

(See rule 114).

OA/TA/RA/CP/MA/PT 0143....of 2090

M. A. Jaffrey

Applicant(S)

*Versus*

U.O.I

Respondent(S)

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1	Check list	1-2
2	Final order dt. 26-4-12 <sup>sup</sup>	3
3	Petition	4-16
4	Annexure	17-25
5	Powers	26

B.C. file weeded and destroyed

Certified that the file is complete in all respects.

Signature of S.O.

Signature of Deal. Hand

(AI)

25/4/90

GENERAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Registration No. 143 of 1989 19

APPLICANT(S) M. A. Daffarey

RESPONDENT(S) U O C

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent? yp
2. a) Is the application in the prescribed form? yp  
b) Is the application in paper book form?  
c) Have six complete sets of the application been filed?
3. a) Is the appeal in time? yp  
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? yp
5. Is the application accompanied by B.D./Postal Order for Rs.50/- yp
6. Has the certified copy/copies of the order(s) against which the application is made been filed? yp
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed? yp  
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly? yp  
c) Are the documents referred to in (a) above neatly typed in double space? yp
8. Has the index of documents been filed and paging done properly? yp
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application? yp
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? dw

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<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	Yp
12. Are extra copies of the application with Annexures filed ?	Yp
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 ?	Yp
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	Yp
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	NA
17. Are the facts of the case mentioned in item no. 6 of the application ?	Yp
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 ?	Yp
19. Whether all the remedies have been exhausted.	Yp

dinesh/

A3

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

O.A. NO. 143/90 (L)  
\*\*\*\*\*

M.A. Jaffrey	.....	Applicant.
	Versus	
Union of India & others	.....	Respondents.

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

( By Hon. Mr. D.K. Agrawal, J.M.)

Heard, Shri. S. Narayan, Advocate, for the applicant.

This petition relates to the recovery of advance T.A. salary drawn at the time of transfer. The grievance is that excess recovery has been made. If so, the matter is to be decided by the competent authority. The applicant has already made representation in the first week of April. There exist no adverse order on record. Therefore, this application is premature. The application is accordingly dismissed summarily.

  
ADM MEMBER.

  
JUDICIAL MEMBER.

Dated: 26.4.1990

AW

Form -I  
(See Rule - 4)

APPLICAT ON UNDER SECTION 19 OF THE ADMINISRRATIVE  
TRIBUNAL ACT, 1985.

I N D E X.

Description of documents relied upon  
application

Page No.

*Shrawan Kumar*  
Signature of applicant

for the use in Tribunal's Office

Date of filing

of

Date of Receipt by post

Registration No.

Signature  
for Registrar.

*Filed today*  
*25/4*  
*Noted on 25/4*

AS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

O.A. No. 143 of 1990(L)

Shri M.A. Jaffrey

.. Union of India and others

I N D E X:

Sl. No.	Particulars	page No.
1.	Application	1 to 11
2.	<u>Annexure no.1</u> (Copy of letter No. ADEO/KNP/G-18/MAJ dated 30.3.1990.)	12 - 13
3.	<u>Annexure no.2</u> (Representation dated 4.4.90 from the applicant)	14 - 20
4.	Power.	21-

f.T.  
25/4/90

*Shrawan*  
Advocate. *Adv.*

AS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

O.A. NO. 143 of 1990(L)

(Application under Section 19 of the Administrative  
Tribunals Act 1985)

Shri M.A. Jaffrey,  
aged about 50 years,  
S/o. Late Shri Mukhtar Ahmed  
Jaffrey,  
Resident of 94/140, Hiramankapurva,  
KANPUR.

... Applicant

-vs-

1. Union of India through Secretary,  
Ministry of Defence,  
New Delhi.
2. The Assistant Defence Estates Officer,  
Tagore Road,  
Kanpur Cantonment.
3. The Defence Estates Officer,  
Lucknow Circle, Lucknow Cantt.
4. The Controller of Defence Accounts  
Central Command, Lucknow Cantonment.

.... Opp. parties.

1. Particulars of the order against which the appli-  
cation is made.

Order No. ADEO/KNP/G-18/MAJ dated 30.3.1990

of Asstt. Defence Estates Officer, Kanpur

regarding recovery of TA advance of Rs. 3,900.

