it appears that the charges against the Petitioner is Absence from duty which cast a stigma and under the circumstances of the case could not be a valid charge ^{in view of the admitted facts}. It is also not known



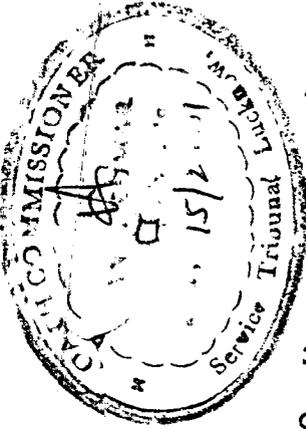
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whether the reply submitted to the opposite party no. 3 was in fact considered in any manner as the Petitioner who applied for the completion of the Diploma Course and for preparation of the examination.

13. That in reply to para 12 of the Counter Affidavit replying para 19 of the Original Application it is stated ^{the facts of study leave mentioned in} that ^{and in case the applications} if the applications for leave ^{are} produced before the Tribunal then it will be evident that what is the subject of applications for leave and other application? There is neither any ^{oral} cancellation order on 31.8.88 nor thereafter any intimation oral or in writing was ever sent by opposite party no. 1 and 2 nor it was ^{ever} received ^{by the defendant and there was no cancellation order} and, There was never any application for casual leave and only study leave application and application for permission ~~was~~ to leave station was there when the Petitioner left the station. The Petitioner was neither appointed nor recruited by opposite party no. 1 nor the opposite party no. 1 is the Appointing Authority of the rank of the Petitioner under the Rules.

14. That in reply to para 18 of the Counter Affidavit it is stated that in view of the admitted fact that only one number shift i.e., Night Shift, was in operation and there were at least 15 Engineering Assistant at Almorah for manning one number Shift (night shift) ^{which only} was ^(in operation). It is further stated that the application by which compensatory off and other off were asked for ^{and allowed} will show the prayer for station leave. Since Nihal Ahmad had already resigned before the applicant applied for leave and before the date the leave was sanctioned. So, there could not be such urgency because of the resignation of Nihal Ahmad and there could not

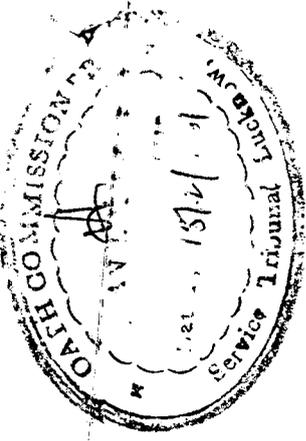


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be such urgency of work and Public interest that the study leave already granted for the preparation of the course and for examination is to be cancelled when admittedly the Petitioner was also ailing from diseases found by the doctor who checked him and admitted him in the hospital twice from time to time. And, there is no order by the Competent Authorities so far cancelling or refusing the leave already granted. And, even if there is any order even then the same has not been intimated or communicated to the Petitioner.

15. That in reply to para 19 of the Counter Affidavit it is stated that neither opposite party no. 1 who illegally and without jurisdiction passed the Termination Order nor opposite party no. 1 before him the appeal was preferred ever afforded any opportunity even though personal hearing was also asked for. It is stated that under Rule 5 Termination could be passed by Appointing Authority if there are no charges against the Petitioner and if there are charges against the Petitioner then the order simplicitor could not be passed by an officer who is not a Competent Authority to pass the order and that too, without holding any enquiry and affording any opportunity. In view of the fact that rule 5 2(A) was amended by notification dated 3rd November 1978 ^{and as such order of} the passing of ^{termination} of service of Temporary servants under rule ⁵ sub-rule 1 & 5 can only be passed by the Appointing Authority and unless and until it is established by any Rule that the Station Director who is much subordinate to the opposite party no. 3 is in any manner is the Appointing Authority of the post held by the Petitioner till then he could ~~be~~ not be competent to pass the Termination Order.

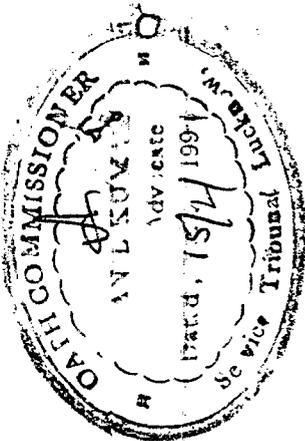


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16. That in reply to para 20 of the Counter Affidavit it is stated that order of appointment was never given by the Station Director, but ^{what} was given by the Station Director ^{The Joining order and he was} required to submit the compliance of the order dated 27th July 1988 issued by opposite party no. 3 who was the Head of the Department as well as the Appointing Authority and was also Disciplinary Authority under the Rule.

17. That in reply to para 21 of the Counter Affidavit it is submitted that the Medical Certificates submitted by the Petitioner's ~~which~~ ^{which} relates to ~~xx~~ his admission and discharge from the Hospital and the prescriptions ^{The Same} by Medical Attendant who prescribed medicines for follow up, check up and ^{petitioner} regularly took the medicines then how it was cheating to the Government is not known and the Chief Medical Officer Lucknow in his certificate has nowhere indicated that the Doctors who have admitted the Petitioner ^{in Sept 1988 and thereafter in October 1988} and have treated the Petitioner in the Hospital ^{as indoor patient as mentioned and for the discharge} and as outdoor patient ^{had} not ^{suffered with} the ailment at any time and the CMO Lucknow has also not indicated or stated that the Petitioner was not admitted in the Hospital for the treatment of the ailment. There were no two types of certificates. The certificates are of Doctor P.N. Awasthi who was Senior Medical Officer and Government Consulting Physician of Balrampur Hospital, who always treated the Petitioner from 4th September to December 1988 and whenever the Petitioner because of seriousness of the ailment became seriously ill then he was admitted for the treatment and thereafter was advised to pursue the treatment in the manner as prescribed by him. In the present case there was neither any enquiry by the Appointing Authority or by opposite party no. 1 about the illness of the Petitioner, as such, ^{The fact of illness presumed} it can not be ~~said~~ to be incorrect nor opposite.



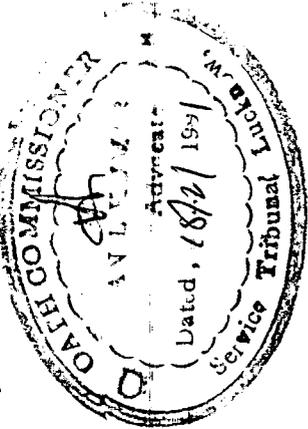
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party no. 1 after ^{having and} preliminary fact finding Enquiry ^{was} Submitted any report to opposite party no. 1 who is the appointing authority ~~before~~ ^{passing illegal Termination order}

18. That in reply to para 22 of the Counter Affidavit it is stated that the Authority who was required to hear the appeal too without affording any opportunity or considering the questions raised in the Appeal who was also the Head of the Department instead of passing any speaking order and communicating the same to the Petitioner asked the opposite party no. 1 to communicate that the ~~Appeal~~ Appeal has been rejected that too without affording the opportunity asked for in the appeal in any manner.

19. That in reply to para 23 and 24 of the Counter Affidavit it is submitted that the Petition is to be allowed with special costs by ordering the opposite parties to treat the Petitioner to continuous service with all benefits of service as before and the opposite parties be also directed to decide the matter regarding the salary and allowance for the period i.e., from 10.8.88 upto the filing of claim petition and also during the pendency of claim petition till he is allowed to join his duties.



to Lay at 5. P. M. by Su. Deobhak and Kumar who is identified by Shri. Akhlesh Singh clerk to Sri Shri. Akhlesh Singh explaining the contents of this affidavit which is read out and explained by me. Acc. No. 18/2/91

(ANIL KUMAR) Oath Commissioner, Lucknow, U.P. Service Tribunal, Lucknow

LUCKNOW: DATED: 18.2.91

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 10, 12, 14 are true to my own personal knowledge those of paras 11, 15, 18 and 19 are believed to be true by me on the basis of records and information gathered and those of paras 13 and 16 are also believed by me to be true on the basis of local advice. No part of this Affidavit is false and nothing material has been concealed.

[Signature]
DEPONENT

LUCKNOW: DATED: 18.2.91

[Signature]
DEPONENT

A53

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

M.P. No. 13/91(L)

O.A. No.130 of 1990 (L)

Deepak Kumar ... Applicant

-versus-

Union of India and others .. Respondents

APPLICATION FOR CONDONATION OF DELAY.

.....

The Respondents beg to submit as under:

1. That due to certain administrative reasons and for the facts that certain information could not be collected in order to prepare the counter, the counter affidavit could not be filed on the date specified by this Hon'ble Tribunal.

2. That the delay in filing the counter affidavit is liable to be condoned in the interest of justice.

3. That it is, therefore, most humbly prayed that the accompanying affidavit may be taken on record and the delay in filing the same may be condoned.

Do
filed today
R
8/1/91

(VK Chaudhari)
Addl Standing Counsel for Central Govt
(Counsel for ~~Respondents~~
Respondents)

Lucknow,

Dated: 8.1.91

1352

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO. 130 of 1990 (L)

Deepak Kumar

... Applicant

-versus-

Union of India and others

... Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS.

1990
AFFIDAVIT
35 M
DIST. COURT
U.P.

I, B.N. Pandey, ~~Station~~ aged about 53 years
son of Late Basudev Pandey
at present posted as Station Director, Government of
India, All India Radio, Almora do hereby solemnly
affirm and state as under:-

1. That the deponent is the Respondent no.1 in the above noted application and he has been authorised to file this counter affidavit by all other Respondents on behalf of all Respondents.
2. That the deponent has read and understood the contents of application filed by the petitioner as well as the facts deposed to hereinunder reply thereof.
3. That the deponent is well conversant with the facts of the case.

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4. That in reply to the contents of para 1 of the application it is submitted that the applicant, an Ex-Engineering Assistant was appointed vide Station Director, All India Radio, Almora Memo No. ALM-1(2)Tech/88-5/23280 dated 20.8.88 as per New Delhi office Memo No. A-13/11(1/88-EPC dated 27.7.1988 on the purely temporary capacity as per condition no.2 laid down in the offer of appointment and the probation of a period of two years from the date of appointment.

5. That in reply to the contents of para 2 of the application it is submitted that the applicant was earlier nominated to the office of the Director, Doordarshan Kendra, Jullundhur but his own request his posting place was changed to All India Radio, Almora vide Chief Engineer (North Zone) AIR and Doordarshan New Delhi Memo No. A-13/11(1)/88-EPC dated 27.7.88.

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6. That in reply to the contents of para-3 of the application it is submitted that the applicant joined as Engineering Assistant at the office of the Respondent no.1.

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That in reply to the contents of para 4 of the application it is submitted that the Respondent no.3 is a recruiting authority and not appointing

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authority like a UPSC/SSC etc. Please see the condition No.7 of offer of appointment ~~that~~ in which it has been clearly indicated that the applicant can be posted and transferred anywhere in North Zone. (Almora and Jallundhar are situated in Northern Zone). If the applicant feels any difficulties regarding family circumstances and others he should not have accepted the offer of his appointment and intimated to the concerned authorities and due to urgency of work the department is not bound for the applicant's Post Graduate's telecommunication course. He has applied for extra ordinary leave of 90 days from 6th September 1988 to 3rd December 1988 with suffix 2 days weekby offs on 4 & 5 December 1988. The E.O.L. was sanctioned subject to the condition that he can be called back for duty under ~~exercises~~ ^{exigencies} of services. All of a sudden the resignation of one Shri Nehal Ahmed, Engineering Assistant and shortage of technical staff the E.O.L. of the applicant has been postponed till 15th September, 1988 and verbally intimated to the applicant by dealing Assistant (Noting on page No2 dated 31.8.88). Then the applicant applied for 4 days casual leave with permission to leave the station. Casual leave was sanctioned received in the office on 1.9.88 after r diary and he had already left the station.

16/11/90

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8. That in reply to the contents of para 5 & 6 of the application it was is submitted that Extra Ordinary Leave was allowed subject to the condition and ^{his was} informed _{to} him verbally. Then he applied station leave due to urgency of work in Lucknow with the condition that he took over his charge on 6.9.88 again and intimated by telegram dated 12.9.88 that the E.O.L. sanctioned for 6.9.88 to 4.12.88 has been cancelled.

9. That in reply to the contents of para 7 of the application it is submitted that the applicant intimated to the Respondent no.1 that he has been hospitalised w.e.f. 6.9.90 at Lucknow vide telegram dated kx 16.9.90.

10. That the contents of para 8 of the application are ~~an~~ incorrect as stated, hence denied and in reply it is submitted that the Respondent no.1 advised the applicant that medical certificate submitted by the applicant has not been found as per rules and he should obtain a certificate from C.M.O. District Hospital Lucknow on the proper proforma, otherwise disciplinary action will be taken as per CCS(CCA) Rules 11 and again reminded him vide office Memo No. ALM-12(48)/88-S/24410 dated 6.10.88 with intimation to Chief Engineer (North Zone) New Delhi.

16/11/90

11. That in reply to the contents of para 9, 10,

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11, 12 & 13 of the application it is submitted that in response to office M telegram dated 12.9.88 onenShri Basant , c/o. Sri Deepak kumar intimated telegraphically on 15th September 1988 that the applicant was been hospitalised. A registered letter dated 10.9.88 was received in the office of the Respondent no.1 on 19.9.88 from the applicant along with a medical certificate from Belrampur Hospital, Lucknow. The applicant was advised to submit a fresh medical certificate from CMO District Hospital, Lucknow within 15 days from 21.9.88 ie. the date of issue of letter. But no medical certificate was received by the Respondent no.1 till 6th October 1988 and the applicant was informed by Registered letter dated 6.10 .88 that the office of the Respondent no.1 is proceeding with disciplinary action against him as per CCS(CCA) Rules.11.

12. That in reply to the contents of para 14 of the application it is submitted that in response to the letter dated 21.9.88, the applicant requested to the Respondent no.1 for a specimen copy of medical certificate proforma which was sent by the office on 12th October 1988 and he was also again advised to obtain medical certificate from CMO , District Hospital, Lucknow . The applicant was advised to obtain a certificate from Shiva Computer College, Lucknow regarding non-continuation of a computer course and submit the same by 27.10.88.

16/10/88

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-6-

The applicant was also advised to give a declaration that he is not continuing any type of Academic/ professional course after joining AIR. He was also informed that without the written permission of the Respondent no.1 he cannot pursue any type of studies.

13. That in reply to the contents of para 15 of the application it is submitted that a telegram dated 25.10.88 from the applicant intimating that he has been hospitalised was received in the office of the Respondent no.1 on 26 October 1988 and a detailed reply dated 25.10.88 was also received by the office on 28.10.88. A medical certificate obtained from Senior Consultant of Balrampur Hospi al was also ~~received~~ received by the office of the Respondent no.1 along with letter dated 25.10.88. The applicant in his letter mentioned that the doctor has advised him to take rest. He also intimated that since 90 days leave was sanctioned to him for continuation of study therefore he is preparing for the computer course examination also. He has also claimed that to enable him to continue the course, this posting from Jallundur was changed to Almora on this ground. The above contention of the applicant is denied and it is submitted that the leave sanctioned vide office order dated 28.8.88 was conditional and was withdrawn on 31.8.88 and

16/10/88

20/10/88

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and intimated to the applicant ~~and~~ in writing
vide Registered letter dated 12.9.88.

14. That the contents of para 16 & 17 of the
application are incorrect as stated, hence denied
and in reply it is submitted that CMO Lucknow vide his
letter dated 15.11.88 declared that the applicant
was fit for duty as ~~xxxxxxxxxx~~ the CMO has clearly
stated that there is no sign of quotted disease in the
present.

15. That the contents of para 18 of the
applicat: on are incorrect as stated, hence denied and
in reply it is submitted that the applicant has not
complied the ~~xxx~~ instructions as seen from the following
points:-

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(a) That rather than obtaining a certificate from
CMO, District Hospital, Lucknow the applicant
obtained a certficzte from a consultant physician
of Balrampur Hospital, Lucknow.

(b) That without the written permission of
the Respondent no.1 and inspite of written advice
to him to discontinue the computer course, the
applicant continued with the study which is
violation of the CCS Conduct Rules.

That the applicant did not comply with office
instructions and therefore a warning was issued to him
vide letter No1ALM-12(48)/88-S/25099 dated 31.10.88.

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wherein he was told to disassociate himself from academic/professional course being pursued by him and send a compliance report in this regard by 10th November 1988 failing which action as deemed fit will be taken under the C.C.S. Rules. Since the medical certificate submitted by the applicant vide his letter dated 25.10.88 was not obtained from Chief Medical officer, District Hospital, Lucknow, he was, therefore, asked to ~~him~~ ^{appear} before CMO before 17th November 1988 vide registered letter dated 4th November 1988. In this letter the applicant was intimated that during the period of medical leave applied for he was once again warned not to pursue any type of academic/professional course. Vide letter dated 16th November 1988, the applicant forwarded a letter obtained from CMO, Lucknow regarding his medical check up and also another medical certificate from Senior consultant physician, Balarampur Hospital, Lucknow. As per CMO, Lucknow letter dated 15.11.1988, the applicant was examined by CMO and was found fit for duty and was not suffering from any type of disease detailed by Senior consultant physician, Balarampur Hospital, Lucknow in his report dated 7.11.88. The applicant again intimated that he is continuing for post Graduation diploma course in computer.

16/11/88

20/11/88

16/3

as discussed above, therefore he was not being considered fit to be retained as Engineering Assistant. So his service terminated (who was on probation) with effect from 24.12.88 and a detailed reply the applicant's representation dated 18.8.89 has been sent to the applicant with intimation to Chief Engineer(North Zone) AIR & Doordarshan, New Delhi vide office Memo No.ALM-12(43)88-S/10340 dated 24.10.1989.

17. That in reply to the grounds 'A' of the application it is submitted that no study leave was granted to the applicant. Only condition of E.O.L. was sanctioned to him and had been cancelled on 31.8.1988 with intimation to the applicant verbally. In response to this cancellation he applied for station leave permission and ensure him to the office for resuming his duty on 6.9.89.

The Station Director, AIR, Almora was his appointing authority and Chief Engineer(North Zone) is only recruiting authority like S.S.C/UPSC. He was under probation and new recruit.

18. That in reply to the contents of grounds-B of the application it is submitted that the nature of duty of the petitioner was shift duty and only one number shift (night shift) was in operation. This is

20/12/89

A64

wrong to say that he was not intimidated, because if it is not true, what was the necessity of the applicant to take the C.Off from 2.9.88 to 5.9.88. Due to urgency of work and in public interest the competent authority can grant/refuse and cancelled the leave. So in the urgency of the work his leave had been cancelled on 31.8.90.

19. That in reply to the grounds -C of the application it is submitted that as per Chief Engineer (North Zone) AIR and Doct darshan, New Delhi No.A-13/11(1)/86-EPC, dated 27.7.90 and the services of the applicant has been terminated by Station Director, AIR, Almora (appointing authority of the applicant) to give him full chance under temporary service rule 5 (sl no.3&4 of the condition of offer of appointment).

16/1/90

20. That in reply to the contents of Grounds-D of the application it is submitted that it is not true that the appointing authority was party no.3 when the order of appointment was given by Station Director, AIR, Almora and as per recruitment rule and disciplinary proceeding rule the Head of the

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office is the appointing authority case of disciplinary proceeding.

21. That in reply to the contents of Grounds-E

of the application it is submitted that as ^{clear from} seen the 

medical certificates submitted by the applicant

he was cheating ~~the~~ Government. Two types of

certificates presented by Senior consultant Physician,

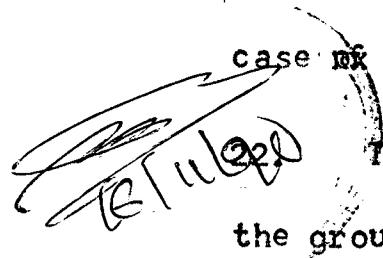
Balarampur Hospital Lucknow and CMO, Lucknow, In

the case of Government servant the CMO is the

competent authority in the contradictory cases and

if the appointing authority is not satisfied the

case ~~is~~ can be forwarded to medical Board.



That in reply to the contents of para -F of

the grounds it is submitted that the appellate authority

was satisfied with the appointing authority. So he

~~was order to~~ ^{directed this} office of the deponent for intimating

the ~~and~~ results ^{of} facts regarding his representation

vide Chief Engineer (North Zone) AIR & Doordarshan,

New Delhi letter No.A/34/14(EA)/89/EFC dated 19.9.88,

by which his representation was considered & rejected.

23. That in reply to the contents of para 24 to 26

of the application it is submitted that in view

of the facts and circumstances stated above, the

relief sought by the applicant is not entitled to

get any relief.



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

[Signature]
Deponent.

Lucknow,

Dated: 16th Sept. 1990.

Verification.

I, the above named deponent do hereby verify that the contents of paragraphs 1 to 3 are true to my personal knowledge, those of paragraphs 4 to 22 are believed to be true by me on the basis of records and information gathered and those of paragraphs 23 & 24 are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed.

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[Signature]
Deponent.

Lucknow,

Dated: 16th Sept. 1990.

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

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to me
V.K. Chaudhary

[Handwritten signature]
16/11/90
(VK Chaudhari)
Addl Standing Counsel for
Central Govt.
(Counsel for opposite parties)

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Registered A/D
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW.

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Chandi Bhawan
Opp. Residency
Lucknow.

Registration No. / No. 130/90(L) 199.

No. CAT/Alld/Jud/

Dated:

Dated: 11-5-90

Deepak Kumar

APPLICANT(S)

VERSUS
Station Director All India Radio
RESPONDENT(S)

(i) Station Director, All India Radio, Almora

(ii) Station Engineer All India Radio, Almora

Please take notice that the applicant above named has represented an application a copy of whereof is enclosed herewith has been fixed registered in this Tribunal and the Tribunal has fixed 17-7-90 for Admission.

If, no appearance is made on your behalf, your pleader or by some one duly authorised to Act and Plead on your behalf in the said application, It will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 11 day of 5 1990.

AKD
FOR DEPUTY REGISTRAR
(JUDICIAL)

(iii) Chief Engineer, North Zone Govt. of India Akaswari and Dourdarshan, Jamnagar House Shahjahan Road New Delhi

(iv) Director Engineer North Zone, Govt. of India Akaswari and Dourdarshan Jamnagar House Saahwan Rd. New Delhi

Enc- copy of Petition with courts order dated 4-5-90 P.S. of the ...

Central Administrative Tribunal
 Bangalore Bench

Cause Title Cont. 47/91 of 1993

Name of the Parties Lalit Kumar Applicant

Versus

Shri B. B. Pandey, Secy. to Dir. & others. Respondents

Part A. P.C.

Sl. No.	Description of documents	Date
1.	Check List	
2.	Order Sheet.	A1
3.	Judgement/Dismissal on NS-92	en. back of A1
4.	Petit on Copy	A2 A3 F
5.	Annexure	
6.	Power	1728
7.	Counter Affidavit	1130 1139
8.	Rejoinder Affidavit	
	Application for dropping cost proceedings	1129
	Order for withdrawal of 1/5/92	A to A45
	B - File	

B - File - B 40 - B 75

C - File - C 76 - C 78

File 316 has been withdrawn & destroyed.

[Signature]
 S. S. S.

(A)

Can - 47181

2.11.92

No sitting adj to 5.2.92

5.2.92

No sitting adj to 3.3.92

3.3.92

Hon. Mr Justice V.C. Gorman, VC
Hon. Mr P.D. Gorman, AM

Issue notice to show cause
as to why the proceedings of
contempt of court be not
initiated for not complying
the order dated 5-7-92 passed
in ~~the~~ O.P. No. 130/90 filed
by the applicant by which termination
was made was quashed and it
was directed that the applicant
be deemed in service with all
consequential benefits. It will
be open for the respondents to
appear personally or through some
Advocate. The question of
personal appearance will
be considered on next date
but on 27.4.92 for orders

Recd Copy
of the order
13/3/92

J

AM

VC

VC

OR
Notices issued
18/3

27.4.92

Contemner in court present.
No sitting of D.M. adj to
1.5.92

J

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
(CIRCUIT BENCH)
LUCKNOW

(A2)

CONTEMPT CASE NO. 27(MP) OF 1991
In re
O. A. NO. 130/90 (L)

Application under Section 17 of the Administrative Tribunal Act

Deepak Kumar.

.....Petitioner.

V

Sri B.B. Pandey, Station Director, All India Radio, Almorah, &
others.Opposite Parties.

INDEX

Sl. No.	Contents	Page No.
1.	Copy of Petition under Section 17.	1-10
2.	Annexure-A/1	11-16
3.	Annexure-A/2	17/1-17/4
4.	Annexure-A/3	18
5.	Annexure-A/4	19
6.	Annexure-A/5	20
7.	Affidavit	21-22
8.	Vacalatnama	23

LUCKNOW:

DATED: 17.12.91


(AKHILESH SAHAI)
(ADVOCATE)
(COUNSEL FOR THE PETITIONER)

AB

Application under Section 17 of the Administrative Tribunal Act

Before the Central Administrative Tribunal Allahabad (Circuit Bench)

Lucknow Bench Lucknow

Contempt Case No. 47 (MP) of 1991 (L)

In re

O. A. No. 130/90 (L)

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing ... 17/12/91
Date of Receipt by Past.....

Deputy Registrar (J)

Deepak Kumar, aged about 27 years, son of Sri B.B. Saxena, r/o 18, Deen Dayal Road, Asharfabad, Lucknow.

.....Petitioner.

V

1. Sri B.B. Pandey, Station Director, All India Radio, Almorah.
2. Sri K.K. Sharma, Station Engineer, All India Radio, Almorah.
3. Sri R.K. Gupta, Chief Engineer, North Zone,
4. Sri Ayodhya Prasad, Director Engineer, North Zone.

} Government of India, Akashwani & Door Darshan, Jamnagar, House, Shahjahan Road, New Delhi-110 011.

filed today
17/12/91

.....Opp. Parties.

DETAILS OF APPLICATION:

1. Particulars of the Order against which the Contempt Application u/s 17 is filed.

THE COURT'S ORDER DATED 5.7.1991 RECEIVED BY THE PETITIONER ON 9.7.1991 PASSED BY HON'BLE MR JUSTICE U C SRIVASTAV, VC AND HON'BLE MR A B GORTHI A M, IN O. A. CASE NO. 130/90 (L).



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2. Jurisdiction of the Tribunal:

The Petitioner declares that the subject matter and the Order against which he wants redressal is within the Jurisdiction of the Tribunal as all Orders have been communicated to Opposite Parties from Lucknow.

~~The Petitioner begs to state as under:~~

3. Limitation:

That the present Petition is within limitation as the Tribunal's Order passed on 5.7.1991 was communicated by the Petitioner from Lucknow on 15.7.1991 to the Opposite Parties by Registered Post and a period of one year will expire on 14.7.1992.

The Petitioner begs to state as under:

4. Facts of the Case:

4. (i) That the Petitioner was appointed vide Appointment Order No. A-13/11/I/86-EPC dated nil as Engineering Assistant in the scale of Rs. 1400-40-1600-50-2300-EB-60-2800 on the regular and permanent Post and after the posting under the Director Door Darshan Kendra Punjab, he was transferred from there to All India Radio, Almorah vide No. A-13/II-(I)/88 EPC dated 27.7.1988 and there he joined his duty on 10.8.1988.

17/12/91
10/12/91
10/12/91

10/12/91

AS

4. (ii) That while the Petitioner was at Almorah, then he applied for study leave, in the Post Graduate Diploma Course in Computer Applications, ~~which~~ in the Telecommunication which ~~was~~ was allowed and he was also allowed proper study leave and while he was at Lucknow during the granted leave in connection with the studies then he became ill and was admitted to Balrampur Hospital, Lucknow twice and while he was undergoing treatment, then without cancellation of granted leave his services were terminated.

4. (iii). That from being aggrieved by the illegal Order of termination, the Applicant filed O.A. No. 130 of 1990 (L) Deepak Kumar V Union of India and others challenging the illegal Termination Order. In the case after filing of Counter Affidavit and Rejoinder Affidavit, the case was heard on 2nd July 1991 by Hon'ble Mr Justice UC Srivastava VC and Hon'ble Mr A B Gorthi A M. The Judgment in the case was delivered on 5.7.1991 by the Hon'ble Tribunal, by which the Court quashed the Termination Order as according to the Tribunal it was arbitrarily passed, and it was also held that the Termination Order is violative of Article 311 of the Constitution of India. It was also held that the Termination Order being penal in nature and has



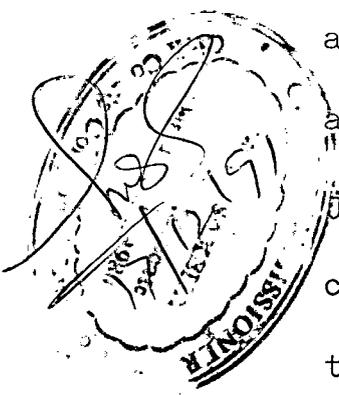
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been passed without giving any opportunity of hearing and is violative of Article 311 of the Constitution of India. It was also ordered that the Applicant will be deemed to be in service from the date of Termination and will also be entitled to all consequential benefits from the date of his Termination. The Photocopy of the Order is filed as Annexure-A-1 to this Petition.

5(i). That the Petitioner after receiving the Judgment from the Tribunal on 9.7.1991 sent the copy of the Judgment to all the Opposite Parties through registered letter on 15.7.1991 vide registered letters No. C-8317 to C-8320 to Opposite Parties No. 1 to 4. One of the copies of the letters sent to all the Opposite Parties is filed as Annexure A-2 to this Petition.

5. (ii). That thereafter after waiting for sometime the Petitioner went to Almorah and wanted to know that what has been done by the Opposite Parties No. 1 and 2 as such, he met the Opposite Parties No. 1 and 2 there also. The Petitioner submitted his joining Report to them on 24.7.1991. The Photocopy of the letter which was served at Almorah in the Office of Opposite Parties No. 1 and 2 is



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filed as Annexure A-3 to this Petition.

5. (iii). That at Almorah when the Petitioner met Opposite Parties then ^{the} Petitioner was advised to see Opposite Parties No. 3 and 4 and to know from them as such he was asked to meet the Opposite Parties No. 3 and 4 at Delhi, then the Petitioner met the Opposite Parties No. 3 and 4 on 12.8.1991 and also again submitted an Application that the certified copy of the Judgment has already been sent and as no reply has been received so far, as such he has come to know what has been done in compliance of the Tribunal's Order. The Petitioner when received no satisfactory reply, he again submitted an Application in the Office of Opposite Parties No. 3 and 4. The Photocopy of the Application is filed as Annexure-A-4 to this Petition.

5. (iv). That after returning from the Office of the Opposite Parties No. 3 and 4 the Petitioner received a letter No. B 17/13/DK/90-EBC dated 14/16th August 1991, from the Office of Opposite Party No. 3, which is an acknowledgement of Annexure No. A-4 and in it the Petitioner was again required to contact Opposite Party No. 1, the



17/13/DK/90-EBC

AS

Station Director Almorah for getting the required compliance.

5. (v). That on receiving the letter referred to above, the Petitioner on 20.8.1991 again submitted a letter drawing the attention of Opposite Party No. 1 and 2 in compliance to the letter received from the Office of Opposite Party No. 3 and 4 and also sent the copy of this letter received from Opposite Party No. 3 and 4 which was in reply to their letter Annexure A-4. The Photocopy of the letter is filed as Annexure-A-5.

5. (vi). That thereafter from the Office of the Opposite Party No. 1 and 2, the Petitioner received telegraphic message ALM-1 (6)/91-5/2902 dated 09.09.1991, which indicates that as if some Appointment Letter has been issued by them in compliance to the letter of Opposite Party No. 3 and 4 referred to above but the same has been cancelled because of some letter received by Opposite Party No. 1 and 2 from the Opposite Party No. 3 and 4. But the actual letter of appointment was not received by the Petitioner till today.



5. (vii). That thereafter, the Petitioner is continuously

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writing the letter to Opposite Parties i.e., on 12.9.1991, and 19.10.1991, but the same has not been acknowledged, ^{now} now, so far, nor the Order passed by the Tribunal has been complied with and to the Petitioner's information so far, neither any Appeal or Review against the Tribunal Order has been filed by the Opposite Parties nor any ~~appointment~~ ^{re-instatement} Order has been issued or sent to the Petitioner. The ~~Petitioner~~ ^{my}, who has not been paid any salary from August 1988 and is out of service from December 1988, and after Tribunal's Judgment is running from pillar to post for the compliance of Tribunal's Order but because of the attitude of Opposite Parties is still with no result so far.

5. (viii). That the Opposite Parties are intentionally not complying the Order passed by the Tribunal which was to be complied with as early as possible as is required by the Tribunal nor the awarded consequential benefits from the date of the Termination has been paid so far.

5. (ix). That in spite of the Petitioner's meeting with the Opposite Parties on 24.7.1991 and on 12.8.1991 and sending them several letters requiring them to comply the Tribunal's Order has not yielded any result

17/12/91

17

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so far as such, it appears that they are giving deaf ear to the Order passed.

5. (x). That the reasonable period required for the compliance of the Order has already expired and now the Petitioner is still out of employment even after the Tribunal's Order and the Opposite Parties have not even allowed the Petitioner to join and ~~the~~ order to compensate the consequential benefits, which has also been allowed from August 1988 has not been paid hence, the Petitioner is compelled to move the Petition for contempt on the following grounds:



:GROUNDS:

A. Because, the Opposite Parties conduct after the passing of the Tribunal's Order which was passed in the presence of their Advocate and after its due communication on 15th July 1991, and in spite of personal meetings with the Opposite Parties No. 1 and 2 on 24.7.1991 and with Opposite Parties No. 3 and 4 on 12.8.1991 and ^{even} after sending several reminders does not inspire them to comply the Court's Order as such, it appears that they don't want to comply with the Order of the Tribunal and the same has not complied

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so far, even after serving the copy of the Order and even after writing several letters bringing to their notice that the Order has not been complied with which amounts to willfully disobeying the Order of Tribunal as well as the direction passed in the Judgment and they are also not complying the assurances given by them when the Petitioner met with them at Almorah and at Delhi as such, they have committed willful disobedience of the Order and are liable to be punished for contempt.

- B. Because, the Opposite Parties are not only very well aware of the Tribunal's Order dated 5.7.1991 but they also know what they have been required by the Order passed by the Tribunal^{1e} to reinstate the Petitioner and to pay all the consequential benefits and it is also established that the Opposite Parties for the reasons best known to them had not complied with the Court's Order so far, as such, they have committed the contempt willfully.

- C. Because, the action and conduct of the Opposite Parties from the date of the serving of the Order

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is such that will tantamount to diminish the prestige and status of the Tribunal's Order, in the eyes of Law, and others and in case, the Opposite Parties are not punished, then the passing of the Order by the Tribunal will become a mockery in the eye of Law.

Wherefore, it is prayed that this Hon'ble Tribunal be pleased to issue a Notice to Opposite Parties to appear in person and show cause before punishing them for committing the contempt of Court's Order as they have not only intentionally failed to obey the Court's Order in violation of their assurances given by them while the Petitioner met them at Almorah and at Delhi after the passing and serving of the Tribunal's Order in the case and have been also not paid the consequential benefits for which also the Order has been passed by the Tribunal. As such, the Opposite Parties are liable to be punished for committing the contempt of Court's Order dated 5.7.1991 as they have intentionally flouted the Tribunal's Order.

Lucknow:



Dated: 17th December 1991

(PETITIONER)

O.A. 130/90(L)

Deepak Kumar

Applicant

versus

Union of India & others

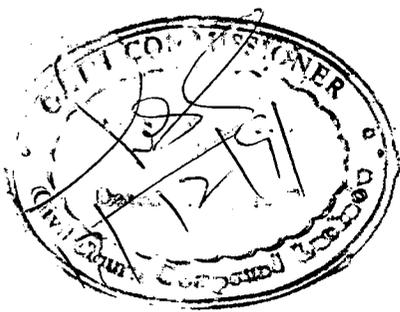
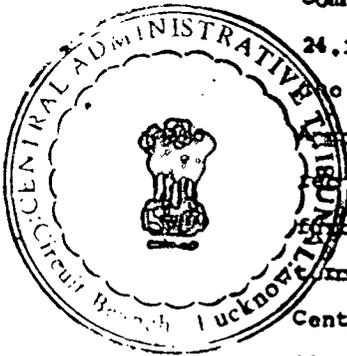
Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B.Gorthi, A.M.

(Hon. Mr. Justice U.C.S., V.C.)