*M. A. Jaffrey*

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A copy of the said order is being enclosed herewith as Annexure no.1 to this application.

2. Jurisdiction of the Tribunal.

The opposite party no.2 & 4 are situated in Lucknow and the OP No.4 effecting the dedeuction of salary of the applicant in Lucknow.

3. Limitation.

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

4. Facts of the case.

(a) That the applicant was transferred from Lucknow to Jodpur and the said transfer order was subsequentially modified and he was transferred to Kanpur under the administrative control of Opposite party no.3.

(b) That on the event of his transfer the applicant took the advance of permanent TA amounting to Rs.3900/- .

*m. A. Jaffer*



(A7)

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(c) That the applicant joined on the post under the apposite party no.2 in the month of February, 1989.

(d) That the applicant submitted his TA Bill for performing the journey on 18.10.1989 to the opposite party no.3 who is the controlling authority, who in turn sent the TA Bill to the OP No.4 for the adjustment of the advance taken by the applicant.

(e) That as per knowledge of the applicant that the TA Bills are to be submitted before the OP No.3 and the Opposite party No.2 is only competent to disburse the pay and allowances etc. which is the procedure prevailing in the Department in the past several years.

*Mr. D. Jaffrey*

(10)

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(g) That the applicant was paid ~~thm~~ a less Rs.1300/- in the pay Bill of March 1990 as he came to know of the situation he made an enquiry and he was informed vide letter dated 30th March 1990 (Annexure no.1) that recovery of TA advance is being made in three instalments which would be cleared from the perusal of Annexure no.1.

(h) That it is pertinent to mention that as per rule of the CCS(CC&A) Rules no recovery can be made without giving show cause notice and following the procedure prescribed under the said rule.

(i) That the applicant was given no show cause notice or charge sheet or any opportunity to explain the position with regard to the said illegal and arbitrary recovery and as such no order on recovery which was never communicated to the applicant is illegal and arbitrary.

(j) That the recovery from pay is a penalty as per rule 11(iii) of CCS(CC&A) Rules and for imposing the penalty the Department/Opposite

*m. S. D. Jeyaraj*

parties are under obligation to follow the procedures prescribed in Rule 16(1)(a to e) of the said Rules. The relevant rule is being reproduced below:-

"16(1) Subject to the provision of sub-rule (3) of Rule 15, no order imposing on a Government servant any of the penalties specified in clause (i) to (iv) of Rule 11 shall be made except after -

(a) informing the Government servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rule (3) to (23) of Rule 14, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary.

(c) taking the representation, if any,

*m. S. J. Jeyaraj*

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submitted by the Government servant under clause (a) and the record of inquiry, if any laid under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) consulting the Commission where such consultation is necessary.

(k) That the time limit of submitting the TA bills from the date of journey is one year and the applicant submitted his TA bill well within time limit to the appropriate authority who in turn forwarded the same to the CDA, Central Command, Lucknow.

(l) That the Ta Bills submitted <sup>by</sup> ~~the~~ the applicant has not yet been <sup>finalised</sup> ~~finalised~~ by the OP No.4 and the applicant is not liable to pay or refund the TA advance of Rs.3900/- .

(m) That the applicant has submitted the TA Bill of Rs.2660/- and he is liable to refund of Rs.1240/- or adjustment of the said amount as per rules.

*m. A. Jaffrey*

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(n) That when the applicant did not get his full salary for the month of March 1990 he made a representation to the OP No.2 with copy to OP No.3 in which he made the full position clear and mentioned the fact that he ~~is~~ has already submitted his TA Bill against which the advance of Rs.3900/- has been drawn for his and family's journey on permanent transfer to the station of his posting, and also requested that till finalisation of his TA claim no recovery should be made. A copy of the said letter is being sent herewith as Annexure no.2 to this application.

(o) That the applicant also sent telegram to the higher authorities regarding the high-handedness of the OP No.2 on 4.4.1990.

(p) That inspite of representation and submission of his detailed facts it is learned that the further recovery of Rs.1300/- is being made from the pay-Bill of April 1990 of the applicant which the applicant has seen in the pay bill at the time of despatch ~~by~~ to the OP No.4.

(q) That no recovery can be made by the Opposite party no.2, from the pay of the applicant

*M. S. J. J. J.*

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unless and until the procedure prescribed under Rule 16 of the CCS(CC&A) Rules is followed.-  
ie. by giving an opportunity ~~te~~ of explaining the position and after due consideration of the facts and circumstances of the case.

(r) That action of the OP No.2 and 4 with regard to recovery from the pay of the applicant is wholly arbitrary, illegal and against the statutory rules.

(s) That the applicant in these hard days will suffer a great loss and monetary difficulty if not paid his full salary for the month of April 1990 and will have to face a great difficulty during the eve of of period of festival of Idulftar

(t) That there are extra ordinary circumstances under which the applicant is compelled to knock the doors of this Hon'ble Tribunal but it is submitted that there is other statutory rules provided under the rules against ~~the~~ such illegal and arbitrary recovery from the salary.

5. Grounds for relief with legal provisions.

*m. A. P. Nay*

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(i) Because the opposite parties did not follow the rules while recovering the amount of Rs.1300/- from the pay of the applicant for the month of March 1990.

(ii) Because the applicant was not given any show cause notice or charge sheet or any opportunity to explain the position with regard to the illegal and arbitrary recovery and no order on recovery was never communicated to the applicant as per rules.

(iii) Because the recovery from pay is a penalty as per rule 11(iii) of CCS(CC&A) Rules and the Department was not followed the procedure under Rule 16(1) (a to e) of the said rules.

(iv) Because the applicant submitted his TA Bill within time limit prescribed under the rules.

(v) Because TA Bills submitted has not yet been finalised by the OP No.4.

(vi) Because the applicant has submitted his TA Bills against which the advance was drawn for adjustment.

M. A. Jey

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(vii) Because the applicant learned that further recovery of Rs.1300/- from his regular pay bill for the month of April has also been arbitrarily deducted and sent to the OP No.4.

(viii) Because the action of OP No.2 and 4 are illegal, arbitrary and without any rules /procedure laid down.

(ix) Because in the absence of his full salary for the month of March and further deductions made by the OP No.2, the applicant will have to face a great difficulty during the eve of Idulfiter.

6. Details of the remedies exhausted.

There is no remedy available under the statutory rules. However a representation was made which was ~~was~~ not considered favourably as per Annexure no.2.

7. Matters not previously filed or pending with any other court.

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

m. A. Jeyaraj



court or any other authority or any other Bench of the Tribunal nor any such application/petition or suit is pending before any of them.

8. Relief(s) sought.

In view of the facts mentioned in para 4 above the applicant prays for the following relief(s):-

(i) That the order contained in Annexure no.1 issued by the OP No.2 be quashed and directions be issued to the opposite parties not to make any recovery from the pay of the applicant in pursuance of drawing TA advance on permanent transfer till the finalisation of the TA Bills submitted by the applicant and also to refund the amount already recovered from his ~~March~~ pay of March 1990.

9. Interim order, if any prayed for.

That the opposite parties be directed to not to recover any amount from the pay of the applicant ie. Pay of the month of April 1990 or by any subsequent months till the final disposal of this application.

*on A J. Jey*

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

N.A.

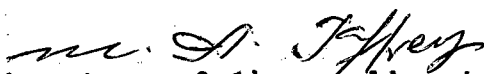
11. Particulars of Bank Draft/Postal order filed in  
in respect of the application fee.

PO No. 05414150 dt. 25.4.90 valued Rs 50/-

1. True copy of letter No. ADEO/KNP/G-18/MAJ dated 30 March 1990 of ADEO, Kanpur (Annexure no.1).
2. True copy of representation dated 4.4.90 of the applicant. (Annexure no.2).

Verification.

I, M.A. Jaffrey, aged about 50 years, son of late Shri Mukhtar Ahmed Jaffrey, Resident of 94/140, Miramankapurva, Kanpur do hereby verify that the contents of para 1 to 11 are true to my personal knowledge, and information gathered and as well as from the legal advice and that I have not suppressed any material fact.

  
Signature of the applicant

Dated: 19/4/90

Place: Lucknow —

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In the Hon'ble C.A.T. Circuit Bench Lucknow

ANNEXURE NO. 1

(A17)

No. ADEO/KNP/G-18/MAJ  
Office of the ADEO  
Tagore Road, Kanpur Cantt-4  
March 30, 1990.

To

Shri MA Jaffrey, SDO Gde III.