The applicant who was appointed on the permanent post of Engineering Assistant on the basis of a selection held on 5th May, 1987 by a Selection Committee, has challenged termination order dated 24.12.1988 terminating his services in pursuance of the proviso at serial Nos. 3 and 4 of the Offer of Appointment. Offer of appointment, which is on record, indicates that the post was temporary till further orders, and that his services can be terminated without assigning any reasons under Central Civil Services (Temporary Services) Rules, 1965 and on being appointed he will be on probation of two years which period can be reduced or extended and during the probationary period his services can be terminated without assigning any reasons. The applicant was first posted on the North Zone under Director, Doordarshan Kendra Punjab, on his request



12/11/91

he was transferred from Jalandhar vide order dated 27.7.1988 and was posted at Almorah. As per allegation, at Almorah, the applicant became ill and it also became ~~it was~~ difficult for him to continue Postgraduate diploma in Computer Education. He applied for study leave for 90 days and was allowed vide order dated 27.8.88 w.e.f. 6.9.88 to 3.12.88 with a specific order to suffix 4.12.88 and 5.12.88 being weekly rest and ~~was~~ ^{permitted} required to join on 6.12.88. He was granted ^{permitted} to join ~~leave~~ station and after availing the holiday on 2.9.88 and 3rd and 4th weekly off and 5th compensatory off he came to Lucknow. But in view of his ailment he had to go to the hospital and he was advised to get himself admitted. As per allegation he gave information to the Station Director ^N All India Radio ~~Almorah~~ on 6.9.88. It has been admitted in the counter affidavit in which it has been stated that vide telegram dt. 6.9.88 it was intimated that he has been hospitalised w.e.f. 6.9.88, (wrongly mentioned as 90 in the counter affidavit No. 1). The applicant was discharged but advised 42 days bed rest. The applicant pursued his study and after his discharge he informed through registered post on 10.0.88 alongwith a medical certificate from the doctor who treated him in the hospital as outdoor patient. The applicant was required to obtain a certificate from C.M.O. from the District hospital in proper form, otherwise disciplinary action was to be taken under C.C.S(C.C.A) Rules and submit the same within 15 days. The applicant received the letter on 29.8.88 and submitted a reply stating thereto that in case such a certificate is required the proforma may be sent to enable him to comply with the said



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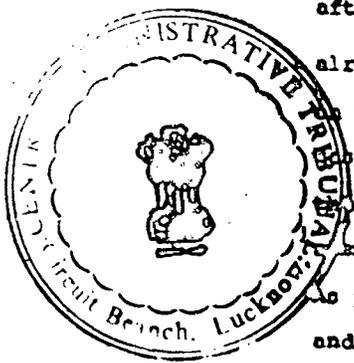
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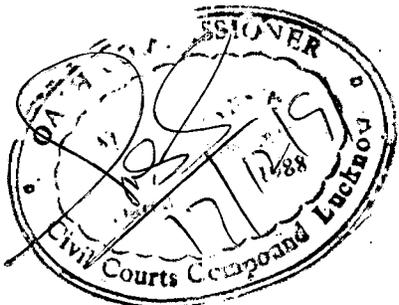
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ALS

requirement. The respondent No. 1 has stated that a specimen copy of the proforma medical certificate was sent on 12.10.88 and the applicant was advised to obtain medical certificate from C.M.O. from Lucknow and he was also advised to obtain a certificate regarding information completion of computer course. He was also advised to give a declaration that he was not doing any course and without written permission he cannot pursue any type of studies.

It appears that even though such letters were sent a memo was sent on 6.10.88 stating that as required the medical certificate in proforma has not been received and office will proceed with the disciplinary action. On 25.10.88 the applicant submitted the information which he says was required from him after checking the record the copy of the certificate already submitted. The applicant was again hospitalised on that very date and was discharged on 7.11.88 and was advised to take rest for 6 weeks. After obtaining required certificate from C.M.O. Lucknow, Lucknow on 15.11.88, he submitted the same on 16.11.88. As per allegation the applicant was discharged on 7.11.88 and was given the outdoor for checkup and he accordingly visited the hospital on 17.11.88, 29.11.88 and again on 8.12.88 and thereafter again on 17.12.1988. During this period he was served with the termination notice dated 24.12.88 mentioning therein that he was not entitled for any pay and allowances for the period of notice. The applicant submitted an appeal /a review application against the termination order to the Chief Engineer, North Zone, New Delhi who is the Head of Department and appointing authority but he was advised that he should

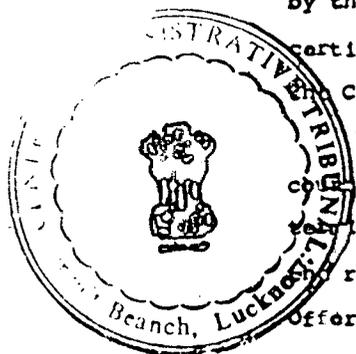


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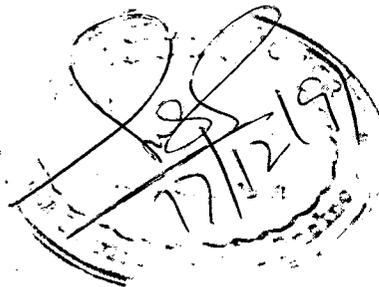
takeup the matter with the respondent No. 1 vide letter dated 29.7.89 received on 8.8.89. The applicant requested respondent No. 1 to intimate order received by respondent No. 3 and 4 and on 21.10.89 the respondent No. 1 communicated the gist of the order said to have been passed and as per allegation his representation dated 9.1.91 was not considered but the one which was sent on 18.9.89 was considered. In the counter affidavit by respondent 1 it has been stated that no study leave was granted to the applicant and only condition on ECL sanctioned which was sanctioned on 31.8.88, the intimation of which was given to the applicant verbally. In response to this cancellation he applied for leave with the condition that he will resume duty on 6.9.88 and it was Station Director appointing authority and Chief Engineer was the recruiting authority. It has also been stated by the affidavit that the applicant had obtained the certificate from a Consultant physician and not from C.D.O. who is the competent authority.



The question that has been conveyed by the learned counsel for the applicant that his service could have been reinstated only by the appointing authority and not by respondent No. 1 who was not his appointing authority.

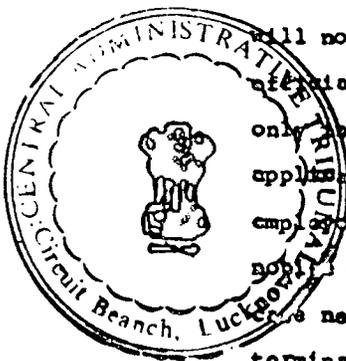
Offer of appointment to the applicant was given by the Chief Engineer Northern Zone, All India Radio and in pursuance of the same the applicant was posted at Door-darshan Kendra Jalandur where he joined. The applicant was transferred under the orders of Chief Engineer, Northern Zone, Almora on his representation which was one of the Stations in the northern zone like Jalandur. The applicant has also filed document indicating that for

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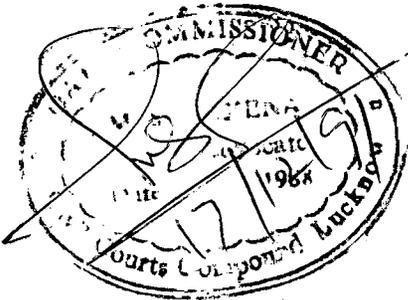
117

such post advertisement was subsequently issued by the Chief Engineer, Northern Zone. These facts indicate that it was the Chief Engineer who was the appointing authority. The Station Director All India Radio who transferred the applicant, could not be the appointing authority and consequently the termination order has been passed by the authority who is lower than the appointing authority and the termination order is liable to be quashed on this ground alone. Even the version of the respondent No. 1 that the leave was cancelled orally which was granted in writing obviously, is not correct, although the respondent No. 1 has vaguely asserted this fact but it is regrettable that an officer will not come to the extent of saying such thing. An official order which is passed in writing can be cancelled only in writing and not orally. It is true that the applicant was on probation and he was a temporary employee, he was governed under C.C.S. rules under which no salary or salary in lieu thereof is given. In the instant case neither notice, nor salary was given and thus the termination order is violative of the C.C.S. rules. A reference may be made to the case of Karam Gupta vs. Haryana State Small Industries (1986) 3 SCC 506 in which the facts stated above will indicate that the order of termination was passed as a result of annoyance or by way of punishment. Medical certificate was demanded by the respondent No. 1 in the prescribed proforma and the prescribed proforma was despatched from the office on 12.10.88 which was received by the applicant on 21.10.88 and even prior to the sending of the proforma and even before that the respondent No. 1 vide his



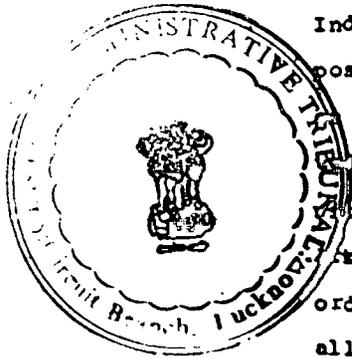
which case the termination order was held invalid as no notice or salary in lieu thereof was given.

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letter dated 6.10.88 threatened that in case a medical certificate in prescribed form will not be rxn received on due date the disciplinary proceedings against the applicant will be taken. The facts indicated above show that instead of taking disciplinary action it was the penal action taken against the applicant. Undoubtedly probationer's services can be terminated without assigning any reason, no such order can be arbitrarily passed as an arbitrary order is violative of Article 311 of the Constitution of India. In the instant case it has not been stated that post has been abolished but the applicant has proceeded on leave and without enquiry his services were terminated. The termination order being penal in nature and without giving an opportunity of hearing is violative of Article 311 of the Constitution of India. The termination order dated 24.12.88 is quashed and the application is allowed. The applicant will be deemed in service from the date of termination with all consequential benefits. No order as to costs.



A.M.

V.C.

Shakeel/

Lucknow Dt. 5.7.91.

Attested
 True copy
 Section Officer 9/7/91

C.T.C. Control Administrative Tribunal
 Circuit Bench
 LUCKNOW

Signature
 9/7/91

*Photo
 True copy*



LETTER HEAD
POST OFFICE
TELEPHONE ENGINEER A & P
ALMORA
DATE 15-10-91

*Annexure
A/2
17/11
A19*

Sms: 40/11/91
STAMP AFFIXED Rs. 3.00

STATION ENGINEER
AIR ALMORA

SUB: D.A CASE NO. 130(L) 90 DEEPAK KUMAR Vs STATION
DIRECTOR AIR ALMORA AND OTHERS DECIDED ON 5-7-91
BY C.A.T ALLHABAD CIRCUIT BENCH LUCKNOW.

Sir,

As my services were terminated when I was on E.O.L
by Station Director AIR Almora against the order
of termination the aforesaid petition was filed.
The Administrative Tribunal allowed the petition
and termination order dated 24-12-88 has been
quashed and petition was allowed and it was also
ordered that applicant will be deemed to be in
services from the date of termination with all
consequential benefits. I am enclosing a true
photocopy of the certified copy recieved by me
from the Administrative Tribunal on 9-7-91.

It is therefore requested that neccessary
order reinstating me in service with all
consequential benefits be allowed at an early date
by issuing a posting order. I shall be personally
obliged.

Thanking you

Yours faithfully

15/11/91
DEEPAK KUMAR
E.A

D.A : True photocopy of
certified copy of
judgement of 5-7-91.

18, DEEN DAYAL ROAD
ASHERFABAD
LUCKNOW 226003

True Photocopy



LUCKNOW G.P.O.
REG. NO 8317 / 25743096
TO: D E AKASHVANI AND DOOR
N DELHI
DATE : 15-07-91

Part of
Amexone A/2

17/2 A/20

Gms: 30 / NULL
STAMP AFFIXED Rs. 8.00

To: DIRECTOR ENGINEER
AKASHVANI & DOOR DARSHAN
JAMNAGAR HOUSE,
SHAHJAHAN ROAD
NEW DELHI 110011

SUB: D.A CASE NO. 130(L) 90 DEEPAK KUMAR Vs STATION
DIRECTOR AIR ALMORA AND OTHERS DECIDED ON 5-7-91
BY C.A.T ALLHABAD CIRCUIT BENCH LUCKNOW.

Sir,

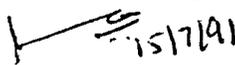
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The Administrative Tribunal allowed the petition
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Thanking you

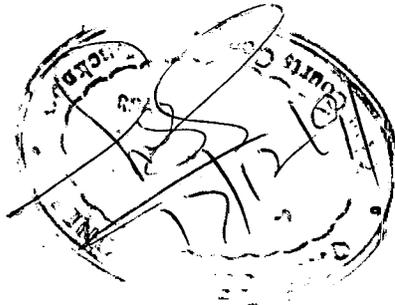
Yours faithfully

D.A : True photocopy of
certified copy of
judgement of 5-7-91.


DEEPAK KUMAR
E.A

18, DEEN DAYAL ROAD
ASHERFABAD
LUCKNOW 226003

True photocopy

LUCKNOW S.F.O.
REGD. NO. 8012 / 207490284
TQVC H. AKASHVANI AND DOOR
N DELHI
DATE 15-07-91

Part of
Annexure
A/2
17/3
A21

Gms: 30 /NULL
STAMP AFFIXED Rs. 3.00

To,
CHIEF ENGINEER
(NORTH ZONE)
AKASHVANI & DOOR DARSHAN
JAMNAGAR HOUSE,
SHAHJAHAN ROAD
NEW DELHI 110011

SUB: O.A CASE NO. 130(L) 90 DEEPAK KUMAR Vs STATION
DIRECTOR AIR ALMORA AND OTHERS DECIDED ON 5-7-91
BY C.A.T ALLHABAD CIRCUIT BENCH LUCKNOW.

Sir,

As my services were terminated when I was on E.O.L
by Station Director AIR Almora against the order
of termination the aforesaid petition was filed.
The Administrative Tribunal allowed the petition
and termination order dated 24-12-88 has been
quashed and petition was allowed and it was also
ordered that applicant will be deemed to be in
services from the date of termination with all
consiquential benefits. I am enclosing a true
photocopy of the certified copy recieved by me
from the Administrative Tribunal on 9-7-91.

It is therefore requested that neccessary
order reinstating me in service with all
consiquential benefits be allowed at an early date
by issuing a posting order. I shall be personally
obliged.

Thanking you

Yours faithfully

D.A : True photocopy of
certified copy of
judgement of 5-7-91.

15/7/91
DEEPAK KUMAR
E.A

18, DEEN DAYAL ROAD
ASHERFABAD
LUCKNOW 226003

true photocopy
A-2



LUCKNOW G.P.O.
REG. NO. 2115 / 1974-1980
TO: STATION DIRECTOR AIR A
ALMORA
DATE: 15-07-91

*Part of Annexure
A12
17/4*

Dist: DO / NULL
STAMP AFFIXED RE: 8.00

To,
STATION DIRECTOR
AIR ALMORA

SUB: O.A CASE NO. 130(L) 90 DEEPAK KUMAR Vs STATION
DIRECTOR AIR ALMORA AND OTHERS DECIDED ON 5-7-91
BY C.A.T ALLHABAD CIRCUIT BENCH LUCKNOW.

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ordered that applicant will be deemed to be in
services from the date of termination with all
consiquential benefits. I am enclosing a true
photocopy of the certified copy recieved by me
from the Administrative Tribunal on 9-7-91.

It is therefore requested that neccessary
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consiquential benefits be allowed at an early date
by issuing a posting order. I shall be personally
obliged.

Thanking you

Yours faithfully

D.A : True photocopy of
certified copy of
judgement of 5-7-91.

15/7/91
DEEPAK KUMAR
E.A

18, DEEN DAYAL ROAD
ASHERFABAD
LUCKNOW 226003

true photocopy



To,

THE STATION ENGINEER
ALL INDIA RADIO
ALMORA.

SUB: JOINING IN PERSUENCE TO CAT ORDER DATED
517191 IN PETITION 130(4)-90 DEEPAK KUMAR
Vs STATION DIRECTOR & OTHERS.

Sir,

On receiving the certified copy of the order
in the aforesaid case, I sent you a true photo-static
copy of the certified copy for perusal by
registered post on 16/7/91 for issuing the
joining order to me and also to make all
the payments as ordered by the Tribunal.

As no reply was received so far,
hence I am giving my joining in persueance
to the CAT order dated 517191 kindly do the
needfull at the earliest.

Thanking you.

Yours faithfully.

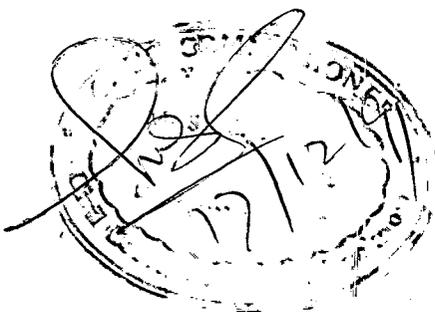
DATE -> 24/7/91

PLACE -> ALMORA.

DT-
24.7.91

True photo copy.

(DEEPAK KUMAR)
E.A



Amrinder 19/4

ADW

To

The Chief Engineer (N. Zone),
Akashwani & Doordarshan,
Jamnagar House,
Shahjahan Road,
NEW DELHI.

Sub : Joining in response to CAT order dated
5.7.1991 in petition No. 130(L)/90 - Deepak
Kumar Vs. Station Director & others.

Sir,

On receiving the certified copy of the
order in the aforesaid case, I sent you a true
photostat copy of the certified copy for perusal by
registered post on 16.7.1991 for issuing the joining
order to me and also to make all the payments as
ordered by the Tribunal.

I may also bring to your kind notice that
the special education leave granted to me was ^{utilized} awarded
for the purpose of completing POST GRADUATE DIPLOMA
IN COMPUTOR APPLICATION and in which I passed my
examination with 84 % having been First in the merit
list which can be an asset to the Department.

As no reply was received so far, hence I
am coming in person in pursuance to the CAT order
dated 5.7.1991.

Kindly do the needful at the earliest.

Thanking you.

Yours faithfully,

(DEEPAK KUMAR)
G. A

Dated: 12/8/91

Place : NEW DELHI

18, DIN DAXAL ROAD
ASHERPARA BLDG
LUCKNOW - 226003.

(26)
M 1019
PA to DE (1991)

True photocopy



Station Director,
All India Radio,
Almora.

Annexure
20 A/S
R/S

Sir,

Sub: Joining in persuance to CAT order dated 05-7-91
in petition No. 130(L)-90 Deepak Kumar Vs.
Station Director and others.

In persuance to the above order, I sent a copy of the
Judgment on 16-7-91 when nothing was heard from you then I
reported for duty on 24-07-91 (F.N.). I was not allowed to
join by you on the ground of absence of the Chief Engineer's
(NZ) directions and was verbally asked to contact Chief
Engineer (NZ) New Delhi for orders. Accordingly I met
personally with the Chief Engineer/ Director Engineering
on 12-08-91. They verbally told me that all decisions are
to be taken by Station Director, A.I.R., Almora which has
been confirmed in writing by them vide letter no. B-17/13/
DK/90-EPC dated 19.8.91. An electrostat copy of the same is
enclosed for your information and necessary action at the
earliest as more than 1½ month has already passed away.

It is requested to kindly intimate me as to on what date
I am to report for duty at Almora.

Thanking you.

Yours faithfully,

D.A. : One.

(Deepak Kumar)
E.A.

Copy to : Chief Engineer (N.Z.), Akashvani & Doordarshan,
Jamnagar House, Shahjahan Road, New Delhi, in
reference to his letter no. B-17/13/DK/90 EPC
dated 14/16-8-91 for information and necessary
action please.

Dated: 20.8.1991

(Deepak Kumar)
E.A.

18, Din Dayal Road,
Asharfabad,
Lucknow - 226003.

U.P.C



ONE PACKET

to

CHIEF ENGINEER (N.Z.)

AKASHVANI & DOORDARSHAN

JAMNAGAR HOUSE,

SHAHJAHAN ROAD

NEW DELHI - 110011.

बोमा नहीं NOT INSURED

लगाये गये डाक टिकटों का मूल्य
Amount of Stamps affixed

₹ 100/-

क्रमांक/No. 1418

एक नजदीकी प्राप्त किया

तारीख/Date Stamp

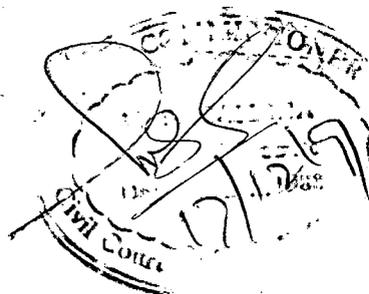
Received a Registered

पानेवाले का नाम

Addressed to

पानेवाले का नाम/Signature of Receiving Officer

True photocopy



FORM 1

21
A26

APPLICATION UNDER SECTION 17 OF THE ADMINISTRATIVE
TRIBUNAL ACT
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALHABAD
(CIRCUIT BENCH)
LUCKNOW BENCH LUCKNOW
CONTEMPT CASE NO. (MP) OF 1991
In re
O. A., NO. 130/90 (L)



Deepak Kumar.

.....Petitioner.

V

Sri B.B. Pandey, Station Director, All India Radio, Almorah, &
others.Opposite Parties.

AFFIDAVIT

I, Sri Deepak Kumar aged about 27 years son of
Sri B.B. Saxena, resident of 18, Deen Dayal Road, Asharfabad,
Lucknow, do hereby solemnly affirm and state on oath as under:

1. That the Deponent is the Petitioner himself in the
above noted case and, as such, he is fully well
conversant with the facts of the case.

2. That the contents of paras 1 to 5 (x) of the
accompanying Petition are true to my own knowledge on the
basis of documents and, those of contents of paras from A to C of the
Petition are believed by me to be true on the basis
of legal advice.



23
A27

3. That the Annexure No. A/1 to A/5 are the true photocopies of the copies which are in possession of the Deponent.

Lucknow:

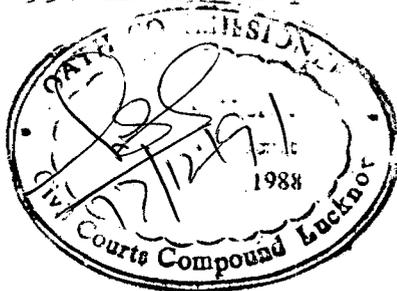
Dated: 17-12-91

(DEPONENT)

VERIFICATION

I, the above named Deponent do hereby verify that the contents of paras 1 to 3 of this Affidavit are true to my own knowledge and no part of it has been concealed so far. So help me God.

Signed and verified on this 17th day of December, 1991 in the compound of High Court, Lucknow.



(DEPONENT)

I identify the Deponent who has signed before me.

Sworn and affirmed before me in office to wit:
by Sri D. Prakash Kumar
is identified by Shri Akhilesh Sahai
I have satisfied myself by examining the
deponent that he understands the contents of
his affidavit which has been read out and
retained by me. fee charged Rs. 150/00
M. S. Saha
17/12/91
Civil Commissioner.

Akhilesh Sahai
(AKHILESH SAHAI)
(ADVOCATE)

ब अदालत श्रीमान

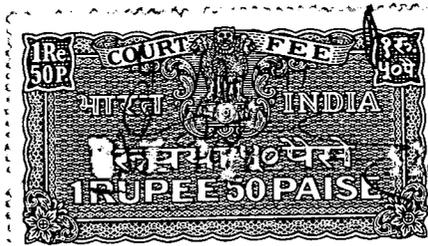
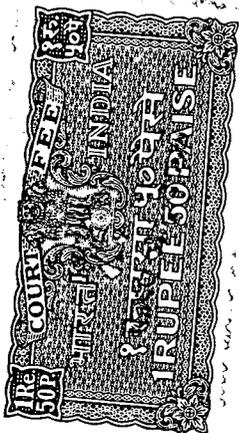
महोदय

ACE

(वादो अपीलान्ट)

प्रतिवादी (रेस्पाडेन्ट)

श्री Deepak Kumar का बकालतनामा



वादो (अपीलान्ट)

Deepak Kumar

वनाम Sri B. R. Pandey

(प्रतिवादी रेस्पाडेन्ट)

सं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

उपर लिखे मुकद्दमा में अपनी ओर से श्री

Achillesh Sahai

Advocate

वकील

महोदय

एडवोकेट

नाम अदालत
मुकद्दमा नं०
नाम फरीकेन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटाव या हमारी ओर से डिमरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया 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 होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह बकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर

(DEEPAK KUMAR)

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

19

महीना

सन् १९१६

एडवोकेट

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Am

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

Contempt Petition No.47 of 1991(L)

in re: OA No.130/90(L)

Deepak Kumar .. Petitioner

-versus-

B.B. Pandey and others .. Opposite parties

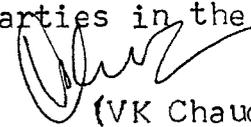
APPLICATION FOR DROPPING THE CONTEMPT PROCEEDINGS

The Opposite parties most humbly submit as
under:-

For the facts, reasons and circumstances
stated in the ~~xxx~~ accompanying affidavit, it is
expedient in the interest of justice that the
Contempt proceedings in the above mentioned case
may very kindly be dropped against the opposite
parties.

P R A Y E R.

Wherefore it is most humbly prayed
that this Hon'ble Court may be pleased to
drop the contempt proceedings in the above mentioned
case against the opposite parties in the ends of justice.


(VK Chaudhari)
Addl. Standing Counsel for Central Govt
(Counsel for the Opp. parties)

Lucknow,

Dated: 1 April 1992.

A3

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

Contempt Pet.No.47 of 1991(L).

In re:

O.A.No.130-90 (L).

--

Deepak Kumar.

-----Petitioner

Versus

B.B.Pandey and others.

-----Opp-parties

--

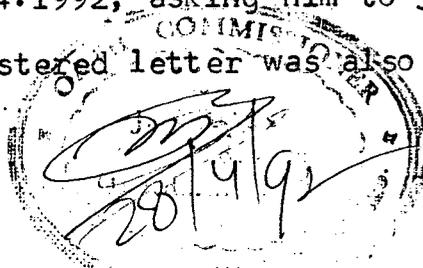
Counter Affidavit on behalf of
Opposite Party No.2.

I, K.K.Sharma, aged about 52 years, son of Sri Sant Ram, at present posted as Station Engineer, All India Radio, Centre Almora, do hereby solemnly affirm and state as under :-

1. That the deponent is opposite party No.2 in the above proceedings and is well conversant with the facts of the case.

2. That the opposite parties are ready to reinstate the petitioner in compliance of the judgment of this Hon'ble Tribunal. In this regard an Express Telegram has sent to the petitioner on 16.4.1992, asking him to join duties immediately. A registered letter was also sent to the petitioner

K.K.Sharma: Kumar



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in this regard. True copy of the office copy of the said Telegram is being enclosed herewith as Annexure No.C-1 to this affidavit.

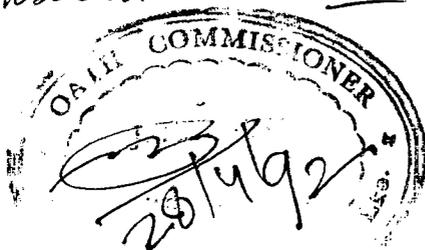
3. That as soon as the petitioner reports for duty he will be given charge of the post and other consequential benefits will be given thereafter within reasonable time in accordance with Rules.

4. That the petitioner has not allowed to join duties earlier because of the fact that it has proposed to file an special leave petition against the judgment of this Hon'ble C.A.T. and in this regard necessary approval was being taken from the authorities.

5. That however in the meantime the deponent was continuously making efforts for getting the orders of this Hon'ble C.A.T. implemented. In this regard, he issued letter dated 15.10.1991, 30.10,1991, 15.11.1991, 15.2.1992 and 24.3.1992. True copies of theaforesaid letters are being enclosed as Annexures No.C-2 to C-6 to this counter affidavit.

6. That from the perusal of the above enclosed letters, it would be clear that the deponent was himself was very keen in implementing the orders of this Hon'ble C.A.T. but it could not be implemented as matter regarding filing S.L.P. was under consideration.

Kuldev Singh
20/4/92



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7. That the deponent and other opposite parties are law abiding citizens having full faith in judicial system. They never even dreamt for disobeying the orders of this Hon'ble C.A.T.

8. That the delay in implementing the judgment is highly regretted and the opposite parties tenders unconditional apology for the same and leaves themselves on the mercy of this Hon'ble Tribunal.

9. That it is, therefore, expedient in the interest of justice that the Contempt proceedings may very kindly be dropped against the opposite party.

Lucknow, dated,
28.4.1992
or

Kusham Kumar
Deponent.

Verification.

I, the deponent abovenamed do hereby verify that the contents of paras 1 to 8 of this affidavit are true to my own knowledge ^{and those of para 9 are believed to be true} and no part of it is false and nothing material has been concealed so help me God.

Signed and verified this 28th day of April, 1992
at Lucknow.

Kusham Kumar
Deponent.

I identify the deponent who has signed before me.

K.K. Sharma
V. C. ...
Advocate.

28/4/92
2014/92

at 500/...

Sudhakar ...
28/4/92

4
A33

Annexure C-1
C-1

STATE

EXPRESS Issued

TELEGRAM

SHRI DEEPAK KUMAR,
ENGINEERING ASSISTANT,
18-DEENDAYAL ROAD,
ASHARFABAD, LUCKNOW.

Issued/निगमित

JOIN DUTY IMMEDIATELY (.)

AKASHVANI

Not to be telegraphed:—

NO: ALM-1(6)/91-S/

Dated:- 16-4-92

(KRISHAN KUMAR)
STATION ENGINEER

GOVERNMENT OF INDIA
ALL INDIA RADIO: ALMORA

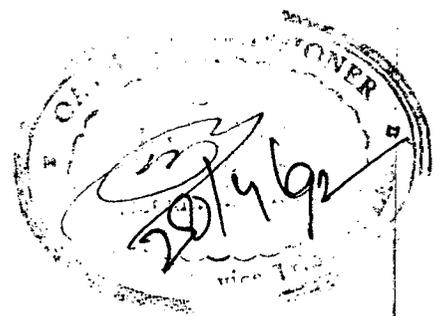
NO: ALM-1(6)/91-S/914 15 16

Dated:- 16-4-92

Post copy in confirmation to:-

- 1) Shri Deepak Kumar, Engineering Asstt. 18-Deendayal Marg, Asharfabad, Lucknow for kind information & necessary action.
- 2) The Chief Engineer (Sh. P.V.Isaac, DDE, by name), (NZ), Jannagar House, Shahajahan Road, New Delhi w.r. to your post copy no. B-17/13/DK/90-91/EPC dated 10-4-92 & for kind information.
- 3) The Director General (Shri P.K.Verma, DDA(E), by name), All India Radio, Akashvani Bhavan, Sansad Marg, New Delhi for kind information.

Krishan Kumar



Krishan Kumar
Station Engineer

Annexure - C-2

C-2

Regd.

GOVERNMENT OF INDIA
ALL INDIA RADIO:ALMORA

No. Alm.1(6)/91-S/

Dated: 15.10.91

The Director General
(Sh. Laxmi Narain, DBA by Name),
All India Radio,
Sansad Marg,
New Delhi-110001

Issued

Subject: Legal opinion in OA No. 150 of 90(L) filed by y
Sh. Deepak Kumar before CAT Lucknow.

Referenc: This office Telegram No. Alm.1(6)/91-S/2902 dt
9.9.91 & your letter no. D-17/15/DK/90/EP1/
dt. 26.8.91 .

Sir,

Kindly refer to this office telegram & letters mention
above . 90 Days for CAT case in favour of Sh. Deepak Kumar have
been passed on 4.10.91 . SLP permission has not been received
so far this station has no other alternative except to ask Sh.
Deepak Kumar EA, to join his duty again you are requested to
kindly give further instructions in this case at the earliest.

Yours faithfully

(K. K. SHARMA)

STATION ENGINEER

Copy to,

The Chief engineer (NZ), (Sh. Ayodhya Prasad, B.E. by
Name), All India Radio & Doordarshan Jannagar house .
Shah Jahan Road, New Delhi-110001 with the request to
send further instructions in this regard that this office
has not received any permission from D.G. office
within the period of 90 days from the dt. of CAT case
decisions dt. 5.7.91.

Kishan Kumar

20/10/91

Kishan Kumar
STATION ENGINEER

6
A35

Annexure C-3

C-3

(11/13/91)

भारत सरकार
कार्यालय: मुख्य अभियन्ता ॥30६०॥
आकाशवाणी एवं दूरदर्शन

जामनगर हाउस, शाहजहाँ रोड़
नई दिल्ली-110011.

क्र० : ए-19/16॥2॥ती/91-ईपीसी

दिनांक 30.10.91

श्री के.के. शर्मा
केन्द्र अभियन्ता
आकाशवाणी
अल्मोड़ा

विषय : दीपक कुमार द्वारा लखनऊ "सी.ए.टी." में ओ.ए.न० 90॥एल॥ के 130 के
अन्तर्गत कानूनी सलाह हेतु मुकदमा दर्ज

संदर्भ : आपके कार्यालय की तार संख्या अल्मोड़ा ॥6॥/91-एत/2902, दिनांक 9.9.91
एवं हमारे कार्यालय के पत्र संख्या बी-17/13/डीके/90॥ईपीसी, दिनांक 26.8.91

अपने कार्यालय के पत्र संख्या अल्मोड़ा ॥6॥/91-एत, दिनांक 15.10.91
को कि महानिदेशालय को लिखा जा चुका है और उस पत्र की प्रतिलिपि इस कार्यालय
को दी गई है। उसके संदर्भ में मुझे कहना है कि आप महानिदेशालय के निर्देशानुसार
आगे की कार्रवाई करें।

संलग्न : उपरोक्त पत्र

अयोग्य प्रसाद
॥अयोग्य प्रसाद॥
निदेशक ॥अभि०॥

प्रतिलिपि प्रेषित :-

1. महानिदेशालय आकाशवाणी ॥नामत: श्री लक्ष्मी नारायण, उपनिदेशक ॥प्रशा०॥
आकाशवाणी भवन, संतद मार्ग, नई दिल्ली। इस अस्पष्ट अनुरोध के साथ कि
महानिदेशालय अपने निर्णय से आकाशवाणी अल्मोड़ा को अलग करारें।

Mushram

28/10/91

कृते मुख्य अभियन्ता ॥30६०॥

7
A36

SECRET

C-4 Annexure C-4

पंजीकृत

भारत सरकार
आकाशवाणी: अल्मोड़ा

Issued/निगमित

पत्रांक: अल्मोड़ा-1868/91-एत/3584

दिनांक: 15.11.91

महानिदेशक,

नाम से श्री लक्ष्मी नारायण, उपनिदेशक प्रशांत,
आकाशवाणी मध्य
संतद मार्ग, नई दिल्ली,

विषय: दीपक कुमार द्वारा लखनऊ "सो. ए. टी." में अ. ए. न. 90
ल. ए. के. 130 के अन्तर्गत कानूनी सहाह हेतु मुकदमा दर्ज।

संदर्भ:-

इस कार्यालय के तार सं. अल्मोड़ा-1868/91/एत/2902 दिनांक:
9.9.91 एवं अल्मोड़ा 130, आकाशवाणी एवं दूरदर्शन दिल्ली
पत्रांक सं. बी-17/13/डी.के/90/ई.पी.सी. दिनांक: 26.8.91
और ए-19/1682/सी./91-ई.पी.सी. दिनांक: 30.10.91.

श्रीमान जी,

इस कार्यालय के तार सं. अल्मोड़ा-1868/91/एत/3584 दिनांक 15.10-
91 एवं ए-19/1682/सी./91-ई.पी.सी. दिनांक 30.10.91 के उपरोक्त विषय
से सम्बन्धित संदर्भ में अतिशोध निर्णय लेने की कृपा की जाये, क्योंकि के. प्र. अ. द्वारा
दो मई 90 दिन की सीमा व्यतीत हो चुकी है एवं इस कार्यालय के समक्ष
श्री दीपक कुमार, अभियान्त्रिकी सहायक को बदल पुनः तन्नायोजित करने के
सिवाय कोई दूसरा रास्ता नहीं है।

अतः आपसे नम्र निवेदन है कि उपरोक्त पर तत्काल कार्यवाही की जाये।

भवदीय,

के. के. शर्मा
केन्द्र अभियन्ता

प्रतिलिपि:

मुख्य अभियन्ता उ.क्षे. , आकाशवाणी एवं दूरदर्शन, जामनगर
सिवात, शाहजहाँ मार्ग, नई दिल्ली को उनके सं. ए-19/1682/सी./91-ई.
पी.सी./ दिनांक: 30.10.91 के संदर्भ में आवश्यक कार्यवाही हेतु प्रेषित।

Handwritten signature and date 20/11/91

केन्द्र अभियन्ता
12/11/91

8
A37

Annexure C-5
C-5

भारत सरकार
आकाशवाणी : प्रलोड्डा
=====

पुणे

पत्रांक: अलनो 0-166/91-एम/

दिनांक: 15.2.92

उपनिदेशक,
नाम: श्री लक्ष्मी नारायण, उपनिदेशक प्रजा. ४
आकाशवाणी भवन,
रोसद मार्ग,
नई दिल्ली.