Sub: Recovery of TA advance of Rs.3900/-

2. Kindly let us know as to when and under what authority Pt. TA Bill has been submitted by you to the Defence Estates Officer, Lucknow Circle, Lucknow Cantt. The Defence Estates Officer, Lucknow Circle, Lucknow Cantt while relieving you under his D.O. Part II order No.112 dated 24.2.1989 has intimated the following recovery to be affected :-

(a) Pt. TA advance of Rs.3900/-

(b) Pay advance Rs.1560/-

3. As regards to the pay advance of Rs.1560/-

same has already been effected from your salary for the month of Dec. 1988, Jan. 89 and Feb. 89 and paid to you in March 1989. The Pt. TA claim of Rs.3900/- was still outstanding and no bill has been received from you. Since more than a year has passed, recovery has been correctly effected.

4. You should not come to conclusion of alleging like a "injustice", "integrity" as mentioned in your letter quoted above. Actually the recovery should have

M. A. Jaffrey

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been effected in lumpsum according to procedure,  
But keeping in view the hardship it is being  
deducted in three instalments.

4. If you have still to say anything,  
please submit accordingly for our further action.

Sd/- Asstt. Defence Estates Officer  
Kanpur Cantt  
( RL Sangal ).

M. A. Jaffar

Sangal  
/true copy/ RL

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In the Hon'ble C.A.T. Circuit Bench Lucknow.

Annexure no.2

(A19)

To

The Assistant Defence Estates Officer,  
Kanpur Cantt.

Subject: Recovery of advance of Rs.3900.

....

Sir,

Reference your letter No.ADEO/KNP/G-18/MAF  
dated 30.3.90.

2. With proformed regards and humble  
submission I beg to state that a sum of Rs.1300/-  
have been recovered from my pay and allowances of  
March 90 on account of TA/DA advance on permanent  
transfer is unjustified and illegal, vide your  
letter No.ADEO/KNP/Adm-20/ dated 14.3.90.

3. In this connection Have to urge that  
I have got some genuine problems which are  
recapilitate before you for sympathetic consider-  
ation and change of your recorded decision.

4. The TA/DA was submitted to DEO Lucknow  
on 18.10.89 and was forwarded to CDA Lucknow  
for payment and adjustment. The same have

M. A. Jafar

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already returned by the CDA for the want of  
~~xxxxxx~~ certain clarification ie. family details etc.  
vide his letter No. dated 28.2.90. The reason for  
submitting the bill to DEO Lucknow is as under:-

'1) A TA/DA claim dated 28.2.89 was sub-  
mitted to your goodself within the stipulated  
period have been dead and timebarred vide  
your letter No. ADEO/KNP/ADM/14 dated 08 Sept 89.  
The ex post facto sanction was accorded by the  
DEO Lucknow vide his No. O-20/ESA/KNP dated  
31.7.89 and the same received to this office  
on dt. 8.8.89. In case of that I have requested  
the same, but no fruitful result consent and  
crisis gripped by your kind honour and circumstances  
compelled and there was no other way to submit my  
TA/DA to DEO Lucknow and there was no other purpose  
behind it which can be ignored.

ii) D.O. Pt. order no. 112 dated 22 24.2.89 has stated  
that the following advance have been paid which is supposed to  
be adjustment there is no question of recovery effected as  
intimated your goodself in the letter under reference,  
recovery effected at the very period when the bills have

*M. S. Jaffer*

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not been submitted whereas the same was submitted on 18.10.89 within the stipulated period and the same was already informed your goodself personally which was self explanatory of a senior subordinate who is serving in the DL&C Service since 1964 (and worked under 60 DEOs'/ADEOs) beside deducting the amount your kind honour was supposed to ask for clarification of our contents from DEO Lucknow and before deducting the amount your kind honour was supposed to also be informed, but it was not so happened. So far as the matter of financial crisis this is the general practice /procedure adopted that the individual can concerned are informed accordingly giving the warning that the recovery will be effected from the next pay bill if the bills is not submitted in the interest of the individual this was not accepted and recovery effected which is quite unjustified and in the integrity and injustice..