विषय: श्रीक कुमार द्वारा लखनऊ सी.ए.टी. में प्रो.ए.नं. 90
1992 के 120 के अन्तर्गत कानूनी सहाय हेतु मुकदमा दर्ज ।

सहाय,
इस कार्यालय के तार सं० अलनो 0-166/91-एम/3584 दिनांक:-
15.10.91 एवं ए.-19/1662/91-ई.पी.सी. दिनांक 30.10.91 तथा
पत्रांक: दिनांक 15.11.91 जो उपरोक्त विषय पर है का प्रतिलोकन करें ।
वांछित सूचना अभी तक इस कार्यालय को प्राप्त नहीं हुई है, कृपया निर्णय
ते प्रतिलोकन प्रवृत्त कराने का कष्ट करें ताकि अग्रिम कार्यवाही की जा सके ।

कृपया उसे भी सूचित करें ।

भवदीय,

के.के. शर्मा
केन्द्र: अभियन्ता

Mishra Kumar
प्रतिलोकन :-

मुख्य अभियन्ता (उ०पे०) आकाशवाणी एवं पुरस्कार, जामनगर
हाउस, गार्डनवा मार्ग, नई दिल्ली को इस कार्यालय पत्रांक यही दिनांक:-
15.11.92 के अन्तर्भ में आवश्यक कार्यवाही हेतु प्रेषित ।

20/4/92

शुभा शर्मा
केन्द्र: अभियन्ता

9
A38

Annexure C-6

Issued/निर्मित C-6

REGD.

GOVERNMENT OF INDIA
ALL INDIA RADIO: ALMORA

No. Alme 1/6/91-S/ 6147 to 6200 Dated: 24.8.92

The Director General,
(By Name Sh. Laxmi Narain , DDA)
Akashvani Bhawan,
Parliament Street,
New Delhi.

Sub:- Forwarding of the details of the case filed by
Shri Deepak Kumar, in CAT.

Sir,

Kindly refer Dte. U.G. No.64/CAT/92-SII dt. 25.2.92
retarding case filed by Sh. Deepak Kumar in CAT under OA NO.90
from Lko. In this connection , It is to inform you that all
the concerning papers regarding the case in r/e Sh. Deepak Kumar
are being sent to you for your further necessary action .

An early reply in the matter is requested so that the
action can be taken by this office accordingly .

YOURS FAITHFULL

Encl:- As above

(K.K. SHARMA)
STATION ENGINEER

Copy to:

1. Chief Engineer, All India Radio & Doordarsan ,Jannagar
House , New Delhi for kind information.
2. P.O. to S.D. AIR, Almora.
3. P.O. to S.E. AIR, Almora.

Muslim Khan

[Handwritten signatures and stamps]

STATION ENGINEER

बअदालत श्रीमान

CAT. Uo Bench Uo

महोदय

वादी (मुद्दई)

K.K. Sharmey

का

depanch

वकालतनामा

मुद्दई (मुद्दालेह)

Deshale Kumar

वादी/अपीलकर्ता

बनाम

B.B. Pandey Sam

Content/Care :- 47 of 1991 (C)

प्रतिवादी/रेस्पान्डेंट

न० मुकद्दमा

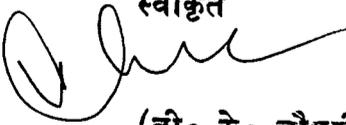
सन १६

Fixed for 27.4.92

ऊपर लिखे मुकद्दमें मैं अपनी ओर से श्री वी० के० चौधरी, एडवोकेट, हाईकोर्ट
१४/६२६ बरफखाना, नई बस्ती, उदयगंज, लखनऊ
टेलीफोन नं० २३४६८६,
चै० नं० ५, हाई कोर्ट-टेलीफोन २४०६०७

को अपना वकील नियुक्त करके [इकरार] करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिक्री 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 तस्वीक करें या मुकद्दमा 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 हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा। अगर मुकद्दमा अदम पैरवी में एकतरफा 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।

स्वीकृत



(वी० के० चौधरी)

एडवोकेट

हस्ताक्षर

Kishan Kumar

केंद्र अभियन्ता,

Station Engineer,

आकाशवाणी, अलमोड़ा

All India Radio, Almora 24501

साक्षी [गवाह]

साक्षी [गवाह]

दिनांक

महीना

सन् १६ ई०

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH : LUCKNOW.

. Opp. Residency, Gandhi Bhavan, Lucknow.

No./CAT/CB/LKO/JUDL 517/8 520

Date- 18/3/92

CONTEMPT NO. 47 OF 1991(L)

NOTICE OF CONTEMPT

To,

Ayodhya Prasad Director Engineer North Zone

Now Deln

Whereas information is laid/a petition is filed/motion made by Deepak Kumar that you have not complied the order of this Honble Court dt. 5-7-91 Passed on 13/0/90

And whereas a petition has been registered against you for action being taken under the contempt of Courts Act, 1971.

You are hereby required to appear in person or through a duly authorised advocate on 27 day of 4/92 at CAT LKO Bench and on subsequent dates to which the proceedings may be adjourned unless otherwise ordered by the Tribunal and show cause why such action as is deemed fit under the Central Contempt of Courts Act, 1971 should not be taken against you.

Given under my hand and the seal of this Tribunal, this 17 day of 3/92

Deputy Registrar
Central Administrative Tribunal.

MANISH/

Encl

A Copy of Court's order
Passed there on

with petition

dt. 03/03/92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW-BENCH, LUCKNOW.

C.P.NO. 47/91 (L)

M.R.NO. ~~47(C) 1991 (L)~~

OR 130/90

Deepak Kumar

Applicant.

-VS-

B.B. Pandey.

Respondents.

Hon'ble Mr, Justice U.C.Srivastava, V.C.

Hon'ble Mr. A.B.Gorthi, A.M.

Issue notice to show cause as to ^{why} the proceedings of contempt of court be not initiated for not complying the Order dated 5.7.91 passed in O.A. No. 130/90 filed by the applicant by which termination over order was ^{granted} and it was directed that the applicant be deemed in service with all consequential benefit. It will be open for the respondents to appear personally or through some advocate. The question of personal appearance will be considered on next date ²⁷⁻⁹⁻⁹¹

Sd/-
A.M.

Sd/-
V.C.

// True copy //

12/3/92
[Signature]
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow

Chaudhary
[Signature]
F

Central Administrative Tribunal

Lucknow Bench

Contempt Petition No. 47 Of 1991(L)

C27

11/42

Deepak Kumar Applicant.

-Vs-

B.B. Panday Station Director, Respondents.

1.5.92

Hon'ble Mr. Justice U.C. Srivastava -V.C.

Hon'ble Mr. A.B. Gorthi -A.M.

Counter has been filed today, in para 3 of
B.M. which it has been stated that as soon as the
petition reports for duty, he will be given change of t
he post and other consequential benefits within a reasa
able time. In view of the above if the applicant
has not reported he will report for duty within 15
15 days. However, it will be open for the applicant
to approach Tribunal again in case their is any
violation of the statement by the respondents in
para 3 of the counter in carrying out the same.

Application is dismissed.

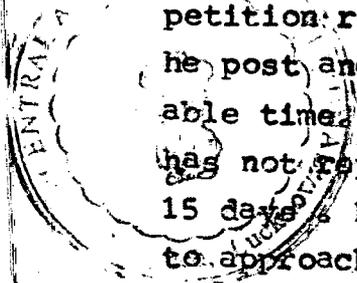
Sd/

Sd/

A.M.

V.C.

// True Copy
Deputy Registrar
Central Administrative Tribunal
Lucknow Bench,
Lucknow



C.B.
B.T.

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~huck road~~ BENCH

OATIA/RA/CP/MA/PT ... 62/93 ... of 20 ... in O.A. 139/90

Deekak Kumar Applicant(S)

Versus

Dr. K. K. Sharma Respondent(S)

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1 -	Order sheets.	A1 to A8.
2 -	Judgment order dt. 20-4-99	A9 to A10.
3 -	Copy of Petition/Measure.	A11 to A34
4 -	Counter affidavit	A35 to A43
5 -	Power, Notice, Vakalatnama	A44 to A47.
6 -	Affidavit O.P. No. 1, 2.	A48 to A57.
7 -	Counter affidavit	A58 to A61
8 -	Vakalatnama / Recd. O.P. No. 56A.	A62 to A67.
9 -	Rejoinder affidavit	A68 to A79
10 -	Suppli. Affidavit	A80 to A84
11 -	Reply to suppli. affidavit	A85 to A88
12 -	Suppli. R.A.	A89 to A126.
13 -	Supplicas to the R.A.	A127 to A164
14 -	Suppli. O.P. 223	A65 to A175

Certified that the file is complete in all respects.

File B/c ~~was~~ destroyed / destroyed

Signature of S.O.

Signature of Deal. Hand

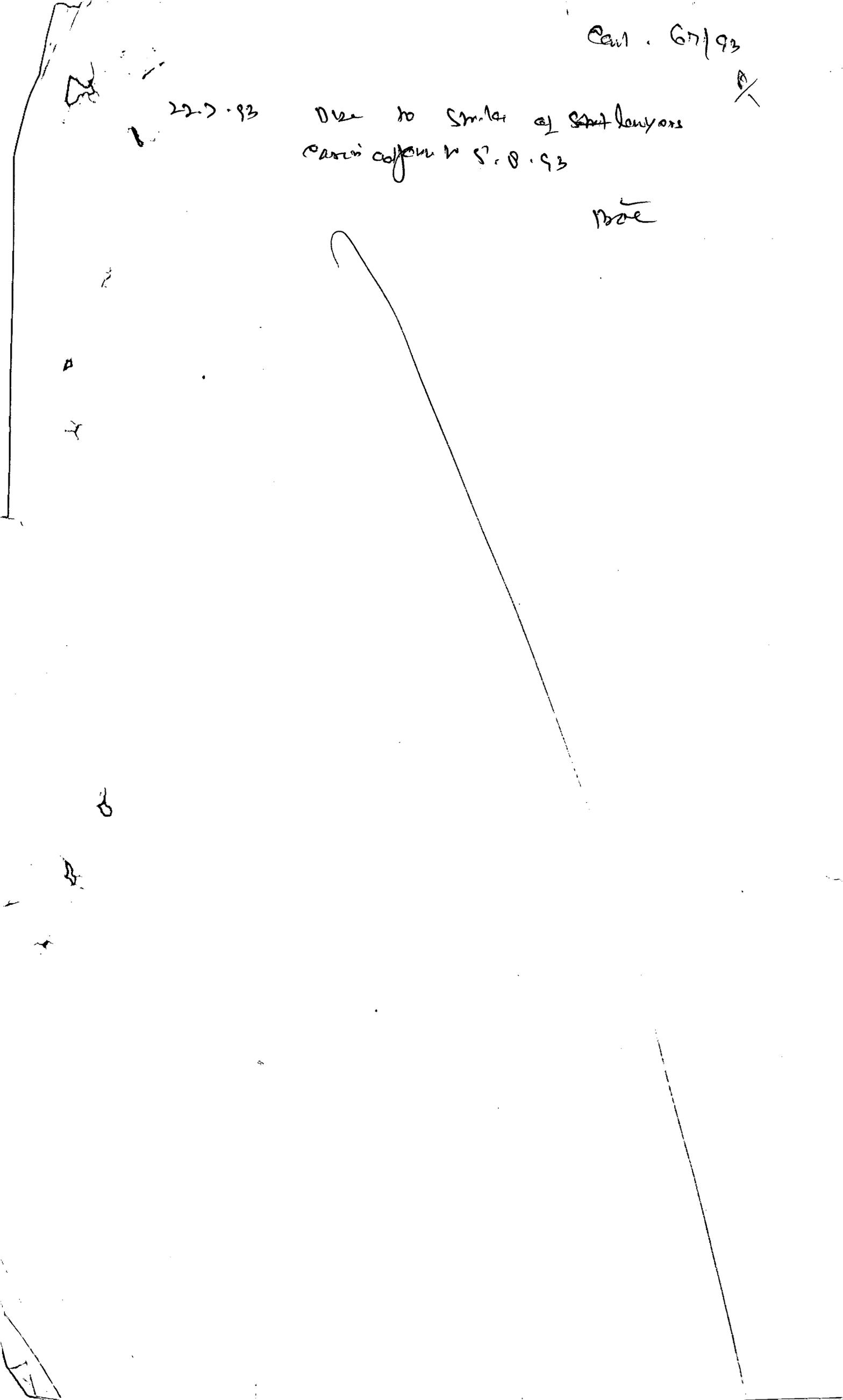
Can. 67/93

1/1

22.7.93

Due to similar of ~~split~~ lenses
participate to 5.8.93

base



Q
4.5.93

No adjournment of D.B. adj to
5.8.93

Proce

Q
5.8.93

No adjournment of D.B. adj
to 28.9.93

Proce

OR
S.P. 23

28/9/93

28/9

Hon-Mr. S.N. Prasad, J-M.
Hon-Mr. V.K. Selk, J-M.

Heard learned counsel for the
applicant. Issue ~~of~~ notice
to the respondents to show
cause as to why proceedings
under contempt of Court
be not initiated against
them for not complying with
the judgment and order dated
5/9/91, passed by this Tribunal
in O.A-No. 130/90. C.A. be
filed within 3 weeks and R.A.
if any, within one week thereafter.
List this case on 10/11/93
for further orders.

OR
Notice issued
on 28.10.93
P

AM

J-M

OR
Noting that
back
S.P.

Q
10.11.93

No adjournment of D.B. adj to
16.12.93

OR
Noting that
back
S.P.

6.12.93
No adjournment of D.B. adj to 7.2.94

Proce

CEP 6/103

1/24

④ 21/12/14

Hon. Mr. D.C. Verma, J.M.
Hon. Mr. S. Dayal, A.M.

Applicant: none
Respondents: none

No R.A. has been filed.
It appears that the applicant
is not interested for filing
of R.A. List on 26/10/14
for hearing.


A.M.


J.M.

OB

C.A.R.R. 2/14

Sybil Khanna



12)

26/11/14

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

for applicant: Shri A. Sahai
for respondents: Mr. A. Chowdhary.
Shri Sahai seeks & is allowed
3 weeks time for filing of
Supp. R.A.

List on 13/12/14 for
order.


J.M.


A.M.

OR

Supp. R.A. not filed
submitted for order

12/12

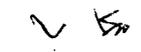


13) 13/11/14

Hon. Mr. V.K. Seth, A.M.
Hon. Mr. D.C. Verma, J.M.

The application has been
received for adjournment
from Shri A. Sahai
List on 3/1/15


J.M.


A.M.

OR

Supp. R.A. not filed
submitted for order

2/2



7.2.94

HON. MR. S.N. PRASAD, JUDICIAL MEMBER

HON. MR. V.K. SETH, ADMN. MEMBER.

Shri Akhilesh Sahai, learned counsel for the applicant is present. None responds on behalf of the respondents. This is noteworthy that from the perusal of acknowledgement received on record, it is obvious that the respondent No. 1 Shri K.K. Sharma, Station Engineer, All India Radio, Almora, was served with the notice on 5.11.93; but despite service of notice on him, neither he has turned up himself, nor his counsel and no C.A. has been filed. We have heard the learned counsel for the applicant and have perused the papers, and we find that this is the second Contempt Application for non compliance of the directions contained in the judgment and order dated 5.7.91 in O.A. No. 130/90 and the first Contempt petition No. 47/91 was disposed of with the observations ^{keeping in view para 3 of} ~~that~~ the counter affidavit filed by this very respondent No.1, Shri K.K. Sharma, to the effect that as soon as the applicant reports for duty, he will be given charge of the post and other consequential benefits within a reasonable time. This is noteworthy that the aforesaid affidavit of the aforesaid ^{Shri} K.K.Sharma appears to be of April, 1992 and since then a considerable period of more than 21 months ^{has elapsed} ~~but~~ compliance of the directions contained in the order dated 5.7.91 passed in the aforesaid O.A. no. 130/90 has still not been made for the reasons best known to the respondents. Thus, in this view of the state of affairs, we, after considering all the view points and all aspects of the matter, have come to conclusion that the aforesaid Shri K.K. Sharma be called upon to appear in person and to explain. ^{matter and in these}

17-2-94
 17-2-94
 17-2-94

C.C. No. 67/93

in

O.A No. 130/90

(2)

18/3/94

Hon. Mr. Justice R.K. Varma, v.e.
Hon. Mr. V.K. Seth, A.M.

Shri A. S. Saini, learned Counsel for the petitioner is present. Kun. D. Chaudhary, learned Counsel for respondents ~~no. 1 & 1-A~~ no. 1 & 1-A and Shri Umesh Sharma, brief-holder of Dr. Ashok Nigam learned Counsel for the respondents no. 2 & 3 are also present. It is stated by the learned Counsel for the respondents that all payments due, under the order to be complied with, have been made and as such this petition has been rendered infructuous. Learned Counsel for the petitioner prays for time to check up the factual position. List this case on 7-4-94.

OP
CA File No. 223
Submitted for
6/4

Shri K.K. Sharma, respondent No. 1 is present in the Court. He is exempted from ~~his~~ personal appearance on the next date.

✓
A.M.

R.K.V.
v.e.

Cont. 65/93
2
CAN. 130/90

(A)
(B) 25.7.95
CR
Submitted for [unclear]
29/8

No billing of D. B. [unclear]
to 31.8.95
Boc

31/8/85

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. J. C. Verma, J.M.

None for the applicant. Kms. A.
Chowdhary learned counsel for
respondent seeks time to obtain
instructions from the respondent

No 2
list for hearing on 17/11/85.

[Signature]

L.K.
A.M.

OK
Submitted for [unclear]
15/11

(20)

17-11-95

Hon. Mr. V. K. Seth - A.M.
Hon. Mr. R. K. Saxena - J.M.

A request received on behalf
of the applicant's learned
counsel for adjournment on a/c
of his being out of station.

list for orders on 29-01-96.

KN

[Signature]

L.K.
A.M.

(21)

29-1-86

D.S. list on 02-4-86 for orders.
Counsel for the parties
are also present.

OK
Submitted for [unclear]
27/3

[Signature]

[Signature]
DR.

25 20-9-96

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D. C. Verma, J.M.

OK
Submitted for order
29/11

None for applicant.
Hon. Ashok Chandra for respondents
is present.
but for orders on 5-12-96.

J.M.

V.K.
A.M.

OK

26 05-12-96

Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D. C. Verma, J.M.

OK
Submitted for order
11

L. A. Sahai, for applicant.
R. Singh, for Dr. A. Nigam, for
respondents.

is prayed for by both
the counsel, adjourn.
with on 08-1-97 for orders.

J.M.

V.K.
A.M.

OK

27 8.1.97

No. 2174/96 D. B. Aggarwal
03.3.97

OK
Submitted for order
24/12

28 3-3-97 Hon. Mr. V. K. Seth, A.M.
Hon. Mr. D. C. Verma, J.M.

OK
Submitted for order
21/12

Shri A. Sahai for applicant
Dr. Ashok Nigam & Hon. Ashok
Chandra for respondents. As
prayed for, Dr. Ashok Nigam, is allowed
4 weeks to enable him to obtain instructions
but on 28.4.97.

J.M.

V.K.
A.M.

24-11-97

(34)

Hon. Mr. V. Q. Seth, A.M.
Hon. Mr. D. C. Verma J.M.

None for petitioner.

Sr Umesh Kumar, brief holder for SSA.
Nigam for respondents no 2 & 3.
None for other respondents.

List on 5-2-98 for orders.

J.M.

A.M.

S-2-98

(35)

Hon. Mr. V. Q. Seth, A.M.
Hon. Mr. D. C. Verma J.M.

~~Dr. A. Nigam~~ Dr. A. Nigam has not been
indicated as counsel for
respondents. His name should
be indicated henceforth.

List on 6-11-98 for
orders.

J.M.

A.M.

(35)

06.4.98

Case not reached
adj. to 23.7.98.

B. B. 02

Submitted for
orders.
21/7/98

23.7.98

NO settling of QB adj.
to 21.7.98

J.M.

17/9

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW

Lucknow this the 20th day of April, 99

C.C.P. No. 67/93

HON. MR. D.C. VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

Deepak Kumar, aged about 30 years, son of Sri B.B. Saxena, resident of 18, Deen Dayal Road, Asharfabad, Lucknow.

Applicant.

By Advocate Shri A. Sahai.

versus

1. Sri K.K. Sharma, Station Engineer, All India Radio, Almora.
2. Mr. Balram Rai, Station Director, All India Radio, Almora.
3. Sri V.K. Singh, Chief Engineer, North Zone Akashwani and Doordarshan, Shahjahan Road, New Delhi.
4. Sri Ayodhya Prasad, Director Engineer, North Zone, Shahjahan Road, New Delhi.

Opp. parties.

None for respondents.

O R D E R (ORAL)

HON. MR. D.C. VERMA, MEMBER(J)

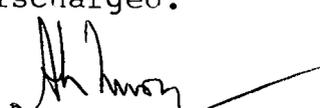
The applicant's case is that he was working on the post of Engineering Assistant and his services were terminated. Against the termination order the applicant filed O.A. No. 130/90 Deepak Kumar vs. Union of India and others. The said O.A. was decided by a Division Bench of this Tribunal vide its order dated 5.7.91. The order of termination was quashed. It was further directed that the applicant will be deemed in service from the date of termination with all consequential benefits.

d

2. Due to non compliance of the order of the Tribunal the petitioner filed contempt petition 47/91. The said Contempt petition was dismissed on 1.5.92. In the light of the statement given in the counter affidavit that as soon as the petitioner reports for duty, he will be given charge of the post and any other consequential benefits within reasonable time. It was observed that the applicant will report for duty within 15 days. The applicant joined the duties but was not paid the arrears of salary from August 98 till the date of joining. As the consequential benefits were not given to the applicant he has filed the present contempt petition.

3. During the course of arguments the learned counsel for the applicant drew attention of the Bench towards the order dated 7.2.94 and submitted that after the Tribunal called the respondents to appear in person, the payments were made to the applicant. The order dated 18.3.94 shows that all payments due under the order were made to the applicant. However, the case was adjourned as the applicant wanted time to check up the details of the payment. During the course of arguments the learned counsel submitted that all payments have been received by the applicant. Delay has been explained by the respondents and it has also been stated that delay was ~~not~~^s bonafide and was unintentional.

4. In the Supplementary Counter affidavit filed on 9.9.97 unconditional apology for the delay in making the payment has been made. In view thereof, we accept the unconditional apology and dismiss the Contempt Petition. Notices are discharged.


MEMBER (A)


MEMBER (J)

Lucknow; Dated: 20.4.99

BEFORE THE CENTRAL ADMINISTRATION TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

CONTEMPT CASE NO. (CP) of 1993

IN RE:

O.A.NO.130/90 (L)

DEEPAK KUMAR. PETITIONER.
VERSUS
SRI K.K.SHARMA & OTHERS ... OPP.PARTIES.

I N D E X

Particulars.	Page No.
1. Contempt petition U/S 17 of the Act.	... 1 - 13
2. Affidavit.	... 14 - 15
3. Copy of Judgement in OANO 130/90 dated 5.7.91 Annexure A/1.	... 16 - 21
4. Copy of order dated 1.5.92 passed by Hon'ble Justice Mr.U.C.Srivastava, UC and Hon'ble Mr.A.B.Gorthi, A.M. Annexure A/2.	... - 22
5. Copy of intimation and request for payment of salary dated 18.8.92.	... - 23
6. Vakalatnama.	... - 24

LUCKNOW:-

Dated:- 27.4.93.

Ajala
(AKHILESH SAHAI),
Advocate.

ORDER OF THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD,

(CIRCUIT BENCH)

Central Administrative Tribunal

Circuit Bench, Lucknow

LUCKNOW.

Date of Filing 27/4/93

Date of Receipt by Post

Deputy Registrar(J)

GOVERNMENT CASE NO.

(CP) OF 1993.

IN RE:

O. A. NO. 130/90 (L)

Deepak Kumar, aged about 30 years, son of Sri B.B. Saxena, B/o 18, Dasa Dayal Road, Asharfabad, Lucknow. ...Petitioner.

VERSUS.

- 1. Sri H.M. Sharma, Station Engineer, ~~...~~
Director, All India Radio, Almorah.
- 1A Mr Bahram Rai Station Director All India Radio Almorah.
- 2 Sri V.K. Singh, Chief Engineer, North Zone, Government of India, Almorah.
- 3 Sri Ayodhya Prasad, Director Engineer, North Zone, Deoria, Jannagar, Housa, Shahjahan Road, Nav Dolbi, 110 011.

....Opp. Parties.

DETAILS OF APPLICATION:

- 1. Particulars of the order against which the Contempt application U/S 17 is filed.

(Contd...2)

The Tribunal's order dated 5.7.1991 and 1.5.1992 received by the petitioner on 9.7.1991 and on 5.7.1992, passed by Hon'ble Mr. Justice U.C. Srivastava V.C. and Hon'ble Mr. Gorthi A.M. in O.A. No. 130/90 (L) C.P. No. 47/91 (L).

2. Jurisdiction of Tribunal:

The Petitioner declares that the subject matter and the orders passed by the Tribunal within the jurisdiction of the Tribunal as all orders have been passed by the Tribunal at Lucknow and communicated to opposite parties from Lucknow.

3. Limitation:

That the present petition is within limitation as the Tribunal's order passed on 5.7.1991 and on 1st May 1992 were communicated by the petitioner on 16.7.1991 and 11.5.1992 to the opposite parties and a period of one year from the last order will expire on 10.5.1993.

The petitioner begs to state as under:-

4. Facts of the Case:

- 4.(1) That the petitioner was appointed vide appointment order No. A-13/11/1/86- EPC dated nil on the Post of Engineering Assistant in the Scale of Rs. 1400-40-1600-50-2500-EB-60-2800 on a

regular and permanent Post and after his posting under the Director Door Darshan Kendra Punjab, he was transferred from there to All India Radio, Almorah vide No. A-13/II-(I)/88 EPC dated 27.7.88 and at Almorah he joined his duty on 10.8.1988.

4.(ii) That while the petitioner was at Almorah, then he applied for study leave, and while he was at Lucknow during the granted leave in connection with the studies then he became ill and was admitted in Balrampur Hospital, Lucknow twice and while he was undergoing treatment, then without cancelation of granted leave his services were terminated.

4.(iii) That from being aggrieved by the illegal order or termination, the petitioner filed O.A. No. 130 of 1990 (L) Deepak Kumar Versus Union of India and others, challenging the illegal termination order. In the case after filing of Counter Affidavit and Rejoinder Affidavit, the case heard U.C. Srivastava and Hon'ble Mr. A.B. Gorthi A.M. on 2nd July 1991 . The judgment in the case was delivered on 5.7.1991 by the Hon'ble Tribunal, by which the ~~order~~ quashed the termination order as according to the Tribunal it was arbitrarily passed, and it was also held that the termination order is violative of Article 311 of the Constitution of India. It was also held that the

X/5

termination order being penal in nature and has been passed without giving any opportunity of hearing and is violative of Article 311 of the Constitution of India. It was also ordered that the petitioner will be deemed to be in service from the date of termination and will also be entitled to all consequential benefits from the date of his termination. The photo copy of the order is filed to this petition as Annexure No. A-1.

5.(1) That the petitioner after receiving the judgment from the Tribunal on 9.7.1991 sent the copy of the judgment Annexure No. A-1 to all the opposite parties through registered letter on 15.7.1991 vide registered letter No. C-8317 to C-8320 to opposite parties, and thereafter after waiting for some time the petitioner went to Almorah and wanted to know that what has been done by the opposite parties who were at Almorah as such, he met the opposite parties there. The petitioner submitted his joining Report to them on 24.7.1991.

5.(11) That at Almorah when the petitioner met opposite parties ^{with and Mrs} then the petitioner was advised by them also to see opposite parties No. and and to know from them what has been done by them as such he was asked to meet opposite parties,

No. and at Delhi, then the petitioner met the opposite parties No. and on 12.8.1991 at Delhi, and also again submitted there an other application alongwith a certified copy of the judgment which has already been sent earlier for apprising them again and for doing the needful at the earliest.

- 5.(iii) That after returning from the office of the opposite parties No. and the petitioner received a letter No. 817/13/DK/90-RBC dated 14/16th August 1991, from the Office of opposite party No. 3, and in it the petitioner was again required to contact opposite parties, the Station Director Almorah for getting the required compliance.
- 5.(iv) That on receiving the letter referred to above, the petitioner on 20.8.1991 again submitted a letter drawing the attention of opposite party No. 1 ~~and~~ for complying Tribunal's order in compliance to the letter received by him from the Office of opposite party No. and .
- 5.(v) That thereafter, the petitioner continuously wrote letters to opposite parties i.e., on 12.9.1991, and 19.10.1991, but the order passed by the Tribunal was not complied with and then

the petitioner, who had not been paid any salary from August 1988 and was also out of service from December 1988, after Tribunal's judgment and was running from pillar to post for the compliance of Tribunal's order in respect of appointment and nonpayment of salary.

5.(vi) That when the Tribunal's order dated 5.7.1991 was not complied with inspite of the serving of Tribunal's order then the petitioner filed a Contempt petition No. 47/91 (L) Deepak Kumar Versus B.B. Pandey and others and after the Hon'ble Tribunal issued notices to opposite parties in the above contempt petition to show cause as to why proceeding of contempt of Court be not initiated as the order has not been complied with and the opposite parties were required to show cause on 24.7.1992 and to appear personally or through some Advocate. It was further ordered that the question of personal appearance will be considered on the next date fixed by the Tribunal.

6.(vii) That on 24.7.1992 the case was not taken up and on that date the respondents advocate informed that the opposite parties are ready to appoint the petitioner and the Counter Affidavit is under preparation hence the case was fixed on 1.5.1992.

(Contd...7)

5.(viii)

That on 1.5.1992 the opposite parties Advocate served a copy of the Counter Affidavit where in it was indicated in para 2 that the opposite parties are ready to reinstate the petitioner in compliance of this Tribunal orders and also situated that an express telegram has already been sent to the petitioner on 16.4.1992 asking him to join his duty immediately. In para 3 of the aforesaid Counter Affidavit it was also stated by the opposite parties that they under take that as soon as the petitioner report for duty he will be given charge of the post and other consequential benefits will be given thereafter within reasonable time in accordance to the rules. *The true photo copy of the order is Annexure A/2*

5.(ix)

That on 1.5.1992 on the basis of the averments of the Counter Affidavit this Hon'ble Tribunal decided the contempt petition by observing that in view of the statement in para 2 and 3 of the Counter Affidavit it has been stated that as soon as the petitioner reports for duty he will be given charge of the post and other consequential benefits will be paid within reasonable time. However it will remain open to the petitioner to approach Tribunal again in case there is any violation of the

x statement by the respondent as contained in para 3 of the counter affidavit in carrying out the same.

- 5.(x) That this order was passed not only in the presence of the Counsel for the parties but it was also passed in the presence of one Sri S.P. Agarwal Accountant posted at A.I.R. Almorah who was doing pairvi on behalf of the opposite parties in the Tribunal.
- 5.(xi) That when nothing was done after joining the duties then the petitioner on 19.8.1992 requested the opposite parties in writing to make the payment of the arrears of the salary of the petitioner from August 1988 till the date of joining. A true photo copy of the application served through Regd. letter on the opposite parties is filed herewith this petition as Annexure No. A-3.
- 5.(xii) That the opposite parties were intentionally not complying the order passed by the Tribunal in respect of the payment of salary after their statement in courts Affidavit and the payment of arrears of salary which was to be complied with as early as possible as was required by the Tribunal's order dated 5.7.1991, and thereafter order dated 1.5.1992 which has not been complied with so

far, The petitioner had also not been allowed the conswquential benefits from the date of the Termination of service and for the unpaid salary prior to termination till the joining of the petitioner ^{and this day has not been} ~~was~~ paid so far, inspite of under taking given by the opposite parties in the earlier contempt petition No. 47/91 (L).

5.(xiii) That inspite of the petitioner's meeting with the opposite parties on 24.7.1991 and 12.8.1991, and thereafter on other dates and in April 1992 after ~~he was~~ allowed to join, ^{his duty} and even after sending several letters requiring them to comply with the Tribunal's order and obeying the undertaking given by them but inspite of the same even after the under taking has not yielded any result so far, as such it appears that the opposite parties are giving deaf ear to the order passed by the Tribunal, on the basis of their undertaking ~~given~~ on their behalf in the Counter Affidavit, before the Tribunal. The photo copy of the order dated 1.5.1992 is filed as Annexure No. A-3 to this petition.

6. That the reasonable period required for ~~the~~ ^{the} completion of Tribunal's order dated 1.7.1991 was allowed

to pass and thereafter, after issue of notices to the opposite parties the compliance of the order within reasonable period after the undertaking given by the opposite parties on 1.5.1992 was also allowed to expire without any payment and in the circumstances of the case if was not bonafide undertaking and the order of allowing consequential benefits for i.e. payment of the arrears of salary which full due from August 1988 to April 1992 and the consequential arrears thereafter has not been paid so far and the reasonable period for complying the order has already expired and now the petitioner is still without any

consequential benefits even after the Tribunal's order dated 1.5.1992 and the opposite parties even after joining of the petitioner have not even allowed the petitioner to draw his salary from correct stage in the scale and the compliance of the order of the Tribunal relating to the consequential benefits has not been done so far hence, the petitioner is again ~~compelled~~ compelled to move the present petition for contempt of Tribunal's order on the following grounds.

G R O U N D S

- A. Because, the opposite parties conduct in non-complying the orders after the passing of Tribunal order on 5.7.1991 and passed thereafter, after filing of Counter Affidavit in contempt petition No. 47/91 on 1.5.1992 was neither bonafide nor after joining when the Tribunal once again on ~~their~~ their under-taking in

the counter affidavit passed the order on 1.5.1992 which was passed in the presence of their Advocate and pairokar and after its due communication by the petitioner on 19th August 1992 and inspite of personal meetings with the opposite parties thereafter and sending several reminders does not inspire them to comply the under taking and the order dated 1.5.1992 ^{not by order} has such, it appears that they don't want to comply their undertaking and the order of the Tribunal as the same has not been complied with so far, even after serving the copy of the order and even after his request in writing for the payment and after bringing the facts to their notice that the order has not been complied with which amounts to wilful disobedience of the order of Tribunal dated 1.5.1992 as well as the direction passed in the judgment dated 5.7.1991 and they are also not complying the undertaking given by them in the counter affidavit in para 3 as such, they have committed wilful disobedience of the order dated 1.5.1992 which has been passed on the basis of their undertaking in the counter affidavit hence the opposite parties are guilty of wilful contempt.

B. Because, the opposite parties are not only very well aware of the Tribunal's order dated 5.7.1991 but they also know that they have ^{again} been required by the order dated 1.5.1992 passed by the

Tribunal i.e. to reinstate the petitioner when he reports for joining and to pay all the consequential benefits within a reasonable time and it is also established that the opposite parties for the reasons best known to them had not complied with the Court's order and the undertaking so far, as such, they have committed the gross contempt in utter disobedience of their undertaking.

C.2 Because, the action and conduct of the opposite parties from the date of the serving of the order dated 1.5.1992 and requesting for payment on 19.8.1992, which is based on the basis of undertaking given by them in the Counter Affidavit which resulted in their discharge from and earlier contempt proceedings and its non compliance so far, will tantamount to diminish the prestige and status of the Tribunal's order, in the eyes of law, and otherw and in case, the opposite parties are not punished for not complying the undertaking and the order then the passing of the order on the basis of undertaking by the Tribunal will become a mockery in the eye of law.

Wherefore, it is most respectfully prayed that this Hon'ble Tribunal be pleased to issue a notice to opposite parties to appear in person and to show cause for not obeying the order within reasonable

before punishing them for committing the contempt of Court's order which is based on an undertaking given before the Tribunal by opposite parties which they have failed to obey in violation of their assurances given by them when the order dated 1.5.1992 was passed and now even after the passing and serving of the Tribunal's order dated 1.5.1992 the petitioner have not been paid the consequential benefits so far, for which also the order has been passed by the Tribunal on 5.7.1991 and as such, the opposite parties are liable to be punished for committing of gross contempt of Court's order dated 5.7.1991 and 1.5.1992 which they have intentionally flouted, to pass such other order which this ~~Ex~~ Hon'ble Court may deem fit and proper under the circumstances of the case.

Lucknow:

Dated: ,1993.


(PETITIONER)

AS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
(CIRCUIT BENCH)

LUCKNOW.

CONTEMPT CASE NO. (CP) OF 1993.

IN RE:

C. A. NO. 130/90 (L)

Deepak Kumar... ..Petitioner.

Versus.

Sri and others. ...Opp. Parties.

A F F I D A V I T

I, Deepak Kumar, aged about 30 years, son of Sri B.B. Saxena, R/o 18, Deen Dayal Road, Asharfabad, Lucknow, the deponent do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner himself in the above noted writ petition and as such he is fully conversant with the facts of the case deposed hereunder;

2. That the contents of paras 1 to of the accompanying writ petition are true to my own personal knowledge and paras to of the same are based on record and while those of paras to of the same are believed to be true on the basis of legal advice.

(Co

3. That the contents of Annexures No. 1 to (Contd...2)

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of the writ petition are photo stat copies of their originals respectively.

Lucknow:


Deponent.

Dated: ,1993.

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paras 1 to 3 of this affidavit are true to my own personal knowledge. No part of it is false and nothing material has been concealed. So help me God.

Lucknow:


Deponent.

Dated: ,1993.

I, identify the deponent who has signed before me.

Advocate.

Solemnly affirmed before me on
at a.m./p.m. by the deponent
who is identified by Sri
Advocate High Court Bench, Lucknow.

I have satisfied myself by examining the deponent that he understands fully with the contents of this affidavit which have been readover and explained be me to him.

OATH COMMISSIONER.

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CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH
LUCKNOW

Contempt Petition No 4/1995(L)

Deepak Kumar

Pehlwan

vs

K.K. Sharma & vs

appellate

Annexure A/

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. 130/98(L)

Deepak Kumar

Applicant

versus

Union of India & others

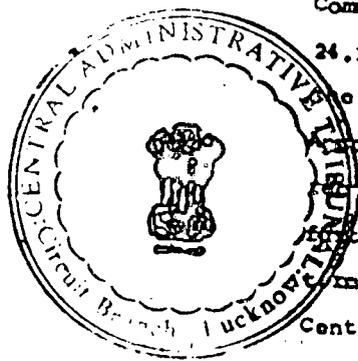
Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, A.M.

(Hon. Mr. Justice U.C.S., V.C.)

The applicant who was appointed on the permanent post of Engineering Assistant on the basis of a selection held on 5th May, 1987 by a Selection Committee, has challenged termination order dated 24.12.1988 terminating his services in pursuance of the proviso at serial Nos. 3 and 4 of the Offer of Appointment. Offer of appointment, which is on record, indicates that the post was temporary till further orders, and that his services can be terminated without assigning any reasons under Central Civil Services (Temporary Services) Rules, 1965 and on being appointed he will be on probation of two years which period can be reduced or extended and during the probationary period his services can be terminated without assigning any reasons. The applicant was first posted on the North Zone under Director, Doordarshan Kendra Punjab, on his request



True photocopy

he was transferred from Jalandhar vide order dated 27.7.1988 and was posted at Almora. As per allegation, at Almora, the applicant became ill and it also became ~~difficult~~ difficult for him to continue Postgraduate diploma in Computer Education. He applied for study leave for 90 days and was allowed vide order dated 27.8.88 w.e.f. 6.9.88 to 3.12.88 with a specific order to suffix 4.12.88 and 5.12.88 being weekly rest and ~~was~~ required to join on 6.12.88. He was granted ^{permission} to join ~~him~~ station and after availing the holiday on 2.9.88 and 3rd and 4th weekly off and 5th compensatory off he came to Lucknow. But in view of his ailment he had to go to the hospital and he was advised to get himself admitted. As per allegation he gave information to the Station Director All India Radio Almora on 6.9.88. It has been admitted in the counter affidavit in which it has been stated that vide telegram dt. 6.9.88 it was intimated that he has been hospitalised w.e.f. 6.9.88, (wrongly mentioned as 90 in the counter, Respondent No. 1). The applicant was discharged but advised 42 days bed rest. The applicant pursued his study and after his discharge he informed through registered post on 10.0.88 alongwith a medical certificate from the doctor who treated him in the hospital as outdoor patient. The applicant was required to obtain a certificate from C.M.O. from the District hospital in proper form, otherwise disciplinary action was to be taken under C.C.S(C.C.A) Rules and submit the same within 15 days. The applicant received the letter on 29.8.88 and submitted a reply stating thereto that in case such a certificate is required the proforma may be sent to enable him to comply with the said

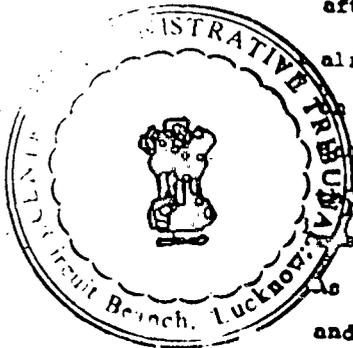


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requirement. The respondent No. 1 has stated that a specimen copy of the proforma medical certificate was sent on 12.10.88 and the applicant was advised to obtain medical certificate from C.M.O. from Lucknow and he was also advised to obtain a certificate regarding information completion of computer course. He was also advised to give a declaration that he was not doing any course and without written permission he cannot pursue any type of studies.

It appears that even though such letters were sent a memo was sent on 6.10.88 stating that as required the medical certificate in proforma has not been received and office will proceed with the disciplinary action. On 25.10.88 the applicant submitted the information which he says was required from him after checking the record the copy of the certificate already submitted. The applicant was again hospitalised on that very date and was discharged on 7.11.88 and advised to take rest for 6 weeks. After obtaining required certificate from C.M.O. Lucknow, he submitted on 15.11.88, he submitted the same on 16.11.88. As per allegation the applicant was discharged on 7.11.88 and was given the outdoor for checkup and he accordingly visited the hospital on 17.11.88, 29.11.88 and again on 8.12.88 and thereafter again on 17.12.1988. During this period he was served with the termination notice dated 24.12.88 mentioning therein that he was not entitled for any pay and allowances for the period of notice. The applicant submitted an appeal / a review application against the termination order to the Chief Engineer, North Zone, New Delhi who is the Head of Department and appointing authority but he was advised that he should

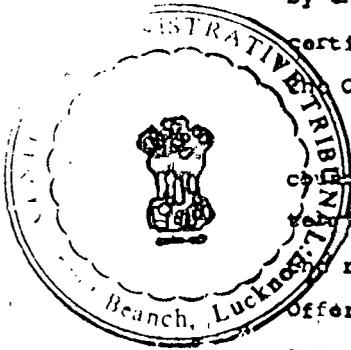


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take up the matter with the respondent No. 1 vide letter dated 29.7.89 received on 8.8.89. The applicant requested respondent No. 1 to intimate order received by respondent No. 3 and 4 and on 21.10.89 the respondent No. 1 communicated the gist of the order said to have been passed and as per allegation his representation dated 9.1.91 was not considered but the one which was sent on 18.9.89 was considered. In the counter affidavit by respondent 1 it has been stated that no study leave was granted to the applicant and only condition on EOL sanctioned which was sanctioned on 31.8.88, the intimation of which was given to the applicant verbally. In response to this cancellation he applied for leave with the condition that he will resume duty on 6.9.88 and it was Station Director appointing authority and Chief Engineer was the recruiting authority. It has also been stated by the affidavit that the applicant had obtained the certificate from a Consultant physician and not from C.M.O. who is the competent authority.

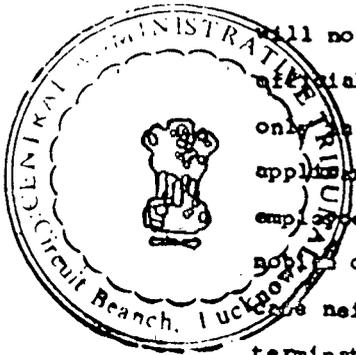


The question that has been conveyed by the learned counsel for the applicant that his service could have been terminated only by the appointing authority and not by respondent No. 1 who was not his appointing authority. Offer of appointment to the applicant was given by the Chief Engineer Northern Zone, All India Radio and in pursuance of the same the applicant was posted at Doodhshahi Kendra Jalandhar where he joined. The applicant was transferred under the orders of Chief Engineer, Northern Zone, Almora on his representation which was one of the stations in the northern zone like Jalandhar. The applicant has also filed document indicating that for

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such post advertisement was subsequently issued by the Chief Engineer, Northern Zone. These facts indicate that it was the Chief Engineer who was the appointing authority. The Station Director All India Radio who transferred the applicant, could not be the appointing authority and consequently the termination order has been passed by the authority who is lower than the appointing authority and the termination order is liable to be quashed on this ground alone. Even the version of the respondent No. 1 that the leave was cancelled orally which was granted in writing obviously, is not correct, although the respondent No. 1 has vaguely asserted this fact but it is regrettable that an officer



will not come to the extent of saying such thing. An official order which is passed in writing can be cancelled only in writing and not orally. It is true that the applicant was on probation and he was a temporary employee, he was governed under C.C.S. rules under which gratuity or salary in lieu thereof is given. In the instant case neither notice, nor salary was given and thus the termination order is violative of the C.C.S. rules. A

which case the termination order was held invalid as no notice or salary in lieu thereof was given.

reference may be made to the case of Kurum Gupta vs. Maryana State Small Industries (1986) 3 SCC 506 in which the facts stated above will indicate that the order of termination was passed as a result of annoyance or by way of punishment. Medical certificate was demanded by the respondent No. 1 in the prescribed proforma and the prescribed proforma was despatched from the office on 12.10.88 which was received by the applicant on 21.10.88 and even prior to the sending of the proforma and even before that the respondent No. 1 vide his

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CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
LUCKNOW

22

Contempt Petition No. 47 of 1991(L)

Deepak Kumar

Pehlwan 8/10/91

K.K. Sharma & Co.

ap. Pankaj

Annexure A/

Central Administrative Tribunal
Lucknow Bench

Contempt Petition No. 47 Of 1991(L)

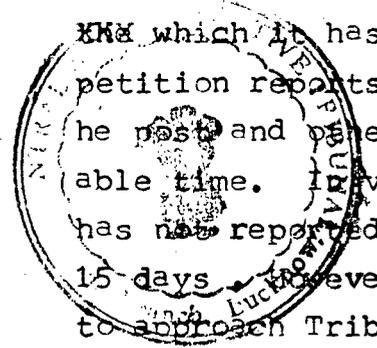
Deepak Kumar Applicant.
-Vs-

B.B. Panday Station Director, Respondents.

1.5.92

Hon'ble Mr. Justice U.C. Srivastava -V.C.

Hon'ble Mr. A.B. Gorthi -A.M.



Counter has been filed today, in para 3 of
the which it has been stated that as soon as the
petition reports for duty, he will be given change of t
he post and other consequential benefits within a reason
able time. In view of the above if the applicant
has not reported he will report for duty within
15 days. However, it will be open for the applicant
to approach Tribunal again in case there is any
violation of the statement by the respondents in
para 3 of the counter in carrying out the same.
Application is dismissed.

C.B.

Sd/
A.M.

Sd/
V.C.

// True Copy //
Deputy Registrar

Central Administrative Tribunal
Lucknow Bench,
Lucknow

T.C
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CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH
LUCKNOW

Contempt Petition No 4/1995(L) 23

Deepak Kumar

Pehlwan P/M

vs
K.K. Sharma & Co

Appellate Petition

Annexure A/

To,

The Station Engineer,
All India Radio,
Almora (U.P.)

SUBJECT: Non payment of consequential benefits allowed by the Tribunal in OA case No. 130(L)90 decided on 03.07.91.

Respected Sir,

40 more than three and a half months has passed after my joining on 27.04.92 and in view of your statement on OAO before the Tribunal through an affidavit you assured the Tribunal that other consequential benefits that is arrears of pays Allowances will be given within a reasonable time and on this basis the Tribunal vide order Dated 01.05.92 that it will be open for the applicant approach Tribunal again in case there is any violation of the statement by the respondents which also included you besides the Station Director, Almora, Director Engineering (R2), New Delhi, and Chief Engineer (R2), New Delhi. It is rather strange that in spite of undertaking an assurance on behalf of the respondents, my arrears from Sep. 88 upto 30 April 1992 has not been paid. Kindly see that they are at an very early date as much time has already passed off that assurance. In case the consequential benefits are not paid at an early date, I will again be obliged by the circumstances to knock the door of the Tribunal again for violation of the undertaking before the Tribunal.

Yours faithfully,

Dated: 16.03.92.

(DEEPAK KUMAR)
ENGINEERING ASSISTANT
ALL INDIA RADIO, ALMORA.

Through The Station Engineer, AIR Almora.

Copy to:- 1) The Chief Engineer (R2), Akashvani & Boarders
Janager House, Shahjahan Road, New Delhi-11
for taking necessary action for implementing
the Tribunal orders regarding the consequential
benefits.

2- The Director Engineering (R2), Akashvani & Boarders,
New Delhi. for taking necessary action for implementing
the Tribunal orders regarding the consequential benefits.

3- The Station Director, All India Radio, Almora. for taking
necessary action for implementing the Tribunal orders
regarding the consequential benefits.

DEEPAK KUMAR

EP

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

CONTEMPT PETITION NO. 67 of 93

in re: OA No.130 of 1990.



Deepak Kumar

.. Petitioner

-versus-

Shri KK Sharma and 3 others .. Opposite parties.

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE
PARTY NO. 1A

I, Balram Rai, aged about 53 years,
son of Late Manbir Rai at present
posted as Station Director, All India Radio,
Almora do hereby solemnly affirm and state as
under:-

1. That the deponent is opposite party no.2 in the above contempt petition.
2. That the deponent has read and understood the contents of the petition and he is fully conversant with the facts deposed to herein under:
3. That the contents of para 1 of the petition



[Signature]

need no comments.

4. That the contents of para 2 of the petition are not disputed.

3. That the contents of para 3 of the petition need no comments.

4. That the contents of para 4(i) of the application are admitted but the pay scale of the petitioner was Rs. 1400-40-1600-50-2300-EB-60-2600.

5. That in reply to the contents of para 4(ii) of the petition it is submitted that the post was temporary and likely to be permanent, the petitioner was posted for the first time at All India Radio, Almora.

6. That in reply to the contents of para 4(iii) of the petition it is submitted that the appointment of the petitioner was a fresh appointment. However, he was earlier offered posting at Doordarshan Kendra, Punjab but he did not join there. Later on he joined at All India Radio, Almora for the first time as a fresh appointee in the post of Engineering Assistant, and not on transfer as mentioned in this paragraph. The rest of the contents are denied.



[Signature]

9. That the contents of para 5(i) of the petition are admitted to the extent that the petitioner came to All India Radio, Almora for joining his duties as fresh appointee and not on transfer.

10. That the contents of para 5(ii) of the petition are not in the knowledge of the answering opposite party no.2, hence denied.

11. That the contents of para 5(iii) of the petition are not in the knowledge of the answering opposite party no.2 hence denied.

12. That the contents of para 5(iv) of the petition are not disputed.

13. That in reply to the contents of para 5(v) of the petition it is submitted that there was a period of 90 days in file the SLP in the Hon'ble Supreme Court of India after the judgement and order passed by this Hon'ble Tribunal for which correspondence with higher authorities were made for their approval before filing the Special Leave Petition. Hence payment during the above period could not be made till the decision to file SLP in

Manohar Singh
11/1/54



Manohar Singh

in the Hon'ble Supreme Court is decided by the higher authorities, hence there was no mala fide intention of the answering opposite party no.2 for delay in payment of arrears to the petitioner.

14. That the contents of para 5(vi) and 5(vii) of the petition need no comments.

15. That in reply to the contents of para 5(viii) of the petition it is submitted that as already stated in the order passed by this Hon'ble Tribunal that All India Radio, Almora is not an appointing authority of the petitioner and that All India Radio, Almora ~~is not~~ was unable to take any such type of decisions like joining, consequential benefits without the proper approval of ~~his~~ his higher authorities. In this connection AIR Almora was regularly approaching Director General AIR/CE(North Zone) New Delhi regarding joining of the petitioner and to file SLP etc. All India Radio, Almora received the clearance only on 16.4.1992 through letter dated 10.4.1992 issued by the Chief Engineer (North Zone) New Delhi along with a copy of Directorate AIR New Delhi letter dated 8.4.1992 and then AIR Almora

Manohar Singh
8/11/94



[Signature]

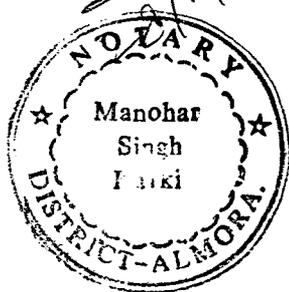
issued on Express telegram dated 16.4.92 to the petitioner on the very same day wording as 'join duties immediately'.

16. That the contents of para 5(ix) and 5(x) of the petition need no comments.

17. That in reply to the contents of para 5(xi) of the petition it is submitted that the payment could not be made for want of proper sanction from higher authorities.

18. That the contents of para 5 (xii) of the petition are incorrect as stated hence denied and in reply it is submitted that the details of arrears with effect from 10.8.1988 were made by the AIR, Almora and were sent to higher authorities for sanction but the approval of the same is still awaited. The Dte. AIR, New Delhi has already sent the details of arrears to the Ministry of Information and Broadcasting for approval. Ministry has made some queries in this regard. As per telephonic discussion it has come to the notice of AIR, Almora only on 4.11.93 and the reply of queries has already been sent vide their letter

Manohar Singh
21/1/94



[Handwritten signature]

A/40

dated 5.11.93 and with a request to sanction immediately so that the payment of arrears of to the petitioner may be made without further delay. Ministry of Information and Broadcasting and DG AIR New Delhi are however taking every effort to scrutinise the arrears and to make payment earliest possible to the petitioner.

19. That in view of the details explained in para 18 of this affidavit, no further comments are offered in reply to the contents of para 5(xii) and para 6 of the petition.

20. That in reply to the grounds (A), (B) & (C) of the petition it is submitted that as already stated above paragraphs, the All India Radio, Almora is not Appointing authority of the petitioner as stated in the Hon'ble CAT's order. Therefore, each and every decision is to be taken by Chief Engineer (North Zone) New Delhi or Dte. AIR, New Delhi and AIR, Almora has to work only as a co-ordinator and the case of consequential benefits is pending with the Dte. AIR, New Delhi/Ministry of Information and Broadcasting New Delhi and they have already been

Manohar Singh
27/11/94



[Signature]

approached to give the sanction so that the payment of arrears be given to the petitioner urgently, It has already stated in the preceeding paragraphs the Ministry is taking every effort to issue sanction for payment of arrears to the petitioner. As such there is no such intention of respondents by which it is proved that they are not willfully making payment to the petitioner against the orders of this Hon'ble Tribunal.

21. That the respondents have never been negligence nor there is any deliberate delay on the part of the Respondents in making the arrears of payment to the petitioner in pursuance of the judgement given by this Hon'ble Tribunal because there are so many formalities to be observed and several officers have to be consulted before making payment of arrears of dues to the petitioner.

22. That the answering opposite party has not committed any contempt and he has taken prompt action on his part and he is not an final authority to make arrears of payment to the petitioner.



Manohar Singh

1/2

23. That there is no deliberate intention or willful disobedience on the part of the answering opposite party or other opposite parties and as such the contempt petition filed against the answering opposite party may very kindly be dropped in the ends of justice.

24. That in view of the facts and circumstances stated in the foregoing paragraphs the contempt petition filed against the answering opposite party may very kindly be dropped from further proceedings, and the contempt petition filed by the petitioner is liable to be dismissed.

[Signature]
Deponent

[Signature]
Deponent

Dated: 28th Jan. 1994.

Verification.

I, the above named deponent do hereby verify the contents of para 1 & 2 of this affidavit are true to my personal knowledge and those of para 3 to 24 of this affidavit are believed to be true on the basis of records and based on legal advice.

[Signature]

[Handwritten signature]



Vakalatnama C. A. T

In the Hon'ble High Court of Judicature
at Allahabad, Lucknow Bench

Contempt Petition No. 67/93
in Re: O.A. No. 130/90

Deepak Kumar Petitioner 18/11/94

vs
K. K. Sharma & Sons,
opp: Petitioner.

VERSUS

No. _____ of 19 _____

I/we the undersigned do hereby nominate and appoint **Km. Asha Chaudhary** Addl Central Govt. Standing Counsel High Court, Lucknow Bench, and Shri.....
Adv. Central Govt. Standing Counsel High Court & Lucknow Bench.

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

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

ACCEPTED

1.  Advocate

2. _____ Advocate

Signature of Client.....


BALA RAM RAI
STATION DIRECTOR
ALL INDIA RADIO
ALMORA

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH MOTI MAHAL LUCKNOW

NO./CAT/LKO/JUDL/ 3783 TO 3786

DATED: 3/3/94

Contempt petition No. 07/93
in

O.A./T.A.No. 130/90
xxx

NOTICE OF CONTEMPT

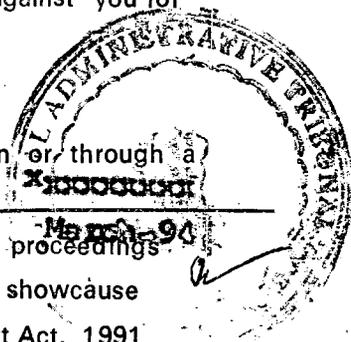
To,

- 1-Shri K.K.Sharma, Station Engineer, All India Radio, Almora.
- 2(1-A) Mr. Dalren Rai, Station Director, All India Radio, Almora.
- 3- Sri V.K. Singh, Chief Engineer, North Zone, Govt. of India, Akashvani & Doodarshan, JanNagar, House, Shahjahan Road, New Delhi. 11.
- 4-Shri Ayojhya Prasad, Director Engineer, North Zone, Govt. of India Akashvani & Doodarshan Jaunagar, House, Shahjahan Road, New Delhi. 11.

Where as information is laid/a petition if filed/ motion made by Deepak Kumar that you have not complied the order dated 5-7-91 in O.A.No.130/90 passed by this Tribunal.

And whereas a petition has been registered against you for action being taken under the contempt of Court Act, 1991

You are here by required to appear in person or through a duly authorised advocate on _____ day of ~~xxxxxx~~ March-94 at ~~xxxxxx~~ 18th and on subsequent dates to which the proceedings may be adjourned unless otherwise ordered by the Tribunal and showcause why such action as is deemed fit under the contempt of Court Act, 1991 should not be taken against you.



Given under my hand and the seal of this Tribunal this _____ day of _____

21st

Feb-94.

DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

ENCL :

Copy of order dated 7-2-94 passed by this Tribunal.

Vakalatnama

C.A.T.

In the Hon'ble High Court of Judicature

at Allahabad, Lucknow Bench

Contempt Petition No. 67/93
in re dt. 130/90

A/47

Deepak Kumar
- vs -

K. K. Sharma & 3 others.

VERSUS

No.

of 19

I/we the undersigned do hereby nominate and appoint **Km. Asha Chaudhary** Addl Central Govt. Standing Counsel High Court, Lucknow Bench,
and Shri.....
High Court : Lucknow Bench.

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

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

ACCEPTED :-

1. Advocate

2. Advocate

Signature of Client...
KRISHNA KUMAR
DY. DIRECTOR (E)
O/O THE CHIEF ENGINEER (NZ)
AKASHVANI & DOORDARSHAN
NEW DELHI

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW.

CONTEMPT PETITION NO. 67 OF 93

IN RE: O.A. NO. 130 OF 90.

Deepak Kumar Petitioner

-Versus-

K.K.Sharma, Station Engineer,
All India Radio, Almorah
and 3 others Opposite parties.

AFFIDAVIT ON BEHALF OF SHRI K.K.SHARMA
OPPOSITE PARTY NO. 1.

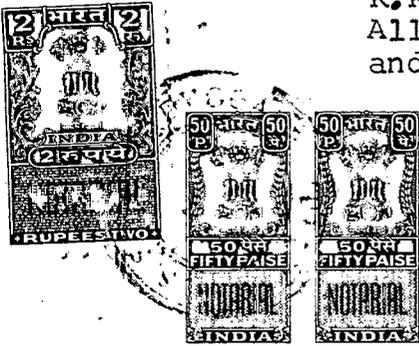
.....

I, K. K. Sharma, aged about 55 years,

son of Shri Sant Ram, at present posted as Deputy
Director in the office of the Chief Engineer, All
India Radio and Doordarshan, Jannagar House Hutments,
Shahjahan Road, New Delhi, do hereby solemnly affirm
and state as under :-

1. That the deponent is opposite party No.1
in the above contempt petition.
2. That the deponent has read and understood
the contents and he is fully conversant with the facts
deposed to herein under :

Handwritten signature: Vishwan. Kumar



Handwritten initials: P.T. 10/3

A/W

3. That the contents of para 1 of the petition need no comments.
4. That the contents of para 2 of the petition are not disputed.
5. That the contents of para 3 of the petition need no comments.
6. That the contents of para 4(i) of the application are admitted but the scale was Rs.1400-40-1600-50-2300-EB-60-2600.
7. That in reply to the contents of para 4(ii) of the petition it is submitted that the post was temporary and likely to be permanent. The petitioner was posted for the first time at All India Radio, Almora.
8. That in reply to the contents of para 4(iii) of the petition it is submitted that the appointment of the petitioner was a fresh appointment. However, he was earlier offered posting at Doordarshan Kendra, Punjab but he did not join. Later on he joined at All India Radio, Almora for the first time as a fresh appointee in the post of Engineering Assistant



X

Handwritten signature

and not on transfer as mentioned in this paragraph.
The rest of the contents are denied.

9. That the contents of para 5(i) of the petition are admitted to the extent that the petitioner came to All India Radio, Almora for joining his duties as fresh appointee and not on transfer.

10. That the contents of para 5(ii) of the petition are not in the knowledge of the answering opposite party no.1, hence denied.

11. That the contents of para 5(iii) of the petition are not in the knowledge of the answering opposite party no.1, hence denied.

12. That the contents of para 5(iv) of the petition are not disputed.

13. That in reply to the contents of para 5(v) of the petition it is submitted that there was a period of 90 days to file the SLP in the Hon'ble Supreme Court of India after the judgement and order passed by the Learned Central Administrative Tribunal for which correspondence with higher authorities were made for their approval before filing the Special Leave petition. Hence payment during the above period



Wisham, Kumar

could not be made till the decision to file SLP in the Hon'ble Supreme Court is decided by the higher authorities, hence there was no mala fide intention of the answering opposite party for delayed payment to the petitioner.

14. That the contents of para 5(vi) and 5(vii) of the petition need no comments.

15. That in reply to the contents of para 5(viii) of the petition it is submitted that as already stated in the order passed by this Hon'ble Tribunal that All India Radio, Almora is not an appointing authority of the petitioner and that All India Radio, Almora was unable to take any such type of decisions like joining, consequential benefits without the proper approval of the his higher authorities. In this connection AIR Almora was regularly approaching DG, AIR/CE(North Zone) New Delhi regarding joining of the petitioner and to file the SLP etc. All India Radio, Almora received the clearcut instructions from them only on 16.4.1992 through letter dated 10.4.1992 issued by

Nishan Kumar the Chief Engineer (North Zone) New Delhi along with

✓

a copy of Directorate, AIR letter dated 8.4.1992 and then AIR Almora issued an Express telegram dated 16.4.92 to the petitioner on the very same day wording as 'Join duties immediately.'

16. That the contents of para 5(ix) and 5(x) of the petition need no comments.

17. That in reply to the contents of para 5(xi) of the petition it is submitted that the payment could not be made for want of proper sanction from higher authorities.

18. That the contents of para 5(xii) of the petition are incorrect as stated hence denied and in reply it is submitted that the details of arrears with effect from 10.8.1988 were made by the AIR, Almora and were sent to higher authorities for sanction but the approval of the same is still awaited. The Dte. AIR New Delhi has already sent the details of arrears to the Ministry of Information and Broadcasting for approval. Ministry has made some queries in this regard. As per telephonic discussion it has come to the notice of AIR, Almora only on 4.11.93 and the reply of queries has already been sent vide their letter dated 5.11.93 and with a request to sanction



Vishwanath

1/5/53

immediately so that the payment of arrears to the petitioner may be made without further delay. Ministry of Information and Broadcasting and DG, AIR, New Delhi are however taking every effort to scrutinise the arrears and make payments earliest possible to the petitioner.

19. That in view of the details explained in para 18 of this affidavit, no further comments are offered in reply to the contents of para 5(xiii) para 6 and ~~5(xix)~~ of the petition,



20. That in reply to the grounds (A), (B) & (C) of the petition it is submitted that as already stated above paragraphs, the All India Radio, Almora is not appointing authority of the petitioner as stated in the Hon'ble CAT's order. Therefore each and every decision is to be taken by Chief Engineer (North Zone) New Delhi or Dte. AIR, New Delhi and AIR, Almora has to work only as a co-ordinator and the case of consequential benefits is pending with the Dte. AIR, New Delhi/Ministry of Information and Broadcasting New Delhi and they have already been approached to

Rushan Kumar

to give the sanction so that the payments of arrears be given to the petitioner urgently.

It has already stated in the preceding paragraphs the Ministry is taking every effort to issue sanction for payment of arrears to the petitioner.

As such there is no such intention of respondents by which it is proved that they are not willfully making payment to the petitioner against the orders of this Hon'ble Tribunal.

21. That the respondents have never been negligent nor there is any deliberate delay on the part of the Respondents in making the arrears of payment to the petitioner in pursuance of the judgement given by this Hon'ble Tribunal because there are so many formalities to be observed and several officers have to be consulted before making payment of arrears of dues to the petitioner.

22. That the answering opposite party has not committed any any contempt and he has taken prompt action on his party and he is not an final authority to make arrears of payment to the

Mushan Mur petitioner.



23. That there is no deliberate intention or willful disobedience on the part of the answering opposite party or other opposite parties and as such the contempt petition filed against the answering opposite party may very kindly be dropped in the ends of justice.

24. That in view of the facts and circumstances stated in the foregoing paragraphs the contempt petition filed against the answering opposite party may very kindly be dropped from further proceedings, and the contempt petition filed by the petitioner is liable to be dismissed.

Krishan Kumar
Deponent.

Lucknow,

Dated: *2nd Feb*
Jan. 1994.

Verification.

Krishan Kumar
I, the above deponent do hereby verify the contents of para 1 & 2 of this affidavit are true to my personal knowledge and those of para 3 to 24 of this affidavit are believed to be true on the basis of records and based on legal advice. No part of this affidavit are false and no material fact has been concealed.

Krishan Kumar
Deponent.

Lucknow,

Dated: *2nd Feb.* 1994.

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



~~Advocate~~

(Counsel for the opposite party No. 1)

87005

R. H. ...
NOTARY PUBLIC

2-2-94

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

Contempt Petition No. 67 of 1993

In res

Original Application No. 130/90 (L)

Deepak Kumar

... Petitioner

Versus

Shri K.K. Sharma & others

... Opp. Parties.

APPLICATION FOR RECALL OF THE CONTEMPT
NOTICE ON BEHALF OF OPP. PARTY NO. 2

The applicant/Opp. Party no. 2 abovenamed,
most respectfully submits as under:-

That for the facts, reasons and circumstances
stated in the accompanying counter affidavit, it
is most respectfully prayed that the Hon'ble
Tribunal may be pleased to recall the notice
issued against the applicant and to discharge him
of the contempt notice, in the interest of justice.

(Dr. Ashok Nigam)

Lucknow : Dated

Advocate

March, ,1994.

Counsel for the Applicant/
Opp. Party no. 2

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

Contempt Petition No. 67 of 1993

In re:

Original Application No. 130/90 (L)

Deepak Kumar

... Petitioner

Versus

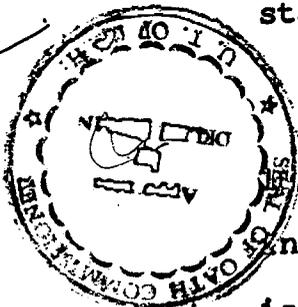
Shri K.K. Sharma & others

... Opp. Parties.

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE

PARTY NO. 2

I, V.K. Singh, aged about 48 years,
son of Sh (Late) K.N. Singh resident of
C-104, Pragati Vihar Lodi Road, New Delhi
the deponent, do hereby solemnly affirm and
state as under:-



That the deponent is opposite party no. 2
in the above noted contempt petition as such he
is fully conversant with the facts of the case
deposed to hereunder.

2. That the deponent is presently posted as Chief Engineer, North Zone, All India Radio New Delhi.

3. That it is clear from the perusal of the contempt petition that Shri Deepak Kumar, the Applicant, is working in the All India Radio as Engineering Assistant (E.A.). His claim relates to his posting at Almora about payment of salary etc. as directed by the Hon'ble Tribunal in its earlier judgement in O.A. No. 130/90.

4. That the appointing authority for the post of Engineering Assistant in Station Director/ Station Engineer and not the Director Engineer or Zonal Chief Engineer. Any action for complying with the order of the Hon'ble Tribunal was to be taken by the said officer, if required, in consultation with the Director General All India Radio which is the Administrative Head in case of Radio Stations. The responsibility for making payment of salary etc. to Engineering Assistant is also that of the Local Station and not of the Zonal Chief Engineer or the Director Engineer.

5. That furthermore, there is no specific allegation made in the contempt petition against the deponent.



6. That in the circumstances, the deponent could not be held responsible for payment of salary etc. to the applicant which was the

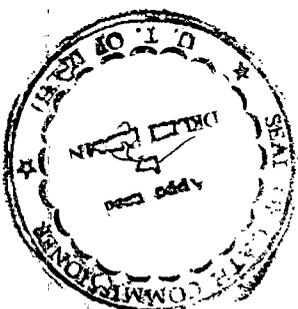
1/6

sole responsibility of the Respondent No. 1. The inclusion of the name of the deponent in the array of opposite parties is totally uncalled for and malafide with a view to harass and injure the deponent.

7. That the deponent most respectfully submits that he is a responsible officer of the Government of India who has got utmost regards for the directions of the Hon'ble Tribunal and has never flouted them. In the instant case also he has not wilfully disobeyed any direction of the Hon'ble Tribunal. In fact the directions were to be implemented not by the deponent ~~by~~ but by the Respondent No. 1. The deponent has committed no contempt of the Hon'ble Tribunal's said judgement and order and is, therefore, liable to be discharged and the contempt notice issued to him is liable to be recalled.

Ud Singh

8. That, however, in case the Hon'ble Tribunal reaches to the conclusion, for any reason, that the deponent is responsible for any inadvertent act of omission or commission in this regard, the deponent tenders his unqualified apology for the same.



New Delhi : Dated
March, 16, 1994

Ud Singh
DEPONENT

VERIFICATION

I, the deponent abovenamed, do hereby verify that the contents of paras

of this affidavit are true to my personal knowledge, those of paragraphs 3 & 5 are believed to be true on the basis of information, those of paragraphs 4 & 6 are believed to be true on the basis of records, while those of paragraphs 7 & 8 are also believed to be true on the basis of legal advice and that I have not suppressed any material fact.

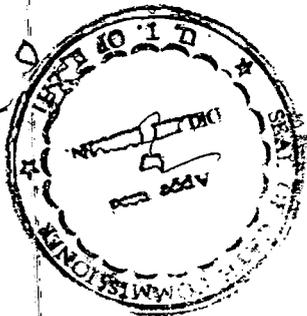
New Delhi : Dated
March, 16, 1994.

U. Singh
DEPONENT

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

Advocate.

Solemnly affirmed before me on
at am/pm by the deponent, Shri V.K. Singh,
who is identified by Shri
Advocate.



I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read

Certified that the deponent
V.K. Singh over and explained to him by me.
Shri *Shri. Anil Kumar Nishan*
Shri. Prakash Chandra
Shri. Rao
at the Court on *16.3.94*
which has been read over and explained to him is true and correct to his knowledge.
U. Singh 16.3.94

माननीय उच्च न्यायालय इलाहाबाद
लखनऊ पीठ

याची/अपीलार्थी
प्रतिपक्षी

का वकालत नामा

कॉन्ट्रैक्ट पेटीशन
नं० 67/93

श्री. दीपक कृष्ण याची/अपीलार्थी

बनाम

डा० वी.के.ए. शिंदे प्रतिपक्षी
(मुख्या उपाध्याय (अपीलार्थी))

रिट पेटीशन/अपील नं०

आफ १६

पेशी की तिथि

मैं ऊपर लिखे मुकदमा में अपनी ओर से डा० अशोक निगम,

एडवोकेट, ३, सप्रू मार्ग, लखनऊ, महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा [इकरार] करता हूं और लिखे देता हूं कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पंरवी व जवाबदेही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल या लौटावें या हमारी ओर से डिक्री जारी करावें और रुपिया वसूल करें या सुलहनामा इकवाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें तथा तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या हमारी या विपक्षी [फरीकसानी] का दाखिल किया रुपया अपने या हमारे हस्ताक्षर युक्त [दस्तखाती] रसीद से लेवें या पंच नियुक्त करें, वकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी इस लिए यह वकालतनामा लिखा दिया कि प्रमाण रहे और समय पर काम आवे।

हस्ताक्षर

14.2.94

साक्षी (A. K. Singh)

साक्षी (A. K. Singh)

दिनांक 14.2.94

DR. V. R. SINGH
Chief Engineer (NZ)
AIR & Doordarshan
Jam Nagar House
New Delhi - 110011

सन् १९९४

Accepted for Petitioner/Respondant No.