In the end I earnestly submitted that my contention of alleging like 'injustice' integrity' is quite correct and submitted undermentioned instances which clearly reflected the allegations framed against injustice:-

Claim dated 28.2.89 is time barred sanctioned was accorded by the DEO on dt. 31.7.89

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and received to this office on 28.8.89 and submitted accordingly within the stipulated period. No laps late submission also from my side due to non receipt of ex-facto sanction and your kind honour declared it as time barred. The instat proof the integrity and injustice.

Aug.  
A representation dated 9th May 1989

has been submitted requesting ~~xxxxxx~~ an integrity of amount incurred date under CCS(CA :A) Rules, 1986, more than 8 months laps no action have been taken by your kind honour so far. This clearly reflected that I am being that I am being steply t is is also reflected in the above respect.

In application dated 15.2.90 was submitted requesting for awaite LTC for self and family and family details were also furnished on the said application on same was disconsidered for 3 days an order dated 19.2.90 with the needs to submit the application on the prescribed form ~~xxxxxx~~

~~xxxxxx~~ However the same have been complied in all respects.

After a lapse of 9 days ie. 28.2.90 I had

being

rent



been offered by your goodself whether reservation carried out or not and furnish the reply on the same day ie. 28.2.90 intimate until and unless I will not get the advance how the reservation will be carried out.

On 8.3.90 I had been informed that requisition should be submitted within one month ~~for~~ latest by 15 days with effect from 16.2.90 to 28.2.90 which clearly shows are prejudice/integrity so far ~~my~~ my minds is concerned and also health without fault of mine I am not entitled to get the Kanyakumari and see the historical place amongst your eyes as your kind honour considered to me otherwise I was not supposed to be informed such information binds considering the request not by an informed objection raised which clearly shows for temperament growing your subordinate who always obeyed your orders in all respect by all means. In addition to the above there are a lot of other facts which clearly reflected your imagination with me.

Your contents keeping in view the hardship being

being deducted in three instalment is quite

injustice. As you have put me under hot water event

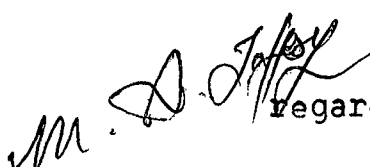
-6-

the circumstance to die -starvation how your kind honour adjudge 'keeping in view the hardship your are fully aware of the things that my wife is seriously ill and at this stage beside showing the human sympathy your kind honour put me hard to mouth and take third degree action against me which keeps constant worries. I am to inform your kind honour in case of non payment I could not manage medical aids to my wife you will be responsible for the happenings.

In view of the above facts I hope that my ~~xxxxxxx~~ genuine request may kindly be considered on humanitarian ground and release my recovered amount for which acts of kindness I shall be ever remain grateful to you goodsell and oblige and request to change your recorded decision to stop the implementation.

In view of the above without justice I am unable to accept the part salary amountint to Rs.1240/- against Rs.2140/-.

Thanking you in anticipation with best

 regards.

Yours faithfully,

Sd/- MA Jaffrey, SDO.III  
Office of the ADEO, Kanpur  
Dtd. 4.9.90.

Copy to:-

The DEO Lucknow Circle,  
Lucknow Cantt.

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- With reference the request for kindly  
~~intimate~~ intimate the ADEO Kanpur the letter  
under which TA/DA claim has been remitted to CDA  
CC after needful done.

*M. D. Jafar*

*Singh*  
/True copy/

In the Honble C. A. T. Allahabad  
Circuit Bench Lucknow

1426

ब अदालत श्रीमान्

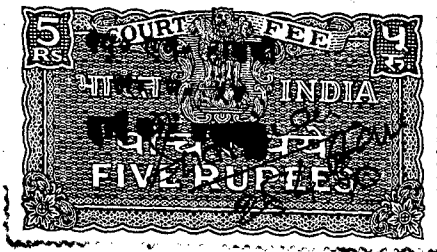
महोदय

[वादी अपीलान्त]

प्रतिवादी [रेस्पाडेंट]

वकालतनामा

M. A. Jaffrey



वादी (अपीलान्त)

बनाम

प्रतिवादी (रेस्पाडेंट)

Union of India

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

Shri Narayan, Adv.

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

14/629 Benkhana Nau Basti, Udaigar, Lucknow

वकील

महोदय

एडवोकेट

नाम अदालत  
मुकद्दमा नं०  
नाम फरीकन  
बनाम

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

Received  
Gnanee Adv.

हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६

ई०

स्वीकृत