Ashok Nigam

(Dr. ASHOK NIGAM)
Advocate

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

Contempt Petition No. 67 of 1993

In re:

Original Application No. 130/90 (L)

Deepak Kumar

... Petitioner

Versus

Shri K.K. Sharma & others

.. Opp. Parties.

APPLICATION FOR RECALL OF THE CONTEMPT

NOTICE ON BEHALF OF OPP. PARTY NO. 3

The applicant/opp. party no. 3 abovenamed,
most respectfully submits as under:-

That for the facts, reasons and circumstances
stated in the accompanying counter affidavit, it is
most respectfully prayed that the Hon'ble Tribunal
may be pleased to recall the notice issued against
the applicant and to discharge him of the contempt
notice, in the interest of justice.

(Dr. Ashok Nigam)

Advocate

Lucknow : Dated

Counsel for the Applicant/
Opp. Party no. 3

March, 1994.

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

18/64

Contempt Petition No. 67 of 1993

In re:

Original Application No. 130/90 (L)

Deepak Kumar

... Petitioner

Versus

Shri K.K. Sharma & others

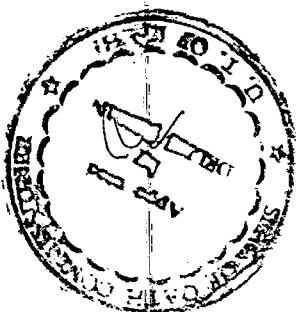
... Opp. Parties.

COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE

PARTY NO. 3

I, Ayodhya Prasad, aged about 53 years,
son of Shri Kanhaiya Lal resident of
C-147, Nanak Pura, N.D-21
the deponent do hereby solemnly affirm and
state as under:-

Ayodhya Prasad



1. That the deponent is opposite party no. 3
in the above noted contempt petition as such he
is fully conversant with the facts of the case
deposed to hereunder.

2. That the deponent is posted as Director

Engineer, North Zone at Delhi.

A/5

3. That it is clear from the perusal of the petition contempt/that Shri Deepak Kumar, the Applicant, is working in the All India Radio as Engineering Assistant (E.A.). His claim relates to his posting at Almora about payment of salary etc as directed by the Hon'ble Tribunal in its earlier judgement in O.A. No. 130/90.

4. That the appointing authority for the post of Engineering Assistant is Station Director/ Station Engineer and not the Director Engineer or Zonal Chief Engineer. Any action for complying with the order of the Hon'ble Tribunal was to be taken by the said officers, if required, in consultation with the Director General All India Radio which is the Administrative Head in case of Radio Stations. The responsibility for making payment of salary etc. to Engineering Assistant is also that of the Local Station and not of the Director Engineer or the Zonal Chief Engineer.

Agoodiyas 2

5. That furthermore, there is no specific allegation made in the contempt petition against the deponent.

6. That in the circumstances, the deponent could not be held responsible for payment of salary etc. to the applicant which was the sole responsibility of the Respondent No. 1. The inclusion of the name of the deponent in the



array of opposite parties is totally uncalled for and malafide with a view to harass and injure him.

7. That the deponent most respectfully submits that he is a responsible officer of the Government of India who has got utmost regards for the directions of the Hon'ble Tribunal and has never flouted them. In the instant case also he has not wilfully disobeyed any direction of the Hon'ble Tribunal. In fact the directions were to be implemented not by the deponent but by the Respondent No. 1. The deponent has committed no contempt of the Hon'ble Tribunal's said judgement and order and is, therefore, liable to be discharged and the contempt notice issued to him is liable to be recalled.

8. That, however, in case the Hon'ble Tribunal reaches to the conclusion, for any reason, that the deponent is responsible for any inadvertent act of omission or commission in this regard, the deponent tenders his unqualified apology for the same.

New Delhi : Dated
March, 16, 1994.

Ayodhya
DEPONENT

VERIFICATION

I, the deponent abovenamed, do hereby verify that the contents of paras

1/67

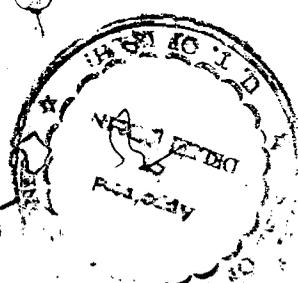
of this affidavit are true to my personal knowledge,
those of paragraphs 3, 5 are believed
to be true on the basis of information,
those of paragraphs 4 & 6 are believed
to be true on the basis of records, while those
of paragraphs 7 & 8 are also believed
to be true on the basis of legal advice,
and that I have not suppressed any material fact.

New Delhi : Dated
March, 16, 1994.

Ayodhya Prasad
DEPONENT

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

Advocate.



Solemnly affirmed before me on 16-3-94
at 12:15 am/pm by the deponent, Shri Ayodhya
Prasad, who is identified by Shri
Advocate.

I have satisfied myself by examining the
deponent that he understands the contents

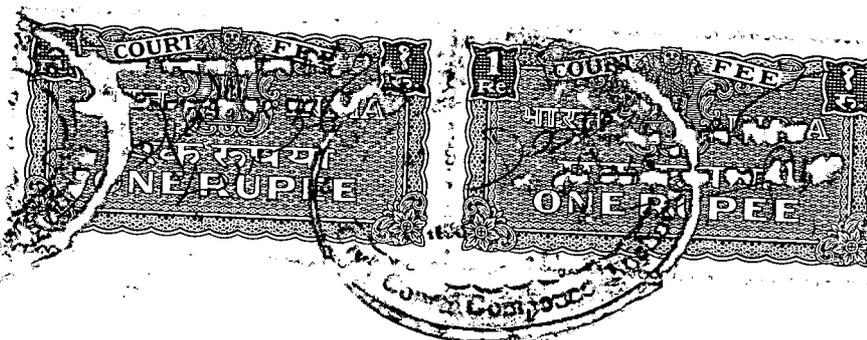
Certified that the deponent
of this affidavit which have been read
to Shri *Ayodhya Prasad*
Chandrabhan and explained to him by me.
Date *16-3-94*
Signature *[Signature]*
I have been read over to the deponent
and he has acknowledged that the contents
of the affidavit are true and correct to his
knowledge.

Before the Central Administrative Tribunal,
Lucknow Bench, Lucknow

Contempt Petition No. 67 of 1993

In re:

O.A. No. 130 of 1990



Deepak Kumar ... Petitioner

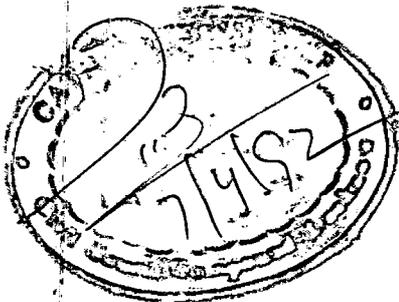
Versus

Shri K.K.Sharma, and three others ... Opp. Parties

REJOINDER AFFIDAVIT TO THE COUNTER AFFIDAVIT
FILED BY OPP. PARTY NO.1-A.

I, Deepak Kumar, aged about 31 years, son of Sri B.B.Saxena, r/o 18, Deen Dayal Road Asharfabad, Lucknow, the deponent in the above noted case, do hereby solemnly affirm and state on oath as under:-

1. That the deponent has read and understood the contents of the counter affidavit under reply and is fully conversant with the facts deposed hereinafter.
2. That the contents of paras 1 to 4, 12, 16 and 19 need no reply.
3. That in reply to paras 5 and 6 it is stated that the deponent after issue of appointment order by Chief Engineer was posted on 7.12.87 by Deputy Director (E) for Chief Engineer at door Darshan Kendra, Jalandhar and from there on the deponent's request for transfer he was transferred



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1/69

to A 11 India Radio, Almora by Deputy Director Engineering (P) for Chief Engineer and the facts which are contrary to this are incorrect and denied. The appointment at Almora was not a fresh appointment and on his request for transfer from Jalandhar, he was transferred to Almora from Jalandhar by the then Chief Engineer vide letter No.A-13/II(1)/88-EPC dated 27.7.1988. The facts as stated in para 4(111) of the contempt petition are the matter of record of the court and are re-iterated to be correct.

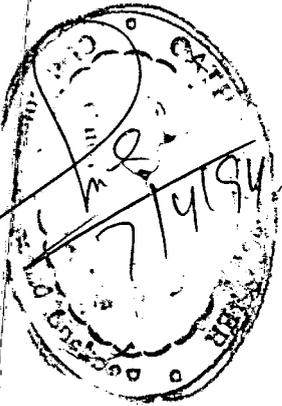
4. That in reply to para 9 of the counter affidavit replying para 5(i) of the petition, it is stated that on being transferred from ~~the~~ Jalandhar he came to Almora after his 1st posting at Jalandhar.

5. That in reply to paras 10 and 11 of the counter affidavit replying para 5(ii) to 5(iv) of the petition, it is stated that if the opposite parties after joining at Almora would have cared to see the deponent's record at Almora then the Opposite party would have knowledge of all the facts mentioned in para 5(ii) to 5(iv) of the petition, and the Opposite party having admitted that he has no knowledge, then what he did on knowing that the Tribunal order has not been obeyed as is evident from the record.

6. That in reply to para 13 of the counter affidavit replying para 5(v) of the petition, it is stated that instead of complying the order, which was served in July, 1991, and the deponent in compliance to Tribunal's order submitted his



7. That in reply to Para 15 to 17 of the counter affidavit replying para 7(viii) of the petition, it is stated that even after the Judicial pronouncement by the Tribunal, the drawing and disbursing officer of All India Radio Almora was competent to take immediate decision in the matter of fiscal nature for which he was competent under the manual of powers in financial matters. It has also not been stated in the Reply by the Opposite party that after 16.4.1992 till the filing of present counter affidavit why payment as directed by the Tribunal has not been made, and why the payment was delayed hence as required by law that the deponent is to be compensated by compensation in the form of interest when it is admitted that there is inordinate delay in payment which is wholly malafide having no bonafide. It has also not been stated that why after 16.4.1992 the payment was not made within reasonable time as was assured to the Tribunal on behalf of the Opposite parties in reply to the averments made in Ist Contempt Petition and if consequential benefits were not paid then why the deponent is to suffer for non payment which is if ~~is~~^{is} not malafide then what it is, and also establishes beyond doubt that there was deliberate delay on the part of the Opposite party who joined in June, 1993 and payments were made only when the Court directed again for their appearance.



8. That in reply to Para 18 of the counter affidavit replying para 5 (xii) of the petition, it is submitted that, it has not been stated that firstly why no steps were taken in between 16.7.91 to 16.4.92 for allowing the deponent to join his duties when he himself reported to join duties in July, 1991 and why payment was not made within reasonable time after joining and for what reasons before and after 16.4.1992 payment was delay. It has not been stated that when and on what dates the details of arrears were sent by one Opposite party to other Opposite party till the date the counter affidavit has been filed; and on what dates the alleged queries were made, and nothing has been specifically stated with documents showing and establishing any bonafide either before the deponent was allowed to join and even after the submission of Ist affidavit in April, 1992, that the consequential benefits will be paid within reasonable time but after joining 23 months were allowed to pass without payment which can not be termed reasonable in any manner in the absence of any cogent and satisfactory explanation from the Opposite party and the humiliation, harassment and expenses which the deponent suffered because of non compliance is to be compensated by Opposite party in the form of damages and interest on the delayed payment which have been made in the month of March, 1994.

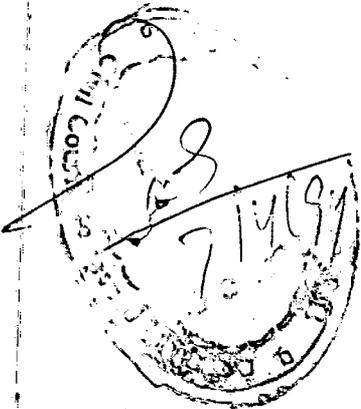
9. That in reply to Para 20 of the counter affidavit replying grounds A, B and C, it is stated that there are no bonafide causes for delayed



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obedience and there can not be any compliance of ~~13~~ order as is required by the order and it amounts to not obeying the orders of the Tribunal immediately or within reasonable time which amounts to wilful disobedience of order and till it is established and proved by documents that non compliance from 16.7.91 to March 1994 was bonafide, when there is nothing either in the Counter affidavit filed by Opposite parties establishing any bonafide in not allowing him to join immediately or any document showing that the making the payment at the earliest possible time was not possible hence the Opposite party has committed contempt of Court's order.

10. That in reply to para 21 of the counter affidavit, it is stated that even after receiving the order of the Tribunal in July, 1991, if there would have been any bonafide or any respect for Tribunal's order then why the same has not been complied with till 16.4.1992, and why on 16.4.92 it was obeyed in part hence it is not the true compliance of the order in any manner. Such compliance is nothing else but the intentional and motivated disobedience by the respondent till he can defy the obedience of the order and only after the passing of order of appearance of respondents and the Damocleas sword began to hang upon their head then the deponent was allowed to join his duties and there after again when after about 20 months of the service of the order when no consequential benefits were paid to the deponent and again the damocleas sword began to hang on their head then the deponents was paid consequential benefits which can not be in any manner termed as compliance



of the order within reasonable time, The deponent filed the present 2nd Contempt petition and even after the issue of order for the appearance of ~~the~~ Opposite party No.1 no counter affidavit has been filed by him as the same has not been received so far while payment has been made in March, 1994 relating to the period of his posting at Almora and the balance of arrears have been paid only one day before the date of appearance when the same ~~should~~ should have been paid in 1991 within in 2 or 3 months of the service of the order so how, it can not be taken to be a deliberate and intentional flouting of Tribunal's order and because of inordinate delay on the part of the respondents in not complying the order and in not paying all the consequential benefits within reasonable time a case of disobedience of order has been committed. It has not been stated that what are so many formalities which had to be observed in a period of about 33 months for making such a payment, if the compliance of Tribunal's order has been insured in a casual and cursory manner by the Opposite party and no respect has been shown to Tribunal's order as is needed for taking expeditious action by complying the order, then it is not only violation of the order, but a wilful and malafide - disobedience which is nothing but amounts to gross contempt.



11. That in reply to Para 22 to 23 of the counter affidavit, it is stated that it has not been stated that what prompt action has been taken by Opposite party on coming to know that the

Tribunal's order which should have been complied with has not been complied with after service of the order and meeting with the officers in July and August, 1991. It has also not been stated that from July, 1993 what actions and steps were taken by him when the present Opposite party joined which may show that there was no deliberate flouting of Court's order by him and no fact have been averred only to avoid the appreciation of the degree of contempt committed before holding that there was deliberate and intentional delay which amounts to wilful disobedience and flouting of Tribunal's order and the Opposite party have no regard or respect to Tribunal's order because of the fact that they did not show any respect to the Tribunal's order by complying it immediately even after coming to know of it.

12. That in reply to Para 24 of the counter affidavit, it is stated that the Opposite party is guilty of contempt as the order was not obeyed either promptly or within reasonable time after the passing of the order for compliance in July, 1991 hence the punishment is to be awarded.

Lucknow: Dated
April 7, 1994.

Deponent

Verification

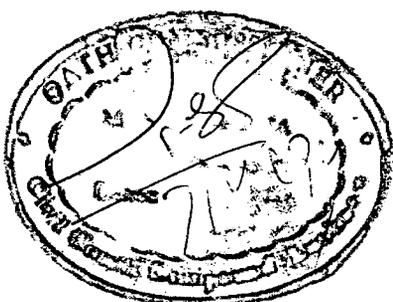
I, the above named deponent do hereby verify that the contents of Paras 1 to 29 of this affidavit are true to my personal knowledge, and Paras 10 to 12 are based on legal advice. No part of it is false and nothing material has been concealed. So help me God.

Lucknow: Dated
April 7, 1994

Deponent

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

Jalal
Advocate



100/107
 Akhilesh
 Jaiswal
 Advocate
 7/4/94

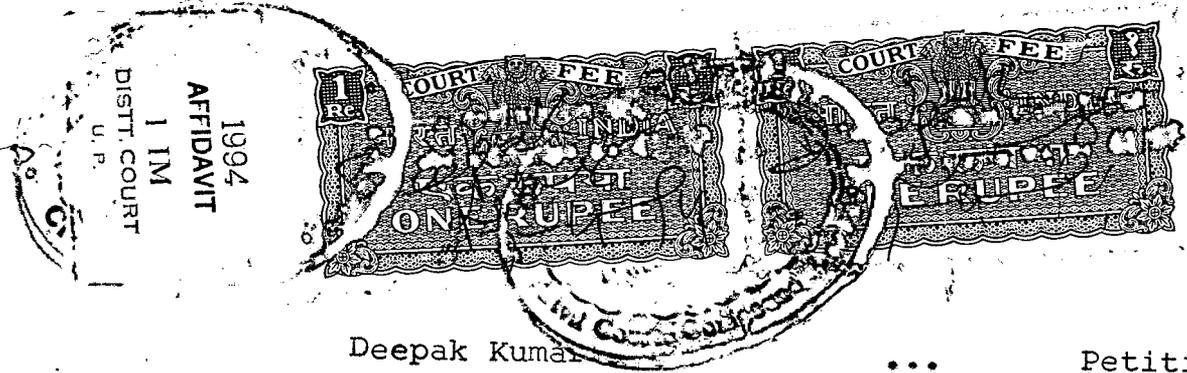
Before the Central Administrative Tribunal
Lucknow Bench, Lucknow

Contempt petition No. 67 of 1993

in re

O.A. No. 130/1990

1/10



Deepak Kumar ... Petitioner

Versus

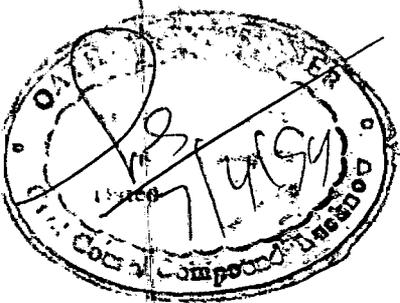
Shri K.K.Sharma, and three others ... Opp. Parties

Rejoinder Affidavit to the Counter Affidavits
filed by Opposite parties No. 2 and 3.

I, Deepak Kumar, aged about 31 years, son of Sri B.B.Saxena, r/o 18, Deen Dayal Road Asharfabad, Lucknow, the deponent in the above noted case, do hereby solemnly affirm and state on oath as under:-

1. That the deponent has read and understood the contents of the counter affidavits under reply and is fully conversant with the facts deposed hereinafter.
2. That the contents of paras 1, 2 and 3 of the counter affidavits need no reply.
3. That in reply to Para 4 of the Counter Affidavits it is stated that the appointment order of the deponent was issued after being selected by the Selection Committee on 5.5.1987 for the post of Engineering Assistant vide letter No. A43 /II(1)/86-EAC dated nil and was signed by Deputy Director. (Karmik) for and on behalf of

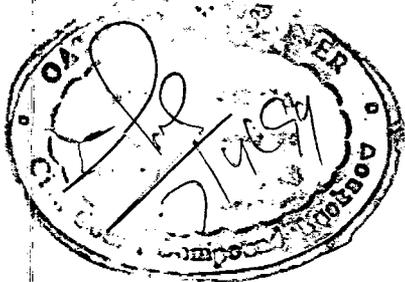
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Opposite party No.2 and this fact is already admitted by Opposite parties in their Counter affidavit filed on behalf of all the Opposite parties in O.A.No.130/90 Deepak Kumar Vs Union of India and others as such the statement of fact in respect of the appointing authority are contrary to the facts stated in the O.A.No.130/90 as well as in the present case hence the same is denied. It is further evident from the transfer order issued on behalf of the Opposite party No.2 by Dy. Director (Engineering) for Chief Engineer (N.2) vide No. A-13/II(i)/88-EPC dated 27.7.88 and ^{the effect is the} the same order dated 24.12.88 communicated by Opposite party No.1 that the appointing authority is Opposite party No.2.

4. That in reply to paras 5, 6 and 7 of the counter affidavits it is stated that, if the Tribunal's order has not been complied with by subordinate officers then what the Opposite party No.3 did when he was apprised of disobedience who is occupying the highest post in the hierarchy of posts in the department, ^{especially} ~~and~~ when they have also been served not only ^{with} the copy of the Tribunal's order for being implemented and the contempt notice was also served upon them then they are also duty bound being a responsible officer of the Government of India to see that the Tribunal's order has been complied without any delay, and to ensure that the order is complied with in all respect at the earliest, and if it is not complied with then whether the required steps have been taken



by the officers to ensure its due compliance without delay which is not evident from the counter affidavits filed in the case and it has also not been averred in the counter affidavits that what action has been taken by the Opposite parties after receiving the Tribunal order when they were apprised and had the knowledge that the Tribunal order has not been complied with so far and on this admitted position it can not be said that the Opposite parties who have been impleaded had at any time utmost regard for the Court's orders, and directions hence it will be presumed that they had no intention to get the Tribunal's order obeyed till the order dated 7.2.94 was passed by the Tribunal.

5. That in reply to Para 8 of the counter affidavits, it is stated that as order dated 5.7.91 was not only violated and flouted by the officers who were responsible to comply with the Tribunal's orders within reasonable time and were duty bound being a responsible officer to implement it without any delay after coming to know of the order and all the facts were brought to the notice of all the Concerning officers but they did not take any steps immediately to see the implimentation of the Tribunal's orders for a period of more than 10 months and after issue of notife for appearance only part of the order was complied with and whether the omission or commission on the part of the officers not to comply the other part of the order which is admitted can be then whether contempt has been committed or not only judged by the Tribunal

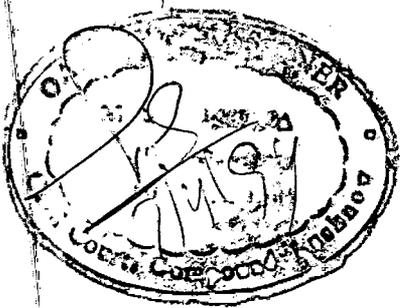


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when the delay in the implimentation was neither ~~bonafide~~ nor because of any reasonable ~~due~~ due to which the compliance was not possible and without all the facts explaining the causes supported by documents is properly placed before the Tribunal, which has not been explained in the present case till then the Opposite parties can not be absolved of the contempt already committed by them, and as such it is for the tribunal to hold that whether such an in ordinate delay will not amounts to committing of contempt of Tribunal's order as the order has been complied with only after taking cognizance on the contempt petitions.

Lucknow: Dated 27
April 7, 1994

Deponent



1100
to the ADAR Darak Kumar
Akhilesh
Sahani
Advocate
M. S. Jaiswal
71494

Verification

I, the above named deponent do hereby verify that the contents of Paras 1 to 4 of this affidavit are true to my personal knowledge, and Paras 5 are based on legal advice. No part of it is false and nothing material has been concealed. So help me God.

Lucknow: Dated
April 7, 1994

Deponent

Identity confirmed
who has signed before me
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW

CONTEMPT PETITION No.67 of 93

in re:

O.A. No.130 of 90

FF: 10-8-1994

SUPPLEMENTARY AFFIDAVIT ON BEHALF OF
THE OPP. PARTY No.1/A- SHRI BALU RAM RAI,
STATION DIRECTOR, A.I.R., ALMORA TO THE
REJOINDER AFFIDAVIT FILED BY THE APPLICANT

I, Balu Ram Rai, aged about 53
years, son of late Shri Mahabir Rai, at present
posted as Station Director, A.I.R., Almora
(hereinafter referred to as the deponent), do
hereby solemnly affirm and state on oath as
under:-

1. That the deponent is Opp.
party No.1/A in the above Contempt petition
filed by the applicant; and as such, is fully
conversant with the facts deposed to hereinafter.



2. That the contents of the affidavit filed by the deponent as Counter Affidavit, are reiterated as they are correct and no material facts have been concealed.

3. That the applicant- Deepak Kumar, A.E. was nominated for the first time by the Chief Engineer, North No Zone, New Delhi for the Doordarshan Kendra, Jalandhar; and after that, on his own request, his posting was changed from Door Darshan Kendra, Jalandhar to A.I.R., Almora. He has joined first time at A.I.R., Almora as his first posting. The allegations, contrary to ~~the~~ this fact, are denied, as alleged in para-3 of the Rejoinder Affidavit. (Relevant papers to be filed). Annexure I & II

4. That the applicant re-joined on 24-7-1991 in compliance of order of this Hon'ble Tribunal dated 5-7-1991.

5. That in the said order of this Hon'ble Tribunal dated 5-7-1991, it was held that the Station Director, Almora is not the



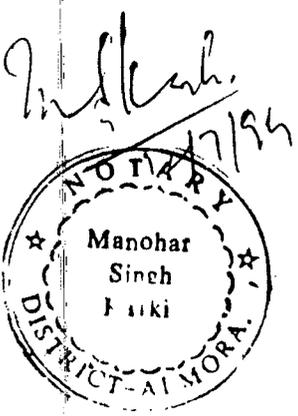
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4/2/94

appointing authority; and hence, the termination order passed by the Joint Director, Almora was cancelled, and the petitioner was given relief with all consequential benefits only.

6. That it is correct that no S.L.P. has been filed by the higher authorities, and the deponent has no authority to withdraw any amount or to pay other consequential benefits to the applicant. The Station Director is only the Recommending authority; and after getting sanction from the Ministry, he has complied with the order. The deponent, to the best of his efforts, recommended the case of the applicant to his authorities for compliance of the orders, and only on 9-2-94 sanction was received from Director General, A.I.R., New Delhi for payment of dues to the applicant. The Sanction order No.8/10/92-S(iv) (A)B(D) dated 9-2-94 was received, and immediately after that, the deponent paid all the dues upto date to the applicant on 3-3-1994. It is further submitted that there are no lapses or delay on the part of the deponent. He made every effort to comply with the order of

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AM

this Hon'ble Tribunal, but due to non-sanctioning authority, he was unable to comply with the order on his own. Every sanction or necessary order has to be taken from the higher authority.

The sanction was given by the Ministry of Information, and the deponent had no control to get it earlier.

7. That the deponent has no intention to disobey the orders of this Hon'ble Tribunal; and to the best of his effort, he has made every effort to make compliance faithfully, and there is no fault on the part of the deponent in making payment to the applicant.

It is further stated that the complainant has now got all benefits of his services, and no grievance is pending against the Department, and the applicant is not entitled to any claim as no interest as no interest was awarded in the original order.

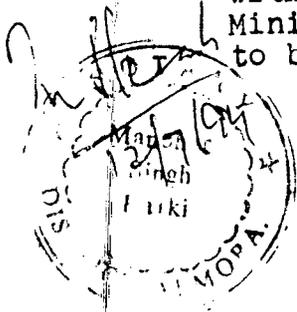
Papers re: correspondence with the Ministry are to be filed.

ALMADA
LICENSOR

DATED: 12-7-1994

[Signature]
DEPONENT

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84

VERIFICATION

I, the above named deponent, do hereby verify
 that the contents of para 1
 of this affidavit are true to my own knowledge;
 those of paras 2 to 7th
 are true to my knowledge on the basis of records;
 and those of paras
 are believed by me to be true based on legal advice
 received.

Signed and verified this 12th day of JULY
 1994 at ~~Lucknow~~ ^{Almora}

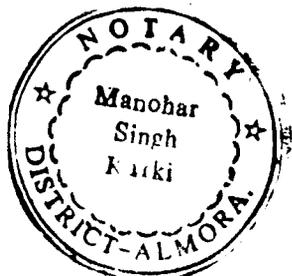
ALMORA
~~Lucknow~~

DEPONENT

DATED: 12-7-1994

I identify the deponent who has
 signed before me.

ADVOCATE



sworn/Solemnly Affirmed before me by the
 Deponent Shri Bala Kishore Singh
 Maheshwari R/o Station Street - Almora
 that the contents of the affidavit are true which
 have been read over & explained to the deponent
 Who is identified by Shri M. S. Karki
 verified on 12th July 1994 at Almora

M. S. KARKI
 Notary District, ALMORA

12/7/94

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

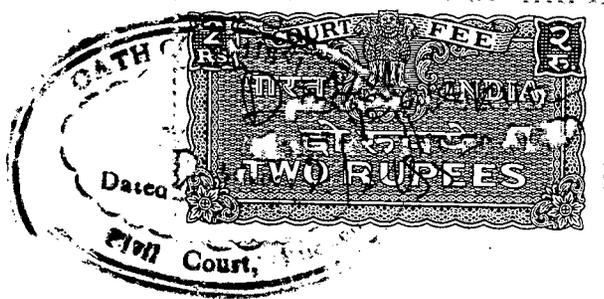
LUCKNOW BENCH, LUCKNOW

Contempt Petition No. 47 of 1993

In re.

C.A. No. 130 of 1990

Fixed for 3-2-1995



Deepak Kumar

...

Petitioner

Versus

Sri K.K. Sharma and three others

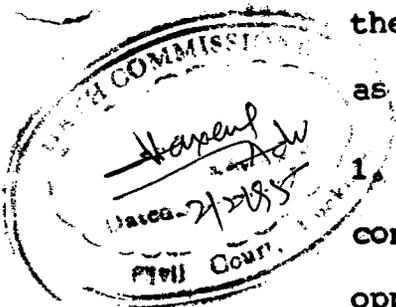
Opp. Parties.

REPLY TO SUPPLEMENTARY AFFIDAVIT DATED 12-7-1994
FILED ON BEHALF OF OPP. PARTY NO. 1/A, STATION DIRECTOR
A.I.R. ALMORA WHICH HAS BEEN FILED IN REPLY TO REJOINER
AFFIDAVIT FILED BY THE APPLICANT TO THE COUNTER AFFIDAVIT
OPP. PARTY NO. 1/A.

I, Deepak Kumar, aged about 31 years, S/O Sri B.B. Saxena, r/o 18, Deen Dayal Road, Asharfabad, Lucknow, the deponent do hereby solemnly affirm and state on Oath as under:-

1. That the deponent has read and understood the contents of Supplementary Affidavit filed on behalf of opp. party No. 1/A, which are being replied and deponent is well conversant with facts deposed herein under:

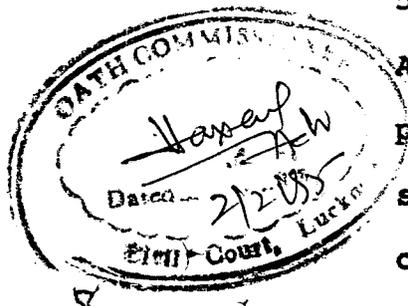
2. That the contents of paragraphs 1, 2, 4 and 5 need no reply.



3. That in reply to paragraph 3 of the Supplementary Affidavit, it is stated that there was no question of appointment by nomination by the Chief Engineer, North Zone, New Delhi, but the correct fact is that after the deponent applied for his appointment on the post of Engineering Assistant and was selected by the Selection Committee, then the petitioner was appointed by Chief Engineer and was posted at Doordarshan Kendra, Jalandhar from where, he was transferred to All India Radio, Almora.

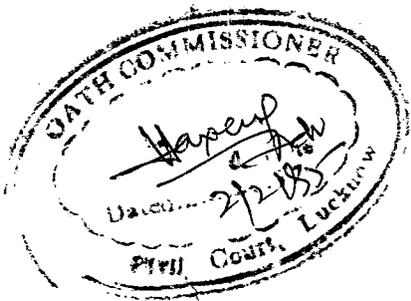
4. That the facts contrary to above are denied and the facts as stated in paragraph 3 of the rejoinder affidavit as well as in the contempt Petition are reiterated to be correct.

5. That in reply to paragraph 6 of the Supplementary Affidavit, it is stated that the facts stated in the para under reply are contrary to what has already been stated by opp. party No. 2 & 3. In this regard in their counter affidavits it has not been stated that after receiving Tribunal's order on 16th July, 1991, what the opp. parties did, i. e. on what date the opposite parties forwarded and recommended the case of the applicant to the competent authorities for the compliance of the Tribunal's orders and what has been done by them in between 16-7-1991 upto 9-2-1994 for more than 2 years 8 months. It is further stated that after the filing of the ^{first} contempt petition ^{in 1992} after giving assurance by the ^{and in view of the order the contempt petition was disposed off} then opposite party No. 1 ^{and} when the order was not complied with ^{thereafter} for a long period then in 1993 on the present petition direction to appear in court was issued but it has not been indicated ^{by any of the opposite parties} in any manner that what efforts to comply the Tribunal's order were made till 9-2-1994.



It has also not been stated that for how many months and years after the first appearance in the 1st contempt case, the opp. parties No. 1 and 1/A did not receive sanction and what is the reasonable time required for receiving sanction and passing of necessary order in compliance to Tribunal's order in such ^{va} case has also not been stated.

6. That in reply to paragraph 7 of the Supplementary Affidavit, it is stated that unless and until, it is brought to the knowledge and notice of the Tribunal that after receiving, the Tribunal order on 16-7-1991 on what date and month the matter was referred to higher authority to find out the bonafides of the opposite parties for ascertaining their intention and conduct of the opp. parties and the concerning facts are not forthcoming to conclude that they had never any intention to disobey the order of the Tribunal which has not been stated in any manner. The papers relating to record and correspondence with the ministry have neither been filed by any of the opp. parties alongwith their Counter Affidavit nor the same has been placed for deciding that which of the opp. party has actually ^{delayed and} disobeyed the Tribunal's order and is responsible for not obeying the orders ^{within reasonable time} after undertaking ^{was} given before the court on 1st May, 1992 for such a long period without giving due respect and obedience to the Tribunal's order and delayed the matter for satisfying their ^{ego and} whims and complied the order only when they were compelled by the Tribunal's order that if it is not obeyed they



will be subjected to punishment.

~~XXXX~~

Lucknow:
Dt. 2-2-1995.


Deponent

VERIFICATION

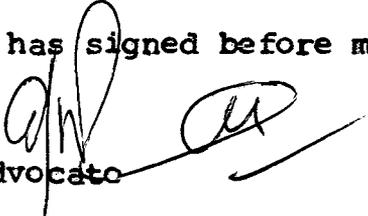
I, the above named deponent do hereby verify that the contents of paras 1 to 5 of this Affidavit are true to my personal knowledge, and paras 7 ^{to the contents of} ~~7~~ ^{are} ~~are~~ ^{verified by me to be} based on legal advice. No part of it is false and nothing material has been concealed. So help me God.



Lucknow:
Dt. 2-2-1995.


Deponent

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


Advocate

Solemnly affirmed before me on _____ at _____ a.m./
p.m. by the deponent who is identified by Shri Akhilesh Sahai, Advocate, High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent that he understood with the contents of this affidavit which have been explained by me to him.

EMA
sincerely
to J.S.S.
this is the
ack
16/11
17/11

Office of the
Deepak Kumar
A. Sahai
Adv


Adv
Date 2/2/95

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Deputy Cash
Date of Filing..... 09.09.97
Date of Receipt by Dept.....

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

Contempt Petition No. 67 of 1993

In re:

Original Application No.130 of 1990 (L).

Deepak KumarPetitioner

versus

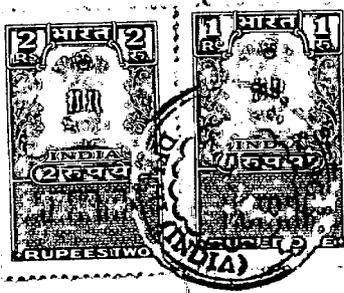
Shri K.K.Sharma and othersOpposite-Parties.

SUPPLEMENTARY COUNTER-AFFIDAVIT TO THE
REJOINER-AFFIDAVIT.

I, Vinod Kumar Singh, aged about 51 years, son of Sh. (Late). K.N. Singh, resident of D-I/18, Rabindra Nagar, N.Del., do hereby affirm and solemnly state on oath as under:-

1. That the deponent is Respondent No.2 in the above-noted Contempt Petition, and as such, he is fully conversant with the facts of the case deposed to hereunder.

(contd.2/-.....)



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City of Residence.....

CJ, Docket No 170

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2. That the Hon'ble Tribunal, at the time of hearing of the contempt petition, has been pleased to direct the answering opposite parties to submit reply to the averments/allegations made in the rejoinder affidavit, particularly with regard to paragraphs 3 and 4 relating to the termination of appointing authority for the post of the petitioner. He is, therefore, submitting his reply to the said allegations made in the rejoinder affidavit in compliance of the directions of the Hon'ble Tribunal as under:

3. That the contents of paras 1 and 2 of the rejoinder affidavit need no reply.

4. That the contents of para 3, 4 and 5 of the rejoinder affidavit are not admitted as stated. (i) The deponent most respectfully submits that the petitioner has deliberately tried to confuse the Office of the Appointing Authority Controlling with that of Cadre Authority. In fact, the 2 posts are quite different with different rights, duties and functions. The post of Engineering Assistant in the All India Radio belongs to the NonGazetted Engineering Cadre. The para 14.3.11 under the title of 'Engineering Personnel Cell' is being reproduced hereunder to clarify the correct position:



Ud Singh

"The Zonal Chief Engineer is responsible for cadre control of all the nongazetted engineering employees in the Zone including recruitment to the cadre of Engineering Assistants. This work is looked after by this section. Its various functions are as follows:

1. To compile seniority list of all cadres.
2. To hold DPC's for confirmations, and issue orders.
3. To hold DPC's for termination of probationary periods of SEA's and issue orders.
4. To hold DPC's for crossing of EB of SEA's and issue orders.
5. To hold DPC's for promotions of various non gazetted engineering staff and issue orders.
6. To process all cases for dereservation.
7. To issue all promotions/ transfer orders upto SEA.
8. To maintain full biodata of each and every employee, innongazetted engineering cadre.



U. Singh

CJ. Deen Dayal 000

9. To arrange recruitment to the cadre of Engineering Assistants.
10. Any other matters concerning staff.

A true extract of the said portion of the A.I.R. Manual is being filed herewith as Annexure No. SA1.

(ii) It would, thus, be clear that the Zonal Chief Engineer is the Cadre Controlling Authority for the entire nongazetted engineering employees of the Zone, which means that it will be responsible for seniority list of all the cadre, their transfer, posting etc. Subpara 9 makes it ample clear that it will arrange recruitment to the cadre of Engineering Assistants, which in turn means that selection and posting of the Engineering Assistant only would be done by the Zonal Chief Engineer, but he is not the appointing authority for the post. The Appointing Authority for each post in the Cadre is given in the Schedule to the C.C.S. (CC & A) Rules, 1965. The deponent is filing herewith a true copy of the said Schedule circulated by the Government of India vide its letter/order dated 16/1/77-1971 as Annexure No. SA-2. At Serial No. (ii), it has been laid-down that the Head of the Office would be the Appointing Authority for all posts in Subordinate Offices. Every Station of the All India Radio is

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a Subordinate Office, including All India Radio Station, Almora, and Station Director, Almora, is the Appointing Authority for all posts in Class III Services in his Office/Station, including the post of the petitioner.

(iii) In the instant case also, the selection for the post of Engineering Assistant, including the petitioner was undertaken by the Chief Engineer (North Zone) and the result of selection, including instruction to submit his acceptance to the Appointing Authority (Karmik Adhyaksh) was sent by the Deputy Director (Karmik) on behalf of the Chief Engineer (North Zone) vide letter dated 15.10.1988, a true copy of which is being filed herewith as Annexure No.SA3. The petitioner was informed through the said letter - Para 1 that he is being nominated for appointment (Niyuktikeliye Namit karta hai) by the Selection Committee under the authority of the Director (North Zone). It was specifically stated in para 0 of the said letter that the candidate will have to submit his certificates etc. before the Head of the Office so that the Head of the Office (Karmik Adhyaksh) may issue him the appointment letter. A list of the selected candidates was enclosed with the said letter. The petitioner's name stood at Serial No.100 of the said list, and he was instructed to submit his certificates etc.



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Dr. Bhatnagar 000 1/24

and obtain appointment order from the Director, Doordarshan Kendra, Jalandhar (Punjab).

(iv) However, subsequently, the places of some candidates were changed, including the petitioner. The petitioner's place of posting was changed from Doordarshan Kendra, Jalandhar (Punjab) to All India Radio, Almora (U.P). This was communicated to the petitioner vide letter dated 27/7/1988, a true copy of which is being filed herewith as Annexure No.SA4. The deponent craves leave of the Hon'ble Tribunal to reproduce the note mentioned in the letter dated 27.7.1988 as under:

"(1).The Superintending Engineer,Doordarshan Kendra, Jalandhar (Pb.). It is requested that the copy of the offer of appointment together with the Character Verification Report and a photocopy of the biodata of the candidate may please be sent to the Station Engineer,All India Radio, Almora by registered post under intimation to this office.

(2) The Station Engineer,All India Radio,Almora. It is requested that the intimation regarding his joining or

(contd.7/-.)



U Singh

Cy. [Signature] 000

otherwise may please be sent to this office telegraphically."

(v) It will be pertinent to point out here that the Doordarshan Kendra, Jalandhar (Punjab) had not issued any appointment letter to the petitioner. Similarly, the Chief Engineer (North Zone) or any other authority, ^{except} the then Station Director, Almora, did not issue any appointment letter to the petitioner at any point of time. This fact alone militates against the claim of the petitioner that his appointing authority was Chief Engineer (North Zone). In fact, the petitioner has not been able to produce before the Hon'ble Tribunal the copy of the alleged appointment letter. It appears that he has deliberately suppressed the actual appointment letter dated 20/8/1988 issued by the Station Director, All India Radio, Almora, to create a totally incorrect ground for his Original Application. The deponent, therefore, craves leave of the Hon'ble Tribunal to file a true copy of the said actual appointment letter dated 20/8/1988 as Annexure No.SA5 to this Supplementary CounterAffidavit.



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(vi) The deponent, further, submits that the above referred procedure is the normal procedure, which has been uniformly followed in the All India Radio throughout the country for decades. The petitioner was fully aware of this procedure and of the fact that the Office of the Chief Engineer (North Zone) acts only as a Recruiting Agency just like the

Public Service Commission, and thereafter it directs the selected candidates to different Stations of All India Radio and Doordarshan for appointment through the Appointing Authority, that is, the respective Head of the Office. The petitioner, however, suppressed most of the relevant documents and informations from the Hon'ble Tribunal during the earlier proceedings in the Original Application, because of which, the Hon'ble Tribunal appears to have made the observations that the Appointing Authority for the post of Engineering Assistant appears to be the Chief Engineer (North Zone).

(vii) The deponent deeply regrets and tenders his unconditional apology on behalf of the Department and the officers concerned for not pointing out these facts to the Hon'ble Tribunal at the relevant stage, and for not filing a Review/Recall Application for expunging the said observations within time. The deponent has been informed that Late Shri V.K.Choudhary, the then Additional Standing Counsel, Central Government, was conducting this case on behalf of the Department, who expired soon after the delivery of the judgement. It appears that, because of this, the said observations of the Hon'ble Tribunal was not noticed by the authority concerned at that time.



Ud Singh

(viii) It would, further, be relevant to point out that when the copy of the Original Application was received at the Office of the Chief

~~Chief Engineer (North Zone)~~
~~Director, All India Radio, Almora~~
~~Chief Engineer (North Zone)~~
~~Director, All India Radio, Almora~~

1/93

~~Chief Engineer (North Zone)~~ 000

Engineer (North Zone), as per normal practice, since the order of termination was passed by the Station Director, All India Radio, Almora, and since he was the Appointing Authority for the post of the petitioner, he was directed to file necessary reply on behalf of all the opposite parties since the matter related mainly to him and the other parties were more or less a 'proforma party'. The deponent is filing herewith true copies of the letters dated 09/8/1990 and 25/9/1990 issued on behalf of the Chief Engineer (North Zone) to the Station Director, All India Radio, Almora, as Annexures No.SA6 and SA7 respectively in this regard, informing the latter that, since, he is the main respondent, he should file a joint reply on behalf of all the opposite parties himself and do the necessary pairvi of the case. It appears that in the circumstances, the Station Director, Almora, was not able to place relevant Rules, Regulations and documents before the Hon'ble Tribunal during the proceedings on the Original Application, which led to the observations of the Hon'ble Tribunal regarding Appointing Authority, which is against the statutory provision. Even the observations appeared to have escaped the notice of the then Station Director, All India Radio, Almora. Such a default is highly regretted.



Ud Singh

(ix) The deponent, however, is advised to submit that the statutory provision remains unchanged, and

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therefore, the deponent was right in submitting before the Hon'ble Tribunal in his counteraffidavit to the contempt petition that the Appointing Authority for the post of the petitioner, that is, Engineering Assistant is the Station Director, All India Radio, Almora, and not the Chief Engineer (North Zone), and that it was for him to comply with the directions of the Hon'ble Tribunal, for which necessary instructions/reminders were issued by the deponent and the Chief Engineer (North Zone), from time to time.

(x) However, out of ample regard for the directions of the Hon'ble Tribunal, the deponent and other officers at New Delhi, have issued several directions to the Station Director, All India Radio, Almora, to comply with the judgement of the Hon'ble Tribunal, that is, to reinstate him, and also to pay him arrears of salary. These include letters dated 14.8.1991, 26.8.1991 and 17.11.1992, true copies of which are being filed herewith as Annexures No.SA8, 9 and 10 respectively.



(xi) The judgement and order of the Hon'ble Tribunal itself is dated..5.7.1991.., and the first direction has been issued by the deponent as soon as it has been received in the Office of the Chief Engineer (North Zone) after its processing and there has been no delay or default on the part of the deponent or at the Office of the Chief Engineer (North Zone) in complying

(contd.11/-....)

Wa Singh

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the judgement. The 'reinstatement order', in compliance of the order of the Hon'ble Tribunal, itself, was issued by the Station Engineer (the then Head of the Office at that time) on 5.9.1991, which itself shows that there has been no disobedience of the judgement and order of the Hon'ble Tribunal by the answering opposite parties, much less deliberate disobedience.

(xii) However, as the amount of arrears, to be paid, was large and its calculation and obtaining of necessary financial sanction and provision for funds etc. consumed sometime, the same could not be done immediately, but it was paid to the petitioner on or before 16/4/1994, as is evident from the letter sent by the then Station Engineer, All India Radio, Almora, a true copy of which is being filed herewith as Annexure No.SAll.



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(xiii) The deponent, further, craves leave of the Hon'ble Tribunal to submit that so far as the judgement and order of the Hon'ble Tribunal is concerned, it has not prescribed any particular date by which the arrears of salary were to be paid to the petitioner. In the circumstances, the time consumed in the process cannot be termed as deliberate disobedience of the order of the Hon'ble Tribunal, as it was bona fide and unintentional. Anything to the contrary is denied as incorrect.

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(xiv) It would, further, be relevant to point out that the petitioner himself has accepted the reinstatement vide the order of the Head of the Office dated 5.9.1991 without any protest, a true copy of which is being filed herewith as Annexure No.SA12. He has, further, demanded and accepted payment of arrears of salary from the Head of the Office, that is, the then Station Engineer (the then Head of the Office). He is, therefore, stopped from claiming that the opposite party no.1. is not his appointing authority or that the answering opposite parties are responsible in any way for not complying with the judgement and order of the Hon'ble Tribunal, being his appointing authority.

5. That it is, further, submitted that there has been no intention of the answering opposite party at any point of time, not to implement the judgement and order of the Hon'ble Tribunal, on the other hand, the answering opposite party took all the steps without any delay on his part in this direction for implementation of the Hon'ble Tribunal's directions. The deponent, further, tenders his unintentional apology for any delay, which may have occurred in making actual payment due to the official ; procedure at various levels, which was quite unintentional and uninadvertant, and is liable to be condoned by the Hon'ble Tribunal.



Uday

Lucknow, dated:
, 1997.

Uday
.....DEPONENT.

1/01

D. Bachchan 000

VERIFICATION.

I, the deponent, abovenamed, do hereby verify that the contents of paras 1 - 3 are believed to be true to my personal knowledge, contents of paras 4 - i - viii, x - xii are believed to be true based on records, while the contents of paras 4 ix, xiii, 5 are believed to be true on the basis of the legal advice received by me. No part of this affidavit is false and nothing material has been concealed. So help me God. The Annexures No.SA1 to SA12,annexed with this affidavit are true copies of their relevant originals, which are believed to be the true copies.

New Delhi: Dated:
11.8.1997.

Uday Singh

.....DEPONENT.

I, identify the deponent, abovenamed, who has signed this affidavit before me.



.....Advocate

Solemnly affirmed before me by the deponent at.....a.m./p.m. on , 1997, who is identified by Advocate,

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Central Administrative Division

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Dy. Registrar 000

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



ATTESTED

[Signature]
NOTARY DELHI

11-8-97

CHIEF ENGINEER'S ZONAL OFFICES

12/03

Introductory

Do Know Bench

14.1.1. Prior to 1948, the working relating to the installation of transmitters, studios, etc. was being done by the Installation Engineers attached to the Maintenance Department. With the drawing up of the Basic Plan for development of broadcasting in India in 1944, the need arose for a regular and separate organisation for its implementation. The Planning and Development Unit of the Directorate General and the Project Circles were, therefore, sanctioned in March 1948 to implement the above plan as modified in 1947.

14.1.2. The Planning and Development Unit was formed in May 1948 and the two Project Circles viz., Eastern Project Circle with headquarters at Calcutta and Western Project Circle with headquarters at Bombay, each under charge of a Project Officer, were formed in March 1949. The Central Project Circle with headquarters at Delhi was Engineer in the Directorate General till its abolition on 1.11.1951. It was revised on 16th February 1953 and placed in charge of a Project Officer like the other two Circles. The three Circles were recognised into four regions each region under a Regional Engineer, w.e.f. 17th August, 1968, viz., West, East, North & South, with headquarters at Bombay, Calcutta, Delhi and Madras, respectively. The Regional Engineers were made responsible for supervision of both Installation and Maintenance works, which earlier were being looked after by the Project Officers and Maintenance Engineer respectively.

14.1.3. From 1.4.1976, Television was separated from All India Radio and a separate Directorate of Television was created but the working of Regional Offices remained undisturbed. Regional Offices continued to look after Installation and Maintenance for both Radio and TV as hitherto. The budgets were separated but Regional Offices operated the budget of both the media units for capital works.

14.1.4. On 5.11.81, another major event was the creation of Indian Broadcasting (Engineers) Service for Group A posts as an organised service under Govt. of India. All the Regional Engineers became CE (Zonal).

14.2.1 Organisation

The jurisdiction of each Zonal Chief Engineer is indicated in Annexure 1.

14.3.1. A Chief Engineers (Level 1) is in charge of each Zone. He has two Chief Engineer (Level 2) under him to look after the maintenance for AIR & Doordarshan separately. For project works, he has two Directors (Projects) to look after separately the project works of AIR and Doordarshan. One of the Officers, who is declared as 'Head of Office' looks after administration accounts and establishment.

Duties and Responsibilities of Staff

The Duties of the various posts mentioned below should not be deemed to be exhaustive. The Chief Engineer is authorised to order deviations, wherever necessary, in the interest of Public Service.

Chief Engineer (Level 1)

- i) The Chief Engineer (Level 1) is directly responsible for the execution of all the AIR & Doordarshan projects in the Zone.
- ii) He exercises all the powers of 'Head of Department', and can declare one of the officers under him as 'Head of Office', for looking after the work of accounts & administration.
- iii) He can create a Division under CPWD Code.

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- iv) He is responsible for cadre control of all the Non-Gazetted Engineering Employees in the Zone including recruitment of Engineering Assistants. *Cy. Doordarshan (D.O)*
- v) He is responsible for maintenance and safe custody of confidential Dossiers of all non-gazetted Engineering Employees in the Zone.

14.3.2. Chief Engineer (Level 2)

There are two posts of Chief Engineer (Level 2) in each Zone. One Chief Engineer looks after the maintenance of AIR Stations and other those of Doordarshan Stations. In this work, each Chief Engineer is assisted by Directors, Deputy Directors and a few Assistant Directors/Assistant Engineers and other ministerial staff. The main functions of maintenance are as follows:

1. To study the technical problems of the Stations and assist the Stations in solving them where required.
2. To scrutinise the various technical returns received from Stations, giving comments thereon and to advise them where necessary, for effecting improvement.
3. To watch day by day use of technical stores particularly transmitting valves, receiving valves and imported and other spares and supervise their supply either from the Central Stores or other sources.
4. To watch utilisation and consumption of magnetic recording tapes, maintenance of all tape recorders and play back equipment and make suitable recommendation to the Directorate for their supply and replenishment.
5. To arrange for the repairs of the technical equipment received from Stations.
6. To assess requirements of renovation, replenishment and replacement at various Centres in his Zone and also consider provision of additional facilities where found necessary. On this basis formulate proposals for necessary funds under various schemes, like Modernisation & Replacement, Additional facilities, etc.
7. To undertake periodical inspection of various AIR/Doordarshan Centres in his Zone by Officers of various levels to ensure adequate technical standards of operation and also strict adherence to rules and regulations stipulated in AIR Manuals and instructions issued from time to time.

14.3.3. Director Engineering (Projects)

1. He is responsible and accountable for timely execution of all projects of AIR or Doordarshan.
2. He monitors each and every activity of the project, starting from selection of sites to commissioning of projects.
3. He looks after the administration, budget & accounts of the project wing.
4. He is responsible for preparation and submission of all returns, pertaining to projects to the Directorate.
5. He is responsible to ensure that equipment is installed and performs to approved standards. He scrutinizes all the measurement and performance reports sent from site, including report on field strength survey.
6. He is responsible for proper handing over of installation to maintenance staff, after arranging joint inspection, and issue of necessary certificate.

In these works, he is assisted by various sections, each one of which works under a Deputy Director. The other staff in the sections consist of one or two Assistant Directors/Assistant Engineers, SEA's and other ministerial staff.

T. C. D.
W. Singh

14.3.4. Functions of Various Sections in Project Wing

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The main functions of various sections in the project wing are as follows:—

(a) Co-Ordination Section

(There are two separate Sections, one for AIR works and other for Doordarshan works)

1. To survey suitable sites for establishment of Radio and TV Stations and to take further follow up action till the sites are finally paid for and taken over.
2. To place firm demands with Post & Telegraph Department for Telephone Lines and to take follow up action till lines are finally provided. To finalise rent and guarantee terms for the provision of Telephone Lines.
3. To place firm demands with Electricity Boards for the provision of Power supply and to take all follow up actions till the power is finally supplied. To finalise tariff and other agreements with the Power Supply Authority.
4. To Co-ordinate building activities with CCW.
5. To maintain all the drawings and other details pertaining to installation.
6. To guide Installation Officers on all matters pertaining to installation.
7. To maintain liaison with local authorities, Electricity Boards, P&T Department, Railways, Water Supply Authorities and all other Departments whose help may be necessary for the timely execution of projects.
8. To prepare proposals for the sanction of Installation Staff every half yearly for submission to the Directorate.
9. To arrange deployment of Installation Staff for optimum productivity. To take remedial action, where progress is not satisfactory.
10. To monitor progress of Installation and submit periodical reports to the Directorate.
11. To scrutinize all the measurements and performance reports, including reports on field strength survey, received from site and advise the installation team about the remedial action to be taken by them, wherever performances are not satisfactory.
12. To act as a bridge between Installation team at site and P&D Unit/Directorate.
13. To arrange Joint Inspection of completed projects before commissioning the Installation for regular service.
14. To arrange proper handing over of the installation to the station staff.
15. To arrange compilation of completion report and distribute the same to all concerned.
16. To take follow up action for all pending items after the handing over of Installation.

14.3.5. Budget Section

1. To study the technical drawings and project notes received from Directorate and frame detailed technical estimates for the projects, and process their sanction.
2. To prepare deviation statements as and when necessary, and process their sanction.
3. To maintain copies of all project notes and master copies of all detailed Technical Estimates and Deviation Statements.
4. To make available copies of Detailed Technical Estimates and deviation statements to all concerned.
5. To keep records of all the Administrative Approvals and financial sanctions in respect of projects.
6. To monitor the pace of expenditure on projects.

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7. To prepare budget estimates, revised estimates and final estimates.
8. To ensure correct and timely booking of expenditure.
9. To compile material for budget meetings and prepare minutes of the same.

Eg, Estimate 0 0 0

14.3.6. Purchase Section

1. To identify and consolidate various items of purchases required for installation after scrutiny of DTE's.
2. To get the specifications of the equipment from the P&D unit, ISI and other sources or to draw them.
3. To compile an upto date list of suppliers for various items of stores.
4. To compile an upto date data about various equipments available in the market.
5. To Survey the market to get the knowledge about new developments in the field of fabrication of equipment.
6. To process all the purchase of stores required to be purchased by Zonal Offices and finally place order after observation of all purchase rules.
7. To monitor the receipt of stores against the order placed by the section and to take remedial action in case of delay/default.

14.3.7. Stores section

1. To monitor the receipt of equipment against Directorate order as per delivery schedule specified in the order, and to take remedial action in cases of delay/defaults.
2. To take follow up actions in cases of damaged/short supply of equipment.
3. To process and pass bills of the suppliers, and ensure their correct booking.
4. To keep a watch on various advance payments made to the suppliers and adjust the same at the time of final passing of the bill.
5. To arrange transfer of equipment from one project to another, after taking Directorate's approval.
6. To handle all correspondence with Directorate & the suppliers regarding receipt of equipment against Directorate's Order.
7. To scrutinise all Omnibus Transfer Entry Orders and other transfer entries and ensure correct and timely booking of expenditure.

14.3.8. Godown

1. To receive all the stores ordered by the Directorate or the purchase section of the Zonal Office for which Zonal Chief Engineer is the consignee.
2. To pass all bills, in respect of stores received at godown, after making proper entries in the record books.
3. To prepare OTEO in respect of those stores received where bills have either not been received or cannot be processed in that month, and submit those to stores section for arranging booking of expenditure.
4. To arrange safe custody of all the stores received, till such time as they are finally transported to site.
5. To keep proper record of all the stores received and issued in proper registers and ledgers.
6. To report on damaged/short/incorrect supplies of equipments to the stores section and also to the suppliers under intimation to the Directorate.
7. To arrange clearance of stores from Railway Stations or Air Port.

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SECRET
Director
Office of P.W.D.
C.P.W.D.

CP, Bangalore 001

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8. To arrange despatch of stores to installation sites as and when required.

14.3.9. Machinery and equipment (Tools and Plants) and Zonal workshop

1. To estimate the requirement of measuring Equipments, tools, etc. under "Machinery and Equipment." These equipments & tools are needed during installations works for carrying out measurements and other works at installation sites.
2. To prepare D.T.E. for purchase of stores and other activities under AIR and Doordarshan.
3. To maintain all equipments, purchased under Machinery and Equipment in good condition and arrange their repairs as and when necessary.
4. To take action for disposal of unserviceable items.
5. To celebrate various measuring instruments.
6. To undertake specialised repairs of equipment for projects as well as for stations.
7. To render help to stations in arranging repairs from market.

14.3.10. Administration Branch

One of the Officers of the Zonal Office is declared as 'Head of Office' by the Chief Engineer. He is also a Divisional Officer under CPWD Code.

This Officer is responsible for the entire administration of the Zonal Office and also for keeping proper accounts of all the expenses, on the projects as well as other expenses incurred by office of Chief Engineer. In this work, he is assisted by a Deputy Director (Admn.) an Accounts Officer, divisional accountants, Head Clerks and other ministerial staff.

14.3.11. Engineering Personnel Cell

The Zonal Chief Engineer is responsible for cadre control of all the non-gazetted engineering employees in the Zone including recruitment to the cadre of Engineering Assistants. This work is looked after by this section. Its various functions are as follows:

1. To compile seniority list of all cadres.
2. To hold DPC's for confirmations, and issue orders.
3. To hold DPC's for termination of probationary periods of SEA's and issue orders.
4. To hold DPC's for crossing of EB of SEA's and issue orders.
5. To hold DPC's for promotions of various non-gazetted engineering staff and issue orders.
6. To process all cases for de-reservation.
7. To issue all promotions/transfer orders up to SEA.
8. To maintain full bio-data of each and every employee, in non-gazetted engineering cadre.
9. To arrange recruitment to the cadre of Engineering Assistants.
10. Any other matters concerning staff.

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[Signature]
[Signature]

14.3.12. Installations

Control Administration Division
 No. 1007/2000
 Date of Issue: 10/10/2000

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Project wing of Zonal Chief Engineer looks after all types of installations. Staff for project wing is sanctioned on quarterly basis for T.V. projects and on six-monthly basis for AIR projects. Zonal Chief Engineer prepares a consolidated proposal for various AIR projects which contains the detailed requirements of various categories of staff in each project. The proposal is sent to AIR Directorate for scrutiny at their end and subsequent sanction of installation staff. Similar proposals are sent to T.V. Directorate for their scrutiny and sanction.

The various categories of staff sanctioned are as follows:

Director Engineering
 Deputy Director Engineering
 Assistant Director Engineering
 Assistant Engineer
 Sr. Technician
 Technician
 Cclotexcutter & Decorator
 Carpenter
 Stenographer
 Storekeeper
 Head Clerk
 C G I
 C G II
 Motor Driver,
 Khalasi

Each category of staff is provided on man-month basis as per norms fixed for various types of projects.

14.3.13. Installation Officer

The project wing of Zonal Office is responsible to carry out installation works for various projects. After the receipt of the Government sanction, project note and relevant drawings, a "Detailed Technical Estimate" is framed by Zonal Office which in turn is sanctioned by the competent authority. One of the officers of Zonal Office (or some officer at a station) is declared as Installation Officer for a particular project and an imprest amount is also sanctioned. This officer is authorised to draw that imprest amount from the Cashier of Zonal Office and incur expenditure on the items provided in the sanctioned D.T.E. He performs the following functions:—

A. Administrative

1. To complete the project within the time frame allotted for the project.
2. To exercise control on the regular, workcharged and casual staff employed in his office.

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3. To arrange payment of wages and other dues of the staff.
4. To employ workcharged staff, as provided in the detailed technical estimates (D.T.E.) with the approval of Zonal Office.
5. To employ casual labour as per provisions in the D.T.E. and as per requirements of the work.
6. To correspond and keep liaison with various agencies, like local administration, Electricity Board, Water Supply Authority, P&T Department, PWD, CPWD, CCW and suppliers of equipments.
7. To keep Zonal Office informed about the latest status of the project, and areas where advise/help is required.
8. To ensure optimum utilisation of motor-vehicles provided for installation purpose and also to arrange their proper maintenance.

B. Financial

1. To prepare and pass muster rolls, bills and other vouchers within his powers.
2. To make local purchases within his powers.
3. To receive payments from Zonal Office against imprest, passed muster rolls and bills etc. and render account of the same to Zonal office.
4. To keep account of all stores received from Zonal Office or directly against purchase orders of Directorate, Zonal Office or his own, in proper registers, and arrange their safe custody.
5. To take follow up action in case of non supply, short supply or damaged supply of stores.
6. To watch the pace of expenditure on the project.
7. To ensure that D.T.E. provisions are not exceeded.
8. To take action for the preparation and sanction of Deviation Statements (DS) by the Zonal Office, as and when necessary before incurring any additional expenditure.
9. To arrange disposal of surplus stores at the installation as per rules.

C. Technical

1. To prepare weekly progress report of the installation and submit the same to Zonal Office regularly.
2. To collect all relevant drawings, project note and previous correspondence from Zonal Office and study them thoroughly to acquaint himself with all the details of the project.
3. To compare the store provision in the D.T.E. with actual requirement and take action in case of discrepancies in the earlier stage of project itself.
4. To satisfy himself that the labour provision in D.T.E. is adequate.
5. To ensure that the power supply connection of adequate capacity and telephone lines will be provided by the concerned authorities before completion of installation.
6. To plan installation work of the project to suit delivery schedule of the major equipments.
7. To arrange testing of equipments on receipt at site.
8. To ensure that the installation is carried out strictly as per drawings issued by P&D unit and the Zonal Office. Any deviation from drawings, which may become necessary must be got approved.
9. To ensure that the performance and getup of the entire installation is as per standard test data of the manufacturers and as per specification of the P&D unit.

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10. To ensure that adequate safety devices have been provided in the installation and that they are working satisfactorily.
11. To ensure safety of all the persons engaged by him against fire, electrical and other hazards, specially when working on high voltages and on masts and other areas of high risks.
12. To take measurements on all the equipments and ensure their optimum performance and send the results to Zonal Office. The Zonal Office will fix a date for joint inspection of the installation, if satisfied with the results.
13. To arrange handing over of the installation to the Station Staff, after making 10 copies of handing over/taking over lists of all the tangible items, which are susceptible of verification and which should find a mention in the register of fixed assets, used in the installation, either installed or loose.
14. To prepare 6 copies of completion report of the project and submit the same to Zonal Office.
15. To give a list of all pending items to the station along with relevant correspondence, to enable them to pursue these cases.

D. Senior Most Engineering Officer at site

The Installation Officer works under overall supervision and guidance of the senior most Engineering Officer, if posted at site, who is administrative and technical head of the team. His main functions are as follows:

1. To ensure that proper administrative, financial and technical procedures are being complied with.
2. To carry out installation at site as per approved design and specifications.
3. To undertake all activities for speedy execution of project.
4. To maintain liaison with local authorities for expeditious completion of projects.
5. To ensure that proper measurements are taken and results sent to Zonal Office to arrange joint inspection.
6. To ensure that handing over documents are completed before installation is handed over for operation, after joint inspection.

T. C. [Signature]
[Signature]

Central Board of Secondary Education
Director General
ALL INDIA RADIO
Dated New Delhi 16.7.71

ANNEXURE-SA-2

1967-Vig.

t:- Enforcement of revised schedules to the CCS(CC&A) Rules, 1965 - Appointing, disciplinary and appellate authority in respect of the posts in the Central Service, Class III and General Central Service, Class IV in AIR.

A copy of Ministry of Information and Broadcasting's order No. 7/2/68-V dated 25th June, 1971 together with a copy of revised Schedules to the CCS(CC&A) Rules, 1965, each in English and Hindi, is sent herewith for information and guidance.

- 2. Kindly acknowledge receipt.

(I.S. Pandhi)
Section Officer,
for Director General.

To The Heads of all Stations/offices of AIR (by name)

Copy to:- DEG(A), DDA(H), DDA(S), DDA(H), DDA(E) and DDO(A).

- 2. SI/SII/SIII/SIV/SV/SVI/D(S) Section.
- 3. Guard file.
- 50 spare copies.

(To be published in the Gazette of India, Part II, Section 3(ii).
Ministry of Information and Broadcasting
Government of India

New Delhi-1, the 25th June, 1971.

OFFICE

S.O. In exercise of the powers conferred by sub-rule (2) of Rule 9, clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of rule 24 of the Central Civil Services (Classification Control and Appeal) Rules, 1965, the President hereby directs that in respect of the posts in the General Central Service, Class III and General Central Service, Class IV specified in column 1 of parts I and II of the Schedule to this order, the authority specified in column 2 shall be the Appointing Authority and the authorities specified in columns 3 and 5 shall be the disciplinary Authority and Appellate Authority respectively in regard to the penalties specified in column 4.

To The General Manager,
Govt. of India Press, New Delhi.

Sd/- (J.C. Karpuri)
Deputy Secretary to the Govt. of India

T.C.M.
W. Singh

Part I - General Central Service Press - III

MINISTERIO DE INFORMACION & BROADCASTING

Description of post Appointing Authority

Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 11)

Appellate Authority

Authority Penalties

(1) All India Radio

(1) Office of the Director General (Administration) All posts.

Deputy Director (Administration) All

Director General.

(ii) Subordinate Offices All posts.

Head of Office

Head of Office All

Deputy Director General (Admin.)

(2) Press Information Bureau (1) Head Quarters All posts.

Assistant Principal Information Officer.

Assistant Principal Information Officer All

Principal Information Officer

(ii) Regional/Branch Offices - All posts

Head of Regional Office.

Head of Regional Office. All

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(3) Films Division All posts.

Administrative Officer.

Administrative Officer All

Controller of Films Division.

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 53334-58
 53320-33
 53509-62

As per list attached

विषय:- उत्तरी क्षेत्र में ईवी निगरी तडावकों की नियुक्ति।

आकाशवाणी/दूरदर्शन/उत्तरी क्षेत्र में ईवी निगरी तडावकों की नियुक्ति के संबंध में इतरतय के संदर्भ में केंद्रीय आकाशवाणी/उत्तरी क्षेत्र में ईवी निगरी तडावकों पर आपकी विभिन्न दिशिकाओं का उल्लेख किया जा रहा है।

केंद्रीय विधिलेखा संख्या -3, अराज्यविशेष आकाशवाणी/उत्तरी क्षेत्र में ईवी निगरी तडावकों के अस्तित्व को 1400/- से प्रतिस्थापित करने के लिए निर्धारित अर्थों के अधीन आपकी प्रतिक्रियाओं पर विचार किया जा रहा है।

आपकी नियुक्ति आकाशवाणी तडावकों से पूर्णतः अलगावी है। केंद्रीय विधिलेखा संख्या 3, अराज्यविशेष आकाशवाणी/उत्तरी क्षेत्र में ईवी निगरी तडावकों के अस्तित्व को 1400/- से प्रतिस्थापित करने के लिए निर्धारित अर्थों के अधीन आपकी प्रतिक्रियाओं पर विचार किया जा रहा है।

नियुक्ति हो जाने की स्थिति में आपकी तडावकों को आकाशवाणी/दूरदर्शन/उत्तरी क्षेत्र में ईवी निगरी तडावकों के अस्तित्व को 1400/- से प्रतिस्थापित करने के लिए निर्धारित अर्थों के अधीन आपकी प्रतिक्रियाओं पर विचार किया जा रहा है।

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 V. K.

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Central Administrative Department
Lucknow Bench
Date of Billing
Date of Receipt by Post

Sh. Shiva Om Dixhit,
Begum Hazrat,
Begar,
Lucknow-226001

Handwritten notes:
U.R.
14/11/73
offered

Dr. Dattaraj

The Director,
Boordharan K...
Srinagar
J&K

Sh. Erij Kichore,
Kishore Kiwan,
Near Gargia Store,
Chiv Road,
Stanada, Jodhpur,

Handwritten notes:
U.R.
offered

The Director,
K...
K...

Sh. Pannik Kumar,
18 Din Dayal Road,
Ashrafabad Lucknow-226003.

Handwritten notes:
U.R.
offered

The Director,
Jalandhar,
Punjab

Sh. Rajeev Mishra,
636, Katra Hasl,
Chandni Chowk,
Delhi-110006.

Handwritten notes:
U.R.
offered (2)

The Director,
Mandi (H.P.)
The Station Engineer,
Mandi (H.P.)

Sh. Ashok Kumar,
Motel-C, R.No.322,
R.L.T. Jhansi

Handwritten notes:
U.R.
offered

The Director,
Lucknow

Sh. ...
New ...
Lucknow

Handwritten signatures:
T.C.
V.S.

GOVERNMENT OF INDIA
OFFICE OF THE CHIEF ENGINEER (NORTH ZONE)
AKASHVANI & DOORDARSHAN

JANAGAR HOUSE, BHILAIKIAN ROAD
NEW DELHI - 110011

Dated the 27.7.1988

No. A-13/11(1)/88/EPC/

Shri Deepak Kumar,
18, Dth Dayal Road,
Anandnagar,
Delhi-110028

CO. RECORDS 100

SUBJECT: Appointment of Engineering Assistant in
Northern Zone of Akashvani & Doordarshan

Dear Sir,

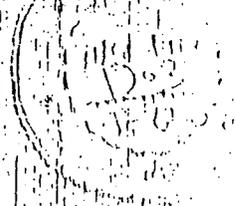
This has reference to this office letter of
even number dated 15.10.1987 vide which offer of appointment
for the post of Engineering Assistant at Doordarshan Kendra
Malandhar was sent to you.

Your place of posting has since been changed to
Doordarshan Kendra, Malandhar to All India Radio, Almera.
Other terms and conditions of the offer of appointment will
remain unchanged. You are requested to report for duty to
the Station Engineer, All India Radio, Almera, within 15
days of this letter, failing which it will be
presumed that you are not interested in the offer and your
name will be dropped from the panel without making any
further reference to you.

Yours faithfully,

(Signature)

(G.P. BHATTI)
DEPUTY DIRECTOR ENGINEERING
FOR CHIEF ENGINEER (N.Z.)



Copy for:-

- 1) The Superintending Engineer, Doordarshan Kendra, Malandhar (Pb). It is requested that the copy of the offer of appointment together with the Character Vaidika Report and a photo copy of the bio-data of the candidate may please be sent to the Station Engineer, All India Radio, Almera by registered post under intimation to this office.
- 2) The Station Engineer, All India Radio, Almera, to be requested that the intimation regarding his joining or otherwise may please be sent to this office telegraphically.

(Signature)
T. C. Singh

GOVERNMENT OF INDIA
ALL INDIA RADIO ALMORA

23226 to 23228

Dated: 20.8.80

Issued/Dictated

MEMORANDUM

With reference to his application dated 10.8.80, Shri Deepak Kumar is hereby appointed as Engineering Assistant in temporary capacity at All India Radio, Almora S.O. 10, Almora (P.H.) in the scale of 1400-40-1600-50-2300-BN-60-2500 plus other allowances as admissible under the rules. The other terms and conditions are the same as laid down in the G.O. (SI), AIR, New Delhi office memo. No. A-13/11(1)26-EPC dated 27.7.80. Shri Deepak Kumar will be on probation for a period of two years from the date of appointment.

Shri Deepak Kumar,
Engineering Assistant,
All India Radio,
Almora.

(Sd/-)
STATION DIRECTOR

- 1. The Chief Engineer (R2) (by name Shri C. S. Chatterji, (P.W.) All India Radio, Doordarshan, Jangpang House (Outstation), Shah Jahan Road, New Delhi-110011 with reference to letter No. A-13/11(1)26-EPC dated 27.7.80.
 - 2. Bill Clerk, 2 copies.
 - 3. Personal file of Shri Deepak Kumar.
 - 4. Service Book of Shri Deepak Kumar.
 - 5. PA to ED, AIR, Almora.
 - 6. PA to SE, AIR, Almora.
 - 7. PA-O, Min. of S.B. & P., New Delhi.
- Kind information.

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25/8

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25/8/80

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25/8

REGISTERED POST

Government of India
Office of the Chief Engineer (North Zone)
Akashvani & Doordarshan

Jamnagar House, Shahjahan Road
New Delhi-110011.

No. B-17/13/DK/90-EPC

Dated: 9.8.90

The Station Director,
(By name:- Shri B.P. Tiwary, ASD),
All India Radio,
ALMORA.

Sub:- Court Case No.130 filed by Shri Deepak
Kumar, BK-EA, AIR, Almora against Govt.
of India.

Ref:- Your letter no. Alm-2(5)A-90/S/2815
dated 28.7.90.

Sir,

With reference to your above letter it is
advised that the "Vakalatnama" duly filled may be
signed by the "Head of Office" at AIR, Almora.

The reply may be filed on behalf of all the
respondents, jointly, after getting the same vetted
by the Ministry of Law through D.G., AIR, New Delhi.

Yours faithfully,

V. S. Saxena
(V. S. Saxena)
Director Engineering
for Chief Engineer (NZ)

S/c

T. C. D.
U. Singh

Government of India
Office of the Chief Engineer (North Zone)
Akshvani & Doordarshan

City of Delhi

Jamnagar House, Shahjahan Road
New Delhi-110011. G. Loc.

No. B-17/13/DK/90/EPC

Dated: 25.9.90

The Station Director,
All India Radio,
ALMORA.

Sub:- Court case no. 130 filed by Sri Deepak
Kumar, Ex-Engineering Assistant, AIR,
Almora against Government of India.

Ref:- BD, AIR, Almora letter no. ALM-2(5)A/90-
S/3577 dated 4.9.90.

Sir,

With reference to your above communication it is stated that in such cases 'Vakalatnama' is signed by the concerned Head of Office viz. Station Director, All India Radio, Almora in the instant case. Station Director, All India Radio, Almora is the main respondent in this case and the others have been made respondents as additional parties. As such, a joint reply is to be filed by Station Director, All India Radio, Almora on behalf of all the parties. Vakalatnama signed by him (SD, AIR, Almora) should hold good.

This may be clarified to the Government Counsel and further action taken as already communicated vide this office letter of even number dated 13.8.90.

Yours faithfully,

(V. S. Saxena)
Director Engineering
for Chief Engineer (NZ)

U. Singh

10(D)
भारत सरकार
कार्यालय: मुख्य अभियन्ता (उ. घ.)
आकाशवाणी एवं दूरदर्शन

वामनगर हाउस, शाहजहाँ रोड,
नई दिल्ली - 110011

12/2

क्रमांक: पी-17/13/डीके/90-ईपीसी/4948-50

दिनांक: 14.8.1991

श्री दिनेश
श्री दीपक कुमार, अभि. त.
18, दीनदयाल रोड,
अगरकाबाद,
मुकदमा-226003

Central Administration Unit
Bachchan Pathy
Date of
Copy of

विषय:- केन्द्रीय प्रशासनिक अधिकरण का निर्णय।
सन्दर्भ:- आपका पत्र दिनांक: 12.8.1991

उपरोक्त पत्र के विषय में मुझे आपसे यह कहना है कि आप केन्द्र निदेशक,
आकाशवाणी, अल्मोड़ा से अगली कार्यवाही हेतु सम्पर्क करें।

श्री
अधोपस्था प्रसाद।
निदेशक-अभि.
दूरदर्शन अभियन्ता (उ. घ.)

प्रतिलिपि प्रेषित :-

1. केन्द्र निदेशक, आकाशवाणी, अल्मोड़ा। श्री दीपक कुमार अभि. त. का
अपील पर केन्द्रीय प्रशासनिक अधिकरण ने निर्णय दे दिया है उतका
करते हुए आप अगली कार्यवाही तुरन्त करने का प्रम करें तथा इसकी
इस कार्यालय एवं महानिदेशालय को भी अवश्य भिजवाने की कृपा।
2. महानिदेशक, नामतः श्री लक्ष्मी नारायण, उप निदेशक-प्रशा.।, आप
महानिदेशालय, संतद मार्ग, नई दिल्ली को सूचनाई।

o/c
37/11/91
कृते: मुख्य अभि

आभा मार्ग/14.8.91

T.C.
We Singh

9(I)

Annexure C
ANNEXURE - SA - 9

GOVERNMENT OF INDIA
OFFICE OF THE CHIEF ENGINEER (NZ)
akashvani & Doordarshan, Administrative Building,
Lucknow

Date of File: _____
Jannagar House, Shahjahan Road
New Delhi: 110011

No. B-17/13/DK/90/EPC/

12347-4

Dated. 26/8/91

Sub: O.A. Case No. 130(L) 90 Deepak Kumar Vs Station Director,
All India Radio, Almora and others decided on 5.7.91 by
C.A.T Allahabad circuit bench Lucknow.

Please find enclosed herewith an application of Sh. Deepak
Kumar, Engineering Assistant alongwith the Court decision
received from the Administrative Tribunal for necessary action
at your end.

CA
(AYODHYA PERSHAD)
DIRECTOR (ENGG.)
FOR CHIEF ENGINEER (NZ)

Station Director
All India Radio,
Almora.

Copy to: Director General, All India Radio, Parliament Street,
New Delhi alongwith the enclosure for necessary action
please.

25.8
for CHIEF ENGINEER (NZ)

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T. E. K.
V. Singh

MOST IMMEDIATE

ANNEXURE - SA - 10

Government of India
Directorate General: All India Radio

Central Administrative Tribunal

No. 8/10/92-SIV(A) / 983

Date of the 17th Nov. 1992

Subject: Payment of consequential benefits to Shri Deepak Kumar, SA.

Reference letter No. AIM-9(10)-59(92)-8/2030, dated 22.8.92, addressed to Chief Engineer(NZ) on the above subject.

2. The CAT has quashed the termination order and held that "the applicant will be deemed in service from the date of termination with all consequential benefits".

3. Station Engineer, All India Radio, Almora, is, therefore, advised to take necessary action accordingly and immediately make the payment of arrears to Shri Deepak Kumar, under intimation to this Directorate and the CAT.

(I.L.BHATIA)
Dy. Director of Admn. (E)
for Director General

De-ccr)

Station Engineer,
(Sh. K.K.Sharma)
All India Radio,
ALMORA-263601

*in file when take on clarification
his name be included in summary with
plan confirm.*

✓ Copy to Chief Engineer(NZ), AIR & TV, New Delhi, with reference to their letter No. B-17/13/DK/92-EPC, dated 8/10.9.92.

(I.L.BHATIA)
Dy. Director of Admn. (E)
for Director General

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GOVERNMENT OF INDIA
ALL INDIA RADIO:ALMORA

ANNEXURE SA-11

NO. ALM-1(6)/91-S / 7016

DATED: 16/3/94

~~Credit & Disbursement~~
~~Debit~~
~~Cost of Filing~~
~~Cost of Collection~~

The Director General
(Smt. Gayatri Sharma, DDA, By Name)
Directorate General
All India Radio
Akashvani Bhawan
Parliament Street
New Delhi

Subject:- Payments of Dues and drawl of Annual Increment
in r/o CAT case No. 67(CP) of 1993 in RE: O.A.
No. 130/90(IL) of Shri Deepak Kumar, EA Vs Union
of India.

Reference:- D.O. letter No C-17/13(2)/MISC/93-EPC, dated
11.3.94 of Shri Ayodhya Pershad, Director
Engineering, O/o Chief Engineer(NZ), AIR & DD,
New Delhi addressed to Shri R.D. Ram, Station
Director, AIR, Lucknow & copy to this office.

Madam, With reference to above, it is intimated that the
amount Rs. 99,251-00 (Rs. Ninety Nine Thousand Two Hundred
Fifty One) as sanctioned vide Min of I&B letter No. 8/10/92-
S.IV(A)/B(D), dated 9.2.94 has been disbursed to Shri Deepak
Kumar through Admn. Officer, AIR, Lucknow. The Annual Increment
as per CAT judgement were also drawn & paid as per the
statement of arrears submitted to DG, AIR, New Delhi for
sanctioning of arrears till his tenure at AIR, Almora.

Yours faithfully,

sc/-
(A.K. DANG)
STATION ENGINEER

Encl: Copy of D.O. letter
under reference.

Copy to:-

The Chief Engineer(NZ) (Shri Ayodhya Pershad,
Director Engineering, By Name), Akashvani &
Doordarshan, JamNagar House, Shahjahan Road,
New Delhi in reference to their above reference
D.O. letter. It is also intimated that payment
of litigation period was beyond the power of
Head of station & delay was because of late
receipt of sanction from Ministry.

Handwritten signature
STATION ENGINEER

16/4/94

No. ALM-1(6)/91-S/2829

Dated: 5.9.91

ORDER

WHEREAS Shri Deepak Kumar, Engineering Assistant (here enter the name and designation of the government servant) was dismissed/removed/compulsorily retired from service with effect from 24.12.88 (here enter the date of dismissal/removal/compulsory retirement) on the ground of conduct which led to his connection on a criminal charge.

O R

WHEREAS the penalty of Dismissal/termination (here enter the name of penalty) was imposed on Shri Deepak Kumar, Engineering Assistant (here enter the name and designation of the government servant) on the ground of conduct which led to his conviction on a criminal charges;

AND WHEREAS the said conviction has been set aside by a competent court of law and the said Shri Deepak Kumar, Engineering Assistant (here enter the name designation of the government servant) has been acquitted of the said charge.

NOW THEREFORE the president/undersigned hereby sets aside the order of dismissal/removal/compulsory retirement from service/imposing the penalty of dismissal/termination (name of the penalty imposed).

(K.K. SHARMA)
STATION ENGINEER
Disciplinary authority

STATION:- AIR, ALMORA
Date: 5.9.91.

Shri Deepak Kumar,
Engineering Assistant
18- Deen Dayal Road,
Asharfabad, Lucknow.

Copy to:-

1. The Chief Engineer (North Zone), (by name Shri Ayodhy Prasad, DE), All India Radio & Doordarshan, Jam Nagar House, Shah Jhan Road, New Delhi- 11, with reference to his letter No. B-17/13/DK/90-EPC/dt.14.8.91.
2. Director General (by name Sh. Laxmi Narayan, DDA), Akashvani Bhawan, Parliament Street, New Delhi for kind information.

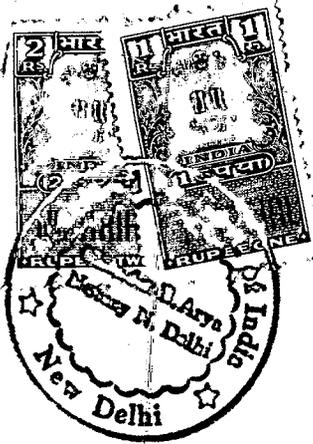
STATION ENGINEER

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

Contempt Petition No. 67 of 1993.

In re:

Original Application No.130 of 1990 (L).



Deepak Kumar

.....Petitioner

versus

Shri K.K.Sharma and others

.....Opposite-Parties.

SUPPLEMENTARY COUNTER-AFFIDAVIT TO THE
REJOINER-AFFIDAVIT.

I, Ayodhya Pershad, aged about 56½ years, son of Shri Kanhaiya Lal, Director (Purchase), Office of the Directorate General, All India Radio, Akashvani Bhawan, New Delhi, do hereby affirm and solemnly state on oath as under:-

1. That the deponent is Respondent No. 3 in the above-noted Contempt Petition, and as such, he is fully conversant with the facts of the case deposed to hereunder.

(contd.2/-.....)

Ayodhya Pershad



2. That the Hon'ble Tribunal, at the time of hearing of the contempt petition, has been pleased to direct the answering opposite-parties to submit reply to the averments/allegations made in the rejoinder-affidavit, particularly with regard to paragraphs-3 and 4 relating to the termination of appointing authority for the post of the petitioner. He is, therefore, submitting his reply to the said allegations made in the rejoinder-affidavit in compliance of the directions of the Hon'ble Tribunal as under:-

3. That the contents of paras-1 and 2 of the rejoinder-affidavit need no reply.

4. That the contents of para~~s~~ 3, 4 and 5 of the rejoinder-affidavit are not admitted as stated. (i) The deponent most respectfully submits that the petitioner has deliberately tried to confuse the Office of the Appointing Authority with that of Cadre ^{Controlling} Authority. In fact, the 2 posts are quite different with different rights, duties and functions. The post of Engineering Assistant in the All India Radio belongs to the Non-Gazetted Engineering Cadre. The para 14.3.11 under the title of 'Engineering Personnel Cell' is being reproduced hereunder to clarify the correct position:-

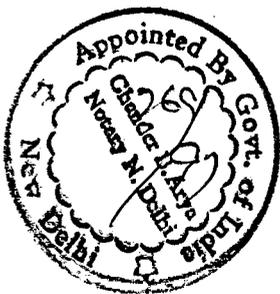


"The Zonal Chief Engineer is responsible for cadre control of all the non-gazetted engineering employees in the Zone including recruitment to the cadre of Engineering Assistants.

This work is looked after by this section. Its various functions are as follows:-

1. To compile seniority list of all cadres.
2. To hold DPC's for confirmations, and issue orders.
3. To hold DPC's for termination of probationary periods of SEA's and issue orders.
4. To hold DPC's for crossing of EB of SEA's and issue orders.
5. To hold DPC's for promotions of various non-gazetted engineering staff and issue orders.
6. To process all cases for de-reservation.
7. To issue all promotions/transfer orders upto SEA.
8. To maintain full bio-data of each and every employee, in-non-gazetted engineering cadre.

Approved by



9. To arrange recruitment to the cadre of Engineering Assistants.

10. Any other matters concerning staff.

A true extract of the said portion of the A.I.R. Manual is being filed herewith as Annexure No.SA-1.

(ii) It would, thus, be clear that the Zonal Chief Engineer is the Cadre Controlling Authority for the entire non-gazetted engineering employees of the Zone, which means that it will be responsible for Seniority List of all the cadre, their transfer, posting etc. Sub-para 9 makes it ample clear that it will arrange recruitment to the cadre of Engineering Assistants, which in turn means that selection and posting of the Engineering Assistant only would be done by the Zonal Chief Engineer, but he is not the appointing authority for the post. The Appointing Authority for each post in the Cadre is given in the Schedule to the C.C.S. (CC & A) Rules, 1965. The deponent is filing herewith a true copy of the said Schedule circulated by the Government of India vide its letter/order dated 16/17-7-1971 as Annexure No.SA-2. At Serial No.(ii), it has been laid-down that the Head of the Office would be the Appointing Authority for all posts in Subordinate Offices. Every Station of the All India Radio is

(contd.5/-.....)



a Subordinate Office, including All India Radio Station, Almora, and Station Director, Almora, is the Appointing Authority for all posts in Class-III Services in his Office/Station, including the post of the petitioner.

(iii) In the instant case also, the selection for the post of Engineering Assistant, including the petitioner was undertaken by the Chief Engineer (North Zone) and the result of selection, including instruction to submit his acceptance to the Appointing Authority (Karmik Adhyaksh) was sent by the Deputy Director (Karmik) on behalf of the Chief Engineer (North Zone) vide letter dated 15.10.1988, a true copy of which is being filed herewith as Annexure No.SA-3. The petitioner was informed through the said letter Para 1 that he is being nominated for appointment (Niyuktikeliye Namit karta hai) by the Selection Committee under the authority of the Director (North Zone). It was specifically stated in para-10 of the said letter that the candidate will have to submit his certificates etc. before the Head of the Office so that the Head of the Office (Karmik Adhyaksh) may issue him the appointment letter. A list of the selected candidates was enclosed with the said letter. The petitioner's name stood at Serial No.100 of the said list, and he was instructed to submit his certificates etc.

(contd.6/-....)



and obtain appointment order from the Director, Doordarshan Kendra, Jalandhar (Punjab).

(iv) However, subsequently, the places of some candidates were changed, including the petitioner. The petitioner's place of posting was changed from Doordarshan Kendra, Jalandhar (Punjab) to All India Radio, Almora (U.P). This was communicated to the petitioner vide letter dated 27/7/1988, a true copy of which is being filed herewith as Annexure No.SA-4. The deponent craves leave of the Hon'ble Tribunal to reproduce the note mentioned in the letter dated 27.7.1988 as under:-

"(1).The Superintending Engineer,Doordarshan Kendra, Jalandhar (Pb.). It is requested that the copy of the offer of appointment together with the Character Verification Report and a photocopy of the bio-data of the candidate may please be sent to the Station Engineer,All India Radio, Almora by registered post under intimation to this office.

(2) The Station Engineer,All India Radio,Almora. It is requested that the intimation regarding his joining or

(contd.7/-)



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otherwise may please be sent to this office telegraphically."

(v) It will be pertinent to point-out here that the Doordarshan Kendra, Jalandhar (Punjab) had not issued any appointment letter to the petitioner. Similarly, the Chief Engineer (North Zone) or any other authority, ^{except} the then Station Director, Almora, did not issue any appointment letter to the petitioner at any point of time. This fact alone militates against the claim of the petitioner that his appointing authority was Chief Engineer (North Zone). In fact, the petitioner has not been able to produce before the Hon'ble Tribunal the copy of the alleged appointment letter. It appears that he has deliberately suppressed the actual appointment letter dated 20/8/1988 issued by the Station Director, All India Radio, Almora, to create a totally incorrect ground for his Original Application. The deponent, therefore, craves leave of the Hon'ble Tribunal to file a true copy of the said actual appointment letter dated 20/8/1988 as Annexure No.SA-5 to this Supplementary Counter-Affidavit.



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(vi) The deponent, further, submits that the above referred procedure is the normal procedure, which has been uniformly followed in the All India Radio throughout the country for decades. The petitioner was fully aware of this procedure and of the fact that the ~~Office~~ of the Chief Engineer (North Zone) acts only as a Recruiting Agency just like the

Public Service Commission, and thereafter it directs the selected candidates to different Stations of All India Radio and Doordarshan for appointment through the Appointing Authority, that is, the respective Head of the Office. The petitioner, however, suppressed most of the relevant documents and information from the Hon'ble Tribunal during the earlier proceedings in the Original Application, because of which, the Hon'ble Tribunal appears to have made the observations that the Appointing Authority for the post of Engineering Assistant appears to be the Chief Engineer (North Zone).

(vii) The deponent deeply regrets and tenders his unconditional apology on behalf of the Department and the officers concerned for not pointing-out these facts to the Hon'ble Tribunal at the relevant stage, and for not filing a Review/Recall Application for expunging the said observations within time. The deponent has been informed that Late Shri V.K.Choudhary, the then Additional Standing Counsel, Central Government, was conducting this case on behalf of the Department, who expired soon after the delivery of the judgement. It appears that, because of this, the said observations of the Hon'ble Tribunal was not noticed by the authority concerned at that time.

(viii) It would, further, be relevant to point-out that when the copy of the Original Application was received at the Office of the Chief

(contd.9/-)-----)



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Engineer (North Zone), as per normal practice, since the order of termination was passed by the Station Director, All India Radio, Almora, and since he was the Appointing Authority for the post of the petitioner, he was directed to file necessary reply on behalf of all the opposite-parties since the matter related mainly to him and the other parties were more or less a 'proforma party'. The deponent is filing herewith true copies of the letters dated 09/8/1990 and 25/9/1990 issued on behalf of the Chief Engineer (North Zone) to the Station Director, All India Radio, Almora, as Annexures No.SA-6 and SA-7 respectively in this regard, informing the latter that, since, he is the main respondent, he should file a joint reply on behalf of all the opposite-parties himself and do the necessary pairvi of the case. It appears that in the circumstances, the Station Director, Almora, was not able to place relevant Rules, Regulations and documents before the Hon'ble Tribunal during the proceedings on the Original Application, which led to the observations of the Hon'ble Tribunal regarding Appointing Authority, which is against the statutory provision. Even the observations appeared to have escaped the notice of the then Station Director, All India Radio, Almora. Such a default is highly regretted.



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(ix) The deponent, however, is advised to submit that the statutory provision remains unchanged, and

(contd.10/-....)

therefore, the deponent was right in submitting before the Hon'ble Tribunal in his counter-affidavit to the contempt petition that the Appointing Authority for the post of the petitioner, that is, Engineering Assistant is the Station Director, All India Radio, Almora, and not the Chief Engineer (North Zone), and that it was for him to comply with the directions of the Hon'ble Tribunal, for which necessary instructions/reminders were issued by the deponent and the Chief Engineer (North Zone), from time to time.

(x) However, out of ample regard for the directions of the Hon'ble Tribunal, the deponent and other officers at New Delhi, have issued several directions to the Station Director, All India Radio, Almora, to comply with the judgement of the Hon'ble Tribunal, that is, to reinstate him, and also to pay him arrears of salary. These include letters dated 14.8.1991, 26.8.1991 and 17.11.1992, true copies of which are being filed herewith as Annexures No.SA-8, 9 and 10 respectively.



(xi) The judgement and order of the Hon'ble Tribunal itself is dated 5.7.1991... and the first direction has been issued by the deponent as soon as it has been received in the Office of the Chief Engineer (North Zone) after its processing and there has been no delay or default on the part of the deponent or at the Office of the Chief Engineer (North Zone) in complying

(contd.11/-....)

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the judgement. The 'reinstatement order', in compliance of the order of the Hon'ble Tribunal, itself, was issued by the Station Engineer (the then Head of the Office at that time) on 5.9.1991, which itself shows that there has been no dis-obedience of the judgement and order of the Hon'ble Tribunal by the answering opposite-parties, much less deliberate dis-obedience.

(xii) However, as the amount of arrears, to be paid, was large and its calculation and obtaining of necessary financial sanction and provision for funds etc. consumed sometime, the same could not be done immediately, but it was paid to the petitioner on or before 16/4/1994, as is evident from the letter sent by the then Station Engineer, All India Radio, Almora, a true copy of which is being filed herewith as Annexure No.SA-11.



Ghanshyam N. Dalvi

(xiii) The deponent, further, craves leave of the Hon'ble Tribunal to submit that so far as the judgement and order of the Hon'ble Tribunal is concerned, it has not prescribed any particular date by which the arrears of salary were to be paid to the petitioner. In the circumstances, the time consumed in the process cannot be termed as deliberate dis-obedience of the order of the Hon'ble Tribunal, as it was bona fide and unintentional. Anything to the contrary is denied as incorrect.

(xiv) It would, further, be relevant to point-out that the petitioner himself has accepted the reinstatement vide the order of the Head of the Office dated 5.9.1991 without any protest, a true copy of which is being filed herewith as Annexure No.SA-12. He has, further, demanded and accepted payment of arrears of salary from the Head of the Office, that is, the then Station Engineer (the then Head of the Office). He is, therefore, stopped from claiming that the opposite-party no.1. is not his appointing authority or that the answering opposite-parties are responsible in any way for not complying with the judgement and order of the Hon'ble Tribunal, being his appointing authority.

5. That it is, further, submitted that there has been no intention of the answering opposite-party at any point of time, not to implement the judgement and order of the Hon'ble Tribunal, on the other hand, the answering opposite-party took all the steps without any delay on his part in this direction for implementation of the Hon'ble Tribunal's directions. The deponent, further, tenders his unintentional apology for any delay, which may have occurred in making actual payment due to the official ; procedure at various levels, which was quite unintentional and uninadvertant, and is liable to be condoned by the Hon'ble Tribunal.

Lucknow, dated:

, 1997.


..... DEPONENT.





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VERIFICATION.

I, the deponent, above-named, do hereby verify that the contents of paras 1 - 3 are believed to be true to my personal knowledge, contents of paras 4 i - viii, x - xii are believed to be true based on records, while the contents of paras 4 ix, xiii, 5 are believed to be true on the basis of the legal advice received by me. No part of this affidavit is false and nothing material has been concealed. So help me God. The Annexures No.SA-1 to SA-12, annexed with this affidavit are true copies of their relevant originals, which are believed to be the true copies.

SOLEMNLY AFFIRMED
SWORN BEFORE ME at

New Delhi. Dated:

11. 8. 1997.

Ayodhya
.....DEPONENT.

Registrar of Companies No. 269/92

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

.....Advocate

Solemnly affirmed before me by the deponent at.....a.m./p.m. on , 1997, who is identified by , Advocate,

(contd.14/-.....)

NOTARY PUBLIC
N.C.T. OF N. DELHI
11 AUG 1997



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



CHIEF ENGINEER'S ZONAL OFFICES

Introductory

14.1.1. Prior to 1948, the working relating to the installation of transmitters, studios, etc. was being done by the Installation Engineers attached to the Maintenance Department. With the drawing up of the Basic Plan for development of broadcasting in India in 1944, the need arose for a regular and separate organisation for its implementation. The Planning and Development Unit of the Directorate General and the Project Circles were, therefore, sanctioned in March 1948 to implement the above plan as modified in 1947.

14.1.2. The Planning and Development Unit was formed in May 1948 and the two Project Circles viz., Eastern Project Circle with headquarters at Calcutta and Western Project Circle with headquarters at Bombay, each under charge of a Project Officer, were formed in March 1949. The Central Project Circle with headquarters at Delhi was Engineer in the Directorate General till its abolition on 1.11.1951. It was revised on 16th February 1953 and placed in charge of a Project Officer like the other two Circles. The three Circles were recognised into four regions each region under a Regional Engineer, w.e.f. 17th August, 1968, viz., West, East, North & South, with headquarters at Bombay, Calcutta, Delhi and Madras, respectively. The Regional Engineers were made responsible for supervision of both Installation and Maintenance works, which earlier were being looked after by the Project Officers and Maintenance Engineer respectively.

14.1.3. From 1.4.1976, Television was separated from All India Radio and a separate Directorate of Television was created but the working of Regional Offices remained undisturbed. Regional Offices continued to look after Installation and Maintenance for both Radio and TV as hitherto. The budgets were separated but Regional Offices operated the budget of both the media units for capital works.

14.1.4. On 5.11.81, another major event was the creation of Indian Broadcasting (Engineers) Service for Group A posts as an organised service under Govt. of India. All the Regional Engineers became CE (Zonal).

14.2.1 Organisation

The jurisdiction of each Zonal Chief Engineer is indicated in Annexure-1.

14.3.1. A Chief Engineers (Level 1) is incharge of each Zone. He has two Chief Engineer (Level 2) under him to look after the maintenance for AIR & Doordarshan separately. For project works, he has two Directors (Projects) to look after separately the project works of AIR and Doordarshan. One of the Officers, who is declared as 'Head of Office' looks after administration accounts and establishment.

Duties and Responsibilities of Staff

The Duties of the various posts mentioned below should not be deemed to be exhaustive. The Chief Engineer is authorised to order deviations, wherever necessary, in the interest of Public Service.

Chief Engineer (Level 1)

- i) The Chief Engineer (Level 1) is directly responsible for the execution of all the AIR & Doordarshan projects in the Zone.
- ii) He exercises all the powers of 'Head of Department', and can declare one of the officers under him as 'Head of Office', for looking after the work of accounts & administration.
- iii) He can create a Division under CPWD Code.

Ayo dnyal



- iv) He is responsible for cadre control of all the Non-Gazetted Engineering Employees in the Zone including recruitment of Engineering Assistants.
- v) He is responsible for maintenance and safe custody of confidential Dossiers of all non-gazetted Engineering Employees in the Zone.

14.3.2. Chief Engineer (Level 2)

There are two posts of Chief Engineer (Level 2) in each Zone. One Chief Engineer looks after the maintenance of AIR Stations and other those of Doordarshan Stations. In this work, each Chief Engineer is assisted by Directors, Deputy Directors and a few Assistant Directors/Assistant Engineers and other ministerial staff. The main functions of maintenance are as follows:

1. To study the technical problems of the Stations and assist the Stations in solving them where required.
2. To scrutinise the various technical returns received from Stations, giving comments thereon and to advise them where necessary, for effecting improvement.
3. To watch day by day use of technical stores particularly transmitting valves, receiving valves and imported and other spares and supervise their supply either from the Central Stores or other sources.
4. To watch utilisation and consumption of magnetic recording tapes, maintenance of all tape recorders and play back equipment and make suitable recommendation to the Directorate for their supply and replenishment.
5. To arrange for the repairs of the technical equipment received from Stations.
6. To assess requirements of renovation, replenishment and replacement at various Centres in his Zone and also consider provision of additional facilities where found necessary. On this basis formulate proposals for necessary funds under various schemes, like Modernisation & Replacement, Additional facilities, etc.
7. To undertake periodical inspection of various AIR/Doordarshan Centres in his Zone by Officers of various levels to ensure adequate technical standards of operation and also strict adherence to rules and regulations stipulated in AIR Manuals and instructions issued from time to time.

14.3.3. Director Engineering (Projects)

1. He is responsible and accountable for timely execution of all projects of AIR or Doordarshan.
2. He monitors each and every activity of the project, starting from selection of sites to commissioning of projects.
3. He looks after the administration, budget & accounts of the project wing.
4. He is responsible for preparation and submission of all returns, pertaining to projects to the Directorate.
5. He is responsible to ensure that equipment is installed and performs to approved standards. He scrutinizes all the measurement and performance reports sent from site, including report on field strength survey.
6. He is responsible for proper handing over of installation to maintenance staff, after arranging joint inspection, and issue of necessary certificate.

In these works, he is assisted by various sections, each one of which works under a Deputy Director. The other staff in the sections consist of one or two Assistant Directors/Assistant Engineers, SEA's and other ministerial staff.

A. S. Mehta



14.3.4. Functions of Various Sections in Project Wing

The main functions of various sections in the project wing are as follows:—

(a) Co-Ordination Section

(There are two separate Sections, one for AIR works and other for Doordarshan works)

1. To survey suitable sites for establishment of Radio and TV Stations and to take further follow up action till the sites are finally paid for and taken over.
2. To place firm demands with Post & Telegraph Department for Telephone Lines and to take follow up action till lines are finally provided. To finalise rent and guarantee terms for the provision of Telephone Lines.
3. To place firm demands with Electricity Boards for the provision of Power supply and to take all follow up actions till the power is finally supplied. To finalise tariff and other agreements with the Power Supply Authority.
4. To Co-ordinate building activities with CCW.
5. To maintain all the drawings and other details pertaining to installation.
6. To guide Installation Officers on all matters pertaining to installation.
7. To maintain liaison with local authorities, Electricity Boards, P&T Department, Railways, Water Supply Authorities and all other Departments whose help may be necessary for the timely execution of projects.
8. To prepare proposals for the sanction of Installation Staff every half yearly for submission to the Directorate.
9. To arrange deployment of Installation Staff for optimum productivity. To take remedial action, where progress is not satisfactory.
10. To monitor progress of Installation and submit periodical reports to the Directorate.
11. To scrutinize all the measurements and performance reports, including reports on field strength survey, received from site and advise the installation team about the remedial action to be taken by them, wherever performances are not satisfactory.
12. To act as a bridge between Installation team at site and P&D Unit/Directorate.
13. To arrange Joint Inspection of completed projects before commissioning the Installation for regular service.
14. To arrange proper handing over of the installation to the station staff.
15. To arrange compilation of completion report and distribute the same to all concerned.
16. To take follow up action for all pending items after the handing over of Installation.

14.3.5. Budget Section

1. To study the technical drawings and project notes received from Directorate and frame detailed technical estimates for the projects, and process their sanction.
2. To prepare deviation statements as and when necessary, and process their sanction.
3. To maintain copies of all project notes and master copies of all detailed Technical Estimates and Deviation Statements.
4. To make available copies of Detailed Technical Estimates and deviation statements to all concerned.
5. To keep records of all the Administrative Approvals and financial sanctions in respect of projects.
6. To monitor the pace of expenditure on projects.

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7. To prepare budget estimates, revised estimates and final estimates.
8. To ensure correct and timely booking of expenditure.
9. To compile material for budget meetings and prepare minutes of the same.

14.3.6. Purchase Section

1. To identify and consolidate various items of purchases required for installation after scrutiny of DTE's.
2. To get the specifications of the equipment from the P&D unit, ISI and other sources or to draw them:
3. To compile an upto date list of suppliers for various items of stores.
4. To compile an upto date data about various equipments available in the market.
5. To Survey the market to get the knowledge about new developments in the field of fabrication of equipment.
6. To process all the purchase of stores required to be purchased by Zonal Offices and finally place order after observation of all purchase rules.
7. To monitor the receipt of stores against the order placed by the section and to take remedial action in case of delay/default.

14.3.7. Stores section

1. To monitor the receipt of equipment against Directorate order as per delivery schedule specified in the order, and to take remedial action in cases of delay/defaults.
2. To take follow up actions in cases of damaged/short supply of equipment.
3. To process and pass bills of the suppliers, and ensure their correct booking.
4. To keep a watch on various advance payments made to the suppliers and adjust the same at the time of final passing of the bill.
5. To arrange transfer of equipment from one project to another, after taking Directorate's approval.
6. To handle all correspondence with Directorate & the suppliers regarding receipt of equipment against Directorate's Order.
7. To scrutinise all Omnibus Transfer Entry Orders and other transfer entries and ensure correct and timely booking of expenditure.

14.3.8. Godown

1. To receive all the stores ordered by the Directorate or the purchase section of the Zonal Office for which Zonal Chief Engineer is the consignee.
2. To pass all bills, in respect of stores received at godown, after making proper entries in the record books.
3. To prepare OTEO in respect of those stores received where bills have either not been received or cannot be processed in that month, and submit those to stores section for arranging booking of expenditure.
4. To arrange safe custody of all the stores received, till such time as they are finally transported to site.
5. To keep proper record of all the stores received and issued in proper registers and ledgers.
6. To report on damaged/short/incorrect supplies of equipments to the stores section and also to the suppliers under intimation to the Directorate.
7. To arrange clearance of stores from Railway Stations or Air Port.

Ayaz Ahmad



14/5

8. To arrange despatch of stores to installation sites as and when required.

14.3.9. Machinery and equipment (Tools and Plants) and Zonal workshop

1. To estimate the requirement of measuring Equipments, tools, etc. under "Machinery and Equipment." These equipments & tools are needed during installations works for carrying out measurements and other works at installation sites.
2. To prepare D.T.E. for purchase of stores and other activities under AIR and Doordarshan.
3. To maintain all equipments, purchased under Machinery and Equipment in good condition and arrange their repairs as and when necessary.
4. To take action for disposal of unserviceable items.
5. To celebrate various measuring instruments.
6. To undertake specialised repairs of equipment for projects as well as for stations.
7. To render help to stations in arranging repairs from market.

14.3.10. Administration Branch

One of the Officers of the Zonal Office is declared as 'Head of Office' by the Chief Engineer. He is also a Divisional Officer under CPWD Code.

This Officer is responsible for the entire administration of the Zonal Office and also for keeping proper accounts of all the expenses, on the projects as well as other expenses incurred by office of Chief Engineer. In this work, he is assisted by a Deputy Director (Admn.) an Accounts Officer, divisional accountants, Head Clerks and other ministerial staff.

14.3.11. Engineering Personnel Cell

The Zonal Chief Engineer is responsible for cadre control of all the non-gazetted engineering employees in the Zone including recruitment to the cadre of Engineering Assistants. This work is looked after by this section. Its various functions are as follows:

1. To compile seniority list of all cadres.
2. To hold DPC's for confirmations, and issue orders.
3. To hold DPC's for termination of probationary periods of SEA's and issue orders.
4. To hold DPC's for crossing of EB of SEA's and issue orders.
5. To hold DPC's for promotions of various non-gazetted engineering staff and issue orders.
6. To process all cases for de-reservation.
7. To issue all promotions/transfer orders up to SEA.
8. To maintain full bio-data of each and every employee, in non-gazetted engineering cadre.
9. To arrange recruitment to the cadre of Engineering Assistants.
10. Any other matters concerning staff.

Appointed By



14.3.12. Installations

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Project wing of Zonal Chief Engineer looks after all types of installations. Staff for project wing is sanctioned on quarterly basis for T.V. projects and on six-monthly basis for AIR projects. Zonal Chief Engineer prepares a consolidated proposal for various AIR projects which contains the detailed requirements of various categories of staff in each project. The proposal is sent to AIR Directorate for scrutiny at their end and subsequent sanction of installation staff. Similar proposals are sent to T.V. Directorate for their scrutiny and sanction.

The various categories of staff sanctioned are as follows:

Director Engineering
Deputy Director Engineering
Assistant Director Engineering
Assistant Engineer
Sr. Technician
Technician
Celotexcutter & Decorator
Carpenter
Stenographer
Storekeeper
Head Clerk
CG I
CG II
Motor Driver,
Khalasi

Each category of staff is provided on man-month basis as per norms fixed for various types of projects.

14.3.13. Installation Officer

The project wing of Zonal Office is responsible to carry out installation works for various projects. After the receipt of the Government sanction, project note and relevant drawings, a "Detailed Technical Estimate" is framed by Zonal Office which in turn is sanctioned by the competent authority. One of the officers of Zonal Office (or some officer at a station) is declared as Installation Officer for a particular project and an imprest amount is also sanctioned. This officer is authorised to draw that imprest amount from the Cashier of Zonal Office and incur expenditure on the items provided in the sanctioned D.T.E. He performs the following functions:—

A. Administrative

1. To complete the project within the time frame allotted for the project.
2. To exercise control on the regular, workcharged and casual staff employed in his office.

Approved



A
147

3. To arrange payment of wages and other dues of the staff.
4. To employ workcharged staff, as provided in the detailed technical estimate (D.T.E.) with the approval of Zonal Office.
5. To employ casual labour as per provisions in the D.T.E. and as per requirements of the work.
6. To correspond and keep liaison with various agencies, like local administration, Electricity Board, Water Supply Authority, P&T Department, PWD, CPWD, CCW and suppliers of equipments.
7. To keep Zonal Office informed about the latest status of the project, and areas where advise/help is required.
8. To ensure optimum utilisation of motor-vehicles provided for installation purpose and also to arrange their proper maintenance.

B. Financial

1. To prepare and pass muster rolls, bills and other vouchers within his powers.
2. To make local purchases within his powers.
3. To receive payments from Zonal Office against imprest, passed muster rolls and bills etc. and render account of the same to Zonal office.
4. To keep account of all stores received from Zonal Office or directly against purchase orders of Directorate, Zonal Office or his own, in proper registers, and arrange their safe custody.
5. To take follow up action in case of non supply, short supply or damaged supply of stores.
6. To watch the pace of expenditure on the project.
7. To ensure that D.T.E. provisions are not exceeded.
8. To take action for the preparation and sanction of Deviation Statements (DS) by the Zonal Office, as and when necessary before incurring any additional expenditure.
9. To arrange disposal of surplus stores at the installation as per rules.

C. Technical

1. To prepare weekly progress report of the installation and submit the same to Zonal Office regularly.
2. To collect all relevant drawings, project note and previous correspondence from Zonal Office and study them thoroughly to acquaint himself with all the details of the project.
3. To compare the store provision in the D.T.E. with actual requirement and take action in case of discrepancies in the earlier stage of project itself.
4. To satisfy himself that the labour provision in D.T.E. is adequate.
5. To ensure that the power supply connection of adequate capacity and telephone lines will be provided by the concerned authorities before completion of installation.
6. To plan installation work of the project to suit delivery schedule of the major equipments.
7. To arrange testing of equipments on receipt at site.
8. To ensure that the installation is carried out strictly as per drawings issued by P&D unit and the Zonal Office. Any deviation from drawings, which may become necessary must be got approved.
9. To ensure that the performance and getup of the entire installation is as per standard test data of the manufacturers and as per specification of the P&D unit.

[Handwritten signature]



17/67-Vig.

Dated New Delhi, the 16.7.71
17/11

Subject:- Enforcement of revised schedules to the CCS(CC&A) Rules, 1965 - Appointing, disciplinary and appellate authority in respect of the posts in the Central Service, Class III and General Central Service, Class IV in AIR.

A copy of Ministry of Information and Broadcasting's order No. 7/2/68-V dated 25th June, 1971 together with a copy of revised Schedules to the CCS(CC&A) Rules, 1965, each in English and Hindi, is sent herewith for information and guidance.

2. Kindly acknowledge receipt.

(I.S. Pandhi)
Section Officer,
for Director General.

To
The Heads of all Stations/offices of AIR (by name)

Copy to:- DEG(A), DDA(H), DEA(S), DDA(H), DDA(E) and DDO(A).

2. SI/SII/SIII/SIV/SV/SVI/D(S) Section.

3. Guard file.

50 spare copies.

(To be published in the Gazette of India, Part II, Section 3(ii).)

Ministry of Information and Broadcasting
Government of India

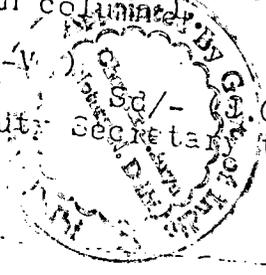
New Delhi-1, the 25th June, 1971.

ORDER

S.O..... In exercise of the powers conferred by sub-rule (2) of Rule 9, clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of rule 24 of the Central Civil Services (Classification Control and Appeal) Rules, 1965, the President hereby directs that in respect of the posts in the General Central Service, Class III and General Central Service, Class IV specified in column 1 of parts I and II of the Schedule to this order, the authority specified in column 2 shall be the Appointing Authority and the authorities specified in columns 3 and 5 shall be the Disciplinary Authority and Appellate Authority respectively in regard to the penalties specified in column 4.

To
The General Manager,
Govt. of India Press, New Delhi.

Deputy Secretary to the Govt. of India
(Sd/- G.C. Kampui)



(Handwritten signature)

आपकी, या आपकी जीव-आय मातलों में आय पर भी कहीं नियम और
लागू होंगे जो संपत्ति-संभार पर आपसे संबंधित सार्वजनिक सेवा की माता
पर लागू होंगे हैं।

आपको केन्द्रीय सिविल सेवा अधिनियम, 1953 का कड़ाई से पालन
होगा। इनमें से किसी भी नियम के जो नियमों के अंतर्गत भी प्रकाश
वत्तमान पर आपके विरुद्ध अनुशासनात्मक कार्यवाही पर ला सकेंगे।

आपको उत्तरी क्षेत्र में कहीं भी तैनात और स्थानान्तरित किया जा
असुविधा पारिवारिक परिस्थितियों आप किसी भी स्थान पर तैनात
धारे में कोई कठिनाई अनुभव करते हैं तो आप यह नियमों प्रस्ताव रख
करें और प्रसंगी सूचना इस कार्यालय को अवगत भेज दें।

भारत सरकार की सेवा में भर्ती संबंधी नियमों के अनुसार सेवा फौंड भी
केन्द्रीय सरकार में भर्ती नहीं किया जाएगा जिसकी एक से अधिक जोड़ियां
हो या अपने पति/पत्नी के जीवित रहने के कारण जिसका पुनर्विवाह इस
काल में मुक्त & void & अंतर दे दिया गया हो, जहां केन्द्रिय सरकार
किन्हीं विशेष आधार पर उक्त इस नियम के पालन में कुछ दे ही हो
आपको निम्नलिखित प्रस्ताव प्रस्तुत के अधीन सेवा जा रहा है कि आप उपरोक्त
अपेक्षा पूरी करते हो और स्वीकृत उत्तर के साथ आप अनुसूची - 1 में प्रकाश
संबंधी घोषणा पत्र भी भर कर भेजते हैं। किन्तु, यदि आपकी एक से अधिक
पत्नी है या अपने पति या पत्नी के जीवित रहते आपने पति पारंपरिक
पुनर्विवाह किया है कि उक्त के जीवित काल में यह प्रस्ताव प्रस्तुत कर
और आप किन्हीं विशेष कारणों पर नियमों के प्रस्ताव दे कर आप
आपको इस संबंध में तत्काल अपना अधिविद्वान् प्रस्ताव पर लेना चाहिए।
परिस्थिति में आपका नियुक्ति प्रस्ताव रद्द करना होगा और आपका
सर्वेचन करने के बाद यदि आपको आकाशवाणी/ दूरदर्शन में सेवा नियुक्ति
सहायक के पद पर नियुक्ति करने पर नियम-विधानों की अनुमति आप
सुचित कर दिया जाएगा।

पद ग्रहण करने के समय आपको भारतीय संविधान के प्रति शपथ लेनी
लेनी होगी या तत्संबंधी तद्विहित प्रमाणों को प्रस्तुत करना होगा।

पदग्रहण करने के लिए आपको किसी प्रकार का दायित्व-संभार नही दिया जा
सकता आप केन्द्रीय या राज्य सरकार के अधीन किसी भी पद पर तैनात
की है नियत ले जान कर रहे हों या केन्द्रीय सिविल सेवा अधिनियम
1953 के अधीन तैनात हैं O.P. में प्रोविडेंट कर दिया गया है।

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Shri. Shive Om Dixhit,
W/O. Begum Hazrat,
Begar,
Lucknow-226001

Shri. Shive Om Dixhit
W/O. Begum Hazrat
Begar
Lucknow-226001
Offreconclid

The District
Boordarshan
Sinsgar
JLK

Shri. Brij Kishore,
W/O. Kanta Kishor,
Near Gargia Store,
Shiv Road,
Etanada, Jodhpur,

Shri. Brij Kishore
W/O. Kanta Kishor
Near Gargia Store
Shiv Road
Etanada, Jodhpur
Offreconclid

The District
Boordarshan
Sinsgar
JLK

Shri. Bhanu Kumar,
18 Din Dayal Road,
Ashrafabad Lucknow-226003.

Shri. Bhanu Kumar
18 Din Dayal Road
Ashrafabad Lucknow-226003
Offreconclid

The District
Boordarshan
Jallandhar
Punjab

Shri. Rajeev Mishra,
850, Katra Neel,
Chandni Chowk,
Delhi-110006.

Shri. Rajeev Mishra
850, Katra Neel
Chandni Chowk
Delhi-110006
Offreconclid

The District
Boordarshan
Mandi (H.P.)
The Station Road,
Mandi, Himachal Pradesh.

Shri. Ashok Kumar,
Borwal, R.No.322,
R.P.T. Jamshegpur-8.

Shri. Ashok Kumar
Borwal, R.No.322
R.P.T. Jamshegpur-8
Offreconclid

The District
Boordarshan
Mandi (H.P.)
The Station Road,
Mandi, Himachal Pradesh.

Shri. Ashok Kumar,
Borwal, R.No.322,
R.P.T. Jamshegpur-8.

Ayudhya



GOVERNMENT OF INDIA
OFFICE OF THE CHIEF ENGINEER (NORTH ZONE)
AKASHVAHINI & DOORDARSHAN

JANNAGAR HOUSE, BHAILAJAHAN ROAD
NEW DELHI-110011

No. A-13/11(1)/88/EPC/

Dated the 27.7.1988

156

Shri. Deepak Kumar,
18, Nih-Doyal Road,
Anandnagar,
Delhi-110002.

SUBJECT - Appointment of Engineering Assistant in
Northern Zone of Akashvani & Doordarshan.

Dear Sir,

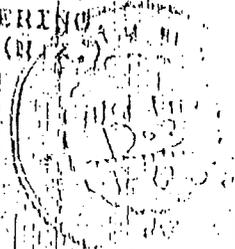
This has reference to this office letter of
even number dated 13.10.1987 vide which offer of appointm
for the post of Engineering Assistant at Doordarshan Ken
Alandhar was sent to you.

Your place of posting has since been changed fr
Doordarshan Kendra, Alandhar to All India Radio, Almera.
Other terms and conditions of the offer of appointment w
remain unchanged. You are requested to report for duty a
the station Engineer, All India Radio, Almera, within 16 d
of the issue of this letter, failing which it will be
presumed that you are not interested in the offer and you
name will be dropped from the panel of eligible candidates
Further reference to you.

Yours faithfully,

(Signature)

(C.P. BHATTI)
DEPUTY DIRECTOR ENGINEERING
FOR CHIEF ENGINEER (N.Z.)



Copy to:-

- 1) The Superintending Engineer, Doordarshan Kendra,
Alandhar (Pb.) It is requested that the copy of the offer
of appointment together with the character verification
report and a photo copy of the bio-data of the candidate
may please be sent to the Station Engineer, All India Rad
Almera by registered post under intimation to this office.
- 2) The Station Engineer, All India Radio, Almera, (v
or otherwise may please be sent to this office by
telegraphically.

(Signature)



2007(9)

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ANNEXURE-SA-5

For AIR-1(2)/88-5/23226 to 23283

Dated: 20.8.88

Issued/1/1/1/1

MEMORANDUM

With reference to his application dated 10.8.88, Shri Deepak Kumar is hereby appointed as Engineering Assistant in temporary capacity at All India Radio, Almora w.o.f. 10.8.88 (P.M.) in the scale of 1400-40-1600-50-2300-40-60-2500 plus other allowances as admissible under the rules. The other terms and conditions are the same as laid down in the C.S.(SI), AIR, New Delhi office memo.No. A-13/11(1)86-SPC dated 27.7.88. Shri Deepak Kumar will be on probation for a period of two years from the date of appointment.

Shri Deepak Kumar,
Engineering Assistant,
All India Radio,
Almora.

(Sd/-)
STATION DIRECTOR

- Copy to: 1. The Chief Engineer (M2) (by name Shri G.P. Bhatnagar, (P.M.), All India Radio, Doordarshan, Jangpore Road (Indraprastha), Shah Jahan Road, New Delhi-110011 with reference to letter No. A-13/11(1)/86-SPC dated 27.7.88.
 - 2. Bill Clerk, 2 copies.
 - 3. Personal file of Shri Deepak Kumar.
 - 4. Service Book of Shri Deepak Kumar.
 - 5. PA to SD, AIR, Almora.
 - 6. PA to SE, AIR, Almora.
 - 7. P.A.O. Min. of D.R.B. & H., New Delhi.
- Kind information.

SEARCHED
SERIALIZED
INDEXED

Received
25/8/88
Received
25/8/88
Aryamya

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Received
25/8/88

Appointed By Govt. of India
Checked by
25/8/88

REGISTERED POST

Government of India
Office of the Chief Engineer(North Zone)
Akashvani & Doordarshan

Jamnagar House, Shahjahan Road
New Delhi-110011.

No.B-17/13/DK/90-EPC

Dated: 9.8.90

The Station Director,
(By name:- Shri B.P. Tiwary, ASD),
All India Radio,
ALMORA.

Sub:- Court Case No.130 filed by Shri Deepak
Kumar, EX-EA, AIR, Almora against Govt.
of India.

Ref:- Your letter no. Alm-2(5)A-90/S/2815
dated 28.7.90.

Sir,

With reference to your above letter it is
advised that the "Vakalatnama" duly filled may be
signed by the "Head of Office" at AIR, Almora.

The reply may be filed on behalf of all the
respondents jointly, after getting the same vetted
by the Ministry of Law through D.G., AIR, New Delhi.

Yours faithfully,

V. S. Saxena
(V. S. Saxena)
Director Engineering
for Chief Engineer(NZ)

S/c

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ANNEXURE - SA-7
51

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Government of India
Office of the Chief Engineer(North Zone)
Akshvani & Doordarshan

Jamnagar House, Shahjahan Road,
New Delhi-110011.

No. B-17/13/DK/90/EPC

Dated: 25.9.90

The Station Director,
All India Radio,
ALMORA.

Sub:- Court case no.130 filed by Shri Deepak
Kumar, Ex-Engineering Assistant, AIR,
Almora against Government of India.

Ref:- SD, AIR, Almora letter no. ALM-2(5)A/90-
S/3577 dated 4.9.90.

Sir,

With reference to your above communication
it is stated that in such cases 'Vakalatnama' is signed
by the concerned Head of Office viz. Station Director,
All India Radio, Almora in the instant case. Station
Director, All India Radio, Almora is the main respondent
in this case and the others have been made respondents
as additional parties. As such, a joint reply is to be
filed by Station Director, All India Radio, Almora on
behalf of all the parties. Vakalatnama signed by him
(SD, AIR, Almora) should hold good.

This may be clarified to the Government
Counsel and further action taken as already communicated
vide this office letter of even number dated 13.8.90.

Yours faithfully,

(V.S. Saxena)
Director Engineering
for Chief Engineer(NZ)



10(D)
भारत सरकार
कार्यालय: मुख्य अभियन्ता (उ. ध.)
आकाशवाणी एवं दूरदर्शन

जामनगर हाउस, शाहबाज रोड,
नई दिल्ली - 110011

दिनांक: 14.8.1991

क्रमांक: पी-17/13/डीके/90-ईपीसी/4948-50

श्री दिनेश
श्री दीपक कुमार, अभि. त.
18, दीनदयाल रोड,
अशरफाबाद,
मुंबई-226003

विषय: - केन्द्रीय प्रशासनिक अधिकरण का निर्णय।
तन्दर्शी: - आपका पत्र दिनांक: 12.8.1991

उपरोक्त पत्र के विषय में मुझे आपसे यह कहना है कि आवश्यक निदेश, आकाशवाणी, अल्मोड़ा से अगली कार्यवाही हेतु सम्पर्क करें।

SA
अयोध्या प्रसाद
निदेशक-अभि.
दूरदर्शन अभियन्ता (उ. ध.)

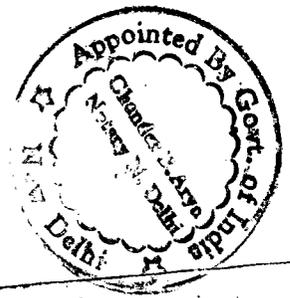
प्रतिलिपि प्रेषिता :-

1. केन्द्र निदेशक, आकाशवाणी, अल्मोड़ा। श्री दीपक कुमार अभि. त. का अपील पर केन्द्रीय प्रशासनिक अधिकरण ने निर्णय दे दिया है उसका करते हुए आप अगली कार्यवाही तुरन्त करने का प्रयत्न करें तथा इसकी इस कार्यालय एवं महानिदेशालय को भी अवगत भिजवाने की कृपा।
2. महानिदेशक, नामतः श्री लक्ष्मी नारायण, उप निदेशक-प्रशा.।, एवं महानिदेशालय, तंतद मार्ग, नई दिल्ली को सूचनायें।

e/c
37/11/91
कृते: मुख्य अभि

आभा नमो/14.8.91

Ayodhya



9(I)

Annexure C

Annexure - SA - 9
67

GOVERNMENT OF INDIA
OFFICE OF THE CHIEF ENGINEER (NZ)
akashvani & Doordarshan

Jamnagar House; Shahjahan Road
New Delhi: 110011

No. B-17/13/DK/90/EPC/

12347-4V

Dated. 26/8/91

Sub: O.A. Case No. 130(L) 90 Deepak Kumar Vs Station Director,
All India Radio, Almora and others decided on 5.7.91 by
C.A.T Allahabad circuit bench Lucknow.

Please find enclosed herewith an application of Sh. Deepak
Kumar, Engineering Assistant alongwith the Court decision
received from the Administrative Tribunal for necessary action
at your end.

CA
(AYODHYA PERSHAD)
DIRECTOR (ENGG.)
FOR CHIEF ENGINEER (NZ)

Station Director
All India Radio,
Almora.

Copy to: Director General, All India Radio, Parliament Street,
New Delhi alongwith the enclosure for necessary action
please.

25.8
for CHIEF ENGINEER (NZ)

8/8
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Ayodhya Pershad



MOST IMMEDIATE

Government of India
Directorate General: All India Radio

Annexure - SA 10

No. 8/10/92-SIV(A) / 983

Dated, the 17th Nov. 1992

Subject: Payment of consequential benefits to Shri Deepak Kumar, SA.

Reference letter No. AIM-9(10)-59(92)-8/2030, dated 22.8.92, addressed to Chief Engineer(NZ) on the above subject.

2. The CAT has quashed the termination order and held that "the applicant will be deemed in service from the date of termination with all consequential benefits".

3. Station Engineer, ALL India Radio, Almora, is, therefore, advised to take necessary action accordingly and immediately make the payment of arrears to Shri Deepak Kumar, under intimation to this Directorate and the CAT.

Sd/-

(I.L.BHATIA)
Dy. Director of Admn. (2)
for Director General

DECLER)

Station Engineer,
(Sh, K.K.Sharma)
All India Radio,
ALMORA-263601

*on file please take all clarifications
his name be included in summary list
please confirm.*

✓ Copy to Chief Engineer(NZ), AIR & TV, New Delhi, with reference to their letter No. B-17/13/DK/92-EPC, dated 8/10.9.92.

(EPC)

20/11

Ayudhya

(I.L.BHATIA)
Dy. Director of Admn. (E)
for Director General



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GOVERNMENT OF INDIA
ALL INDIA RADIO; ALMORA

ANNEXURE - SA-11
DATED: 16.4.94

NO. ALM-1(6)/91-S / 7016

The Director General
Smt. Gayatri Sharma, DDA, By Name)
Directorate General
All India Radio
Akashvani Bhawan
Parliament Street
New Delhi

Subject:- Payments of Dues and drawl of Annual Increment
in r/o CAT case No. 67(CP) of 1993 in RE: O.A.
No. 130/90(IL) of Shri Deepak Kumar. KA Vs Union
of India.

Reference:- D.O. letter No C-17/13(2)/MISC/93-EPC, dated
11.3.94 of Shri Ayodhya Pershad, Director
Engineering, O/o Chief Engineer(NZ), AIR & DD,
New Delhi addressed to Shri R.D. Ram, Station
Director, AIR, Lucknow & copy to this office.

Madam, With reference to above, it is intimated that the
amount Rs. 99,251-00 (Rs. Ninety Nine Thousand Two Hundred
Fifty One) as sanctioned vide Min of I&B letter No. 8/10/92-
S.IV(A)/B(D), dated 9.2.94 has been disbursed to Shri Deepak
Kumar through Admn. Officer, AIR, Lucknow. The Annual Increment
as per CAT judgement were also drawn & paid as per the
statement of arrears submitted to DG, AIR, New Delhi for
sanctioning of arrears till his tenure at AIR, Almora.

Yours faithfully,

sc/-
(A.K. DANG)
STATION ENGINEER

Encl: Copy of D.O. letter
under reference.

Copy to:-

The Chief Engineer(NZ) (Shri Ayodhya Pershad,
Director Engineering, By Name), Akashvani &
Doordarshan, JamNagar House, Shahjahan Road,
New Delhi in reference to their above reference
D.O. letter. It is also intimated that payment
of litigation period was beyond the power of
Head of station & delay was because of late
receipt of sanction from Ministry.

Ayodhya Pershad



STATION ENGINEER

16/4/94

Dated: 5.9.91

No. ALM-1(6)/91-S/2825

ORDER

WHEREAS Shri Deepak Kumar, Engineering Assistant (here enter the name and designation of the government servant) was dismissed/removed/compulsorily retired from service with effect from 24.12.88 (here enter the date of dismissal/removal/compulsory retirement) on the ground of conduct which led to his connection on a criminal charge.

O R

WHEREAS the penalty of Dismissal/termination (here enter the name of penalty) was imposed on Shri Deepak Kumar, Engineering Assistant (here enter the name and designation of the government servant) on the ground of conduct which led to his conviction on a criminal charges;

AND WHEREAS the said conviction has been set aside by a competent court of law and the said Shri Deepak Kumar, Engineering Assistant (here enter the name designation of the government servant) has been acquitted of the said charge.

NOW THEREFORE the president/undersigned hereby sets aside the order of dismissal/removal/compulsory retirement from service/imposing the penalty of dismissal/termination (name of the penalty imposed).

(K.K. SHARMA)
STATION ENGINEER
Disciplinary authority

STATION:- AIR, ALMORA

Date: 5.9.91.

Shri Deepak Kumar,
Engineering Assistant
18- Deen Dayal Road,
Asharfabad, Lucknow.

Copy to:-

1. The Chief Engineer (North Zone), (by name Shri Ayodhya Prasad, DE), All India Radio & Doordarshan, Jam Nagar House, Shah Jhan Road, New Delhi- 11, with reference to his letter No. B-17/13/DK/90-EPC/dt.14.8.91.
2. Director General (by name Sh. Laxmi Narayan, DDA), Akashvani Bhawan, Parliament Street, New Delhi for kind information.

W. K. Sharma
STATION ENGINEER



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

Contempt Petition No. 67 of 1993.

In re

O.A. No. 130 of 1990

जुद्धा अधिकाधिकार कोर्ट
ऑफिस डेफेंस
कोर्ट ऑफ फिलिंग 21.11.23
कोर्ट ऑफ रिसेप्ट डी पोस्ट

1997
AFFIDAVIT
53-M
DIST. COURT
U. P.



for [Signature] 000

Sri Deepak Kumar.

... Petitioner.

Versus

Sri K.K. Sharma & three Others.

... Opp. Parties.

SUPPLEMENTARY REJOINDER AFFIDAVIT TO THE SUPPLEMENTARY
COUNTER AFFIDAVIT FILED BY OPPOSITE PARTIES NOS. 2 & 3
RECEIVED ON 5-9-1997 BY THE DEPONENT'S ADVOCATE.

I, Deepak Kumar, aged about 34 years, Son of Sri Basant Behari Saxena, Resident of 18, Deen Dayal Road, Asherabad, Lucknow, at present posted as 'Engineering Assistant' in All India Radio, Lucknow do hereby solemnly affirm and state on oath as under:-

1. That the deponent is the petitioner in the aforesaid contempt case and is doing pairvi in the case from the very beginning, as such he is fully conversant with the facts of the case deposed to hereunder.

2. That the supplementary Counter Affidavits filed by the Opp. Parties 2 & 3 are not admissible documents

Control Administration
Backlog
Case of Opp. Parties 2 and 3
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as no Advocate has identified the Opp. Parties 2 and 3 in their Affidavits before the Notary but the Notary too has not stated that any oath has been taken before him. The time and place of the Affidavit have also not been indicated only in the Supplementary Counter Affidavit of Opp. Party No. 2. The Affidavit filed by the Opp. Party No. 3 does not bear any signature either of the Notary or his Advocate on page 14 which requires that the contents have been explained and have been noted by the deponent. None of the Supplementary Counter Affidavit has been attested by any one as required by the Notary Act.

3. That the contents of paragraphs 1 and 3 of the Supplementary Counter Affidavits need no reply.

4. That in reply to para 2 of the Supplementary Counter Affidavits, it is stated that after filing of the Supplementary Affidavit by the Opposite Party No. 1-A on behalf of the Opposite Parties which was required by the Tribunal in January 1994 and the Supplementary Affidavit was already filed in September or October 1994. Now it is not correct to say that thereafter the Tribunal has again directed any of the Answering Opp. Parties to submit another fresh reply to the averments already made in the Petition and the Rejoinder Affidavit. The matter in O.A. No. 130/1990 relates only to the question of illegal termination not by the appointing authority but by a subordinate of the appointing authority and that

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Control No. 102/1991
Ackno. Date
Date of Filing
Cost of Record by

D. D. Datta
18/10/91

question has been finally decided on the basis of pleadings and documents filed by the Tribunal vide its order dated 5-7-1991 against which neither any appeal nor any review was ever preferred by any of the Opp. Parties. The relevant finding's extract of the Tribunal's order which is the basis of the pleadings contained in paras 4(i) and 5(D) as contained on pages 4 and 5 of the original petition and the Appointment Order which has been filed with the Compilation No. 2 as Document No. 1 and the findings contained in the Judgement are on pages 4 and 5 which are as follows:-

"The question that has been conveyed by the learned counsel for the applicant that his service could have been terminated only by the appointing authority and not by the respondent No. 1, who was not his appointing authority. Offer of appointment to the applicant was given by the Chief Engineer, Northern Zone, All India Radio and in pursuance of the same the applicant was posted at Door-Darshan Kendra, Jalandur where he joined. The applicant was transferred under the orders of Chief Engineer, Northern Zone, Almora on his representation which was one of the Station in the Northern Zone like Jallundhar. The applicant has also filed document indicating that for such post advertisement was subsequently issued by the Chief Engineer, Northern Zone. These facts indicate that it was the Chief Engineer, who was the appointing authority. The Station Director, All India Radio, who transferred the applicant, could not be the appointing authority and subsequently the termination order has been passed by the authority, who is lower than the appointing authority and the termination order is liable to be quashed on this ground alone."

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After the aforesaid judgement became final between the parties, no comment or criticism against the

Central Adm. Information Database
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Date of Filing
Cost of Revision by P.O. No. 108
C. D. [Signature]

findings or judgement will be relevant indicating present matter which relates to non-compliance of Tribunal's order and it will also amount to committing a contempt of Tribunal's order because of interpreting the finding recorded by a Competent Tribunal in a case between the parties decided in 1991. So no reply or document can be relevant at present as no interpretation other than the interpretation or finding already recorded by the Tribunal is possible. No new facts were stated in the Rejoinder Affidavit. The facts stated were only for the purpose of drawing the attention of the Tribunal about those findings on the basis of which the direction and the relief had already been granted.

5. That in reply to paragraph 4, replying paragraphs 3, 4 and 5 of the Rejoinder Affidavit by which paragraphs 4 to 8 of the Counter Affidavits of the Opposite Parties Nos. 2 and 3 were replied and nothing new has been said in reply. In paragraphs 3, 4 and 5 only reiteration of the facts which were already in the original Claim Petition which relates to the appointment as 'Engineering Assistant' on 5-5-1987 i.e. to whom the application for appointment was sent and how the application for appointment was considered and on whose approval and order the Dy. Director (Engineering) has issued the appointment order for and on behalf of the Chief Engineer (Northern Zone). In the Rejoinder Affidavit it was only stated that none of the Opp. Parties have ever explained in their relevant paragraphs of Counter Affidavits that what they did for complying the Tribunal's orders after receiving the same in the month

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General Administrative (General)
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of July 1991 till the order has been complied with by them. It has also not been stated that what were the circumstances relating to delay in complying the Tribunal's orders which have not been stated or explained by the Opp. Parties 2 and 3, even after three years, in their supplementary Counter Affidavits which were filed in April 1994. Whatever has now been stated in Supplementary Counter Affidavits is only repetition and relates to the facts which cannot be relevant in any manner in these proceedings and the same have been now pleaded with malafide intention to malign the authority who passed the order by raising arguments against the findings. In reply to the facts stated in paragraphs 4(i) to 4 (vi), 4(viii), 4(ix), 4(xi), 4(xii) and 4 (xiii) except sub-paragraphs 4(vii), 4(x) and 4 (xii) ^{of Original Application} which relates to the question of Appointing Authority of the deponent now there is no necessity of submitting any further reply as the facts now pleaded are not within the knowledge of the deponent as no Rules of Govt. of India orders relating to appointment in the Department has been filed or produced and what has been produced as Annexures SA (1), SA(2), SA(3), SA(4), SA(6), SA(7), SA(9), SA(10) and SA(11) are the documents which relates to certain correspondence between the Opposite Parties of which Photostat copies have been filed from which it cannot be understood who issued it and what is the basis and circumstances under which the same has been filed and now it is apparent that inspite of the fact that the judgement of the



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Tribunal's order ^{was} made known to the Opp. Parties in July 1991 and thereafter what was required by the order was to comply the same as early as possible specially more after furnishing and undertaking to the effect that the order will be complied with within a reasonable time. What steps were taken and when they were taken by the Opp. Parties have not been stated either when the earlier contempt petition was filed or there-after after giving ~~of~~ undertaking in earlier contempt case. But the order was not complied with by the Opp. Parties till 28-4-1994 in any manner when the deponent was allowed to join after the filing of the first contempt petition. In the earlier contempt petition in which the Counter Affidavit which was also filed on behalf of the Opp. Parties but that was submitted ~~jointly~~ only to save the Opposite parties from the punishment which was to be imposed ^{by the deponent} as the order was ~~not~~ complied with and then then Opp. Party No. 2 in paragraphs 2 and 3 of the Counter Affidavit has not only made admission that the Opp. Parties are ready to reinstate the deponent in compliance of this Tribunal's order and also made admission that an Express Telegram has already been sent by the Opp. Parties to the deponent asking him to join duties immediately and about the payment of arrears of salary in paragraph 3 ~~it has been stated~~ that as soon as the deponent reports for duty, he will be given charge of the post and other consequential benefits will be given thereafter within REASONABLE TIME in accordance with the Rules. in accordance with the Rules. Now after this admission it is for the Opposite Parties to state

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that what was the reasonable time for compliance. The deponent joined the duties in the last week of April 1992. In the contempt case because of the unconditional apology the Tribunal has further provided in the order that it will remain open to the deponent to approach the Tribunal again in case of any violation of the admission and statement on oath on behalf of the Opp. Parties as contained in paragraph 3 of the Counter affidavit arises, Hence the Opposite Parties were required to state that what should be the reasonable time in the case of the deponent according to them for compliance of the Tribunal's order dated 5-7-1991 when they were directed ^{by the department} to comply the order in August 1991 as well as from the date the undertaking was given before the Tribunal in earlier contempt case specially when the Deputy Director (Administration) has required the Opp. Parties vide its order dated 17-11-1992 to make necessary step and action and to make the payment of arrears of salary immediately but when inspite of the clearance given by the Deputy Director (Administration) the aforesaid Tribunal's Order as well as the order passed by the Departmental Officer for arrears of payment of salary was not complied with for more than one year then again the present contempt petition was filed before this Hon'ble Tribunal. Now there are contradictory stands on oath as contained in the Counter Affidavits already filed by the Opp. Parties, who have again filed the present Supplementary Counter Affidavits. In the earlier Counter

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Affidavits which were filed by the Opposite Parties, if taken alongwith the present Supplemental Counter Affidavits, the statement of facts contained therein amounts to challenge the judgement and the finding recorded by the Tribunal for which they are to be required to submit an explanation why they are interpreting the findings and the judgement of the Tribunal after the order has become final. On the plea that they are not responsible for payment of salary etc. but they have also not stated who is responsible when the documents ^{are} already on record . The averments in the Counter Affidavits of the Opp. Parties Nos. 1 and 1-A have not indicated that who were to permit and allow the Opp. Parties 1 and 1-A to reinstate the deponent and who were to order for the payment of the arrears of salary to the deponent, and that too within how much time. In the present case the Tribunal's order was totally ignored up to the filing of the First Contempt Petition in 1991 and thereafter only the deponent was allowed to join on 28-4-1992 i.e. after about ten months of the order. The documents filed with the Supplementary Counter Affidavit show that the orders for taking necessary action for joining and payment of arrears were issued by the Office of the Opposite Party No. 2 as far back as on 26-8-1991 but the deponent was not allowed to join his duties till 28-4-1992. Thereafter in any case again orders for payment of arrears were issued on 17-11-1992 but no payment of the arrears were made till March 1994. So the Opposite Parties be required to say what will

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be the reasonable time in the present case for
complying the order of the Tribunal.

Deponent's oath
Date of Deposition:

6. That in reply to paragraphs 4 (vii), (x) and (xii) which relates to showing regard or tendering of unconditional apology is neither bonafide nor can be said to be proper in the circumstances of the case in view of the fact that after passing of the order the compliance has not been done as was required by the Order as well as by the undertaking as mentioned in paragraphs of the petition and Rejoinder Affidavit and in this Supplementary Rejoinder Affidavit till today there is no explanation explaining the cause or reason of so much delay in not obeying the order as such the tendering of apology is wholly malafide as the facts which have been cooked up either before the first contempt case or in the Affidavits by the Opposite Parties in the present case have been cooked up every time even after six years of the judgement which is only to mislead the Court again and again and the order was not obeyed by the Opposite Parties for an unreasonable long period, hence the Opposite Parties are liable to compensate the deponent, who has not only suffered pecuniary loss because of non-payment of the salary within reasonable time of the Tribunal's order and thereafter after giving of final order and if there would have been any bonafide then after issuing of Orders filed as Annexure SA/8 SA/9 SA/10 8, 9 and 10 why the Officers and their subordinates did not consider it necessary to see whether the order of the Tribunal had been complied with or

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not, so mere tendering of apology in the case at this stage will not relieve them of the duties which should have been discharged when no steps after receiving the intimation of judgement were taken within reasonable time and have failed to see the implementation of the judgement and order of the Hon'ble Tribunal till First Contempt Petition was filed and decided as the Opposite Parties were allowed to go scot free only on the basis of tendering an unconditional apology and submitting an undertaking to comply within a reasonable time thereafter again under what circumstances the order was not complied with within reasonable time, has not been explained even in the Supplementary Counter Affidavit so mere stating about unconditional apology again and again in the paragraphs under reply will not amount to either due obedience of the Tribunal's orders as required by the order passed or to comply the order within reasonable time and the petitioner was dragged for no fault of him from July 1990 till this date.

Copy of this affidavit
 Date of Filing
 Date of Receipt

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Lucknow.

DEPONENT.

Dated: September /, 1997.

VERIFICATION.

I, the above named deponent do hereby verify that the contents of paragraphs 1 and 4 of this Affidavit are true to my personal knowledge and paras 2, 5 and 6 are believed by me to be true on the advice as the facts above are based on legal advice. No part of it is false and nothing material has been concealed.

So help me God.

Central Administrative Tribunal
Lucknow Bench
Date of Filing
Case of No. *11/1075* by P.O. *11/1075*

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Lucknow.

DEPONENT, *11/1075*

Dated: September ,1997.

I identify the deponent, who has signed before me.

[Signature]
ADVOCATE

Solemnly affirmed before me on *10/12/97* at *10.12* A.M./P.M. by the Deponent, who is identified by Sri *A. S. Datta* Advocate, High Court, Lucknow Bench, Lucknow.

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

11/1075

[Signature]
GULSHAB KUMAR
Bath Commissionaire
Lucknow Bench