

## FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL Lucknow BENCH

OA/TA/RA/CP/MA/PT 15/90 of 20.....

N. K. Srivastava.....Applicant(S)

Versus

Union of India.....Respondent(S)

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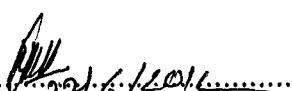
Certified that the file is complete in all respects.

B.C. Filled needed ~~dated~~

Signature of S.O.



Signature of Deal. Hand



(P)

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH AT LUCKNOW.

\*\*\*\*\*

Registration (O.A.) No. 15 of 1990 (L)

Nirdesh Kumar Srivastava .... Applicant.

Versus

Union of India & others .... Respondents.

\*\*\*\*\*

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

Hon'ble K.J. Raman, A.M.

This application, under Section 19 of the Administrative Tribunals Act, 1985, is for quashing the order dated 4.1.1990 (Annexure 'A-5') by which the applicant's services as ED BPM, Sarva Jalalpur were terminated with immediate effect.

2. The applicant was appointed on 30.8.1988 by Annexure 'A-1' after the usual process of selection on being sponsored by the Employment Exchange. He joined the post on 13.9.1988. According to the counter affidavit, a complaint was lodged by one Bhagauti Singh to the Director of Postal Services, Lucknow Region, Lucknow and after investigation, into the complaint, the Director ordered on 22.12.1989 that the appointment of the applicant may be cancelled and Bhagauti Singh may be appointed instead. It is in pursuance of these directions that the impugned termination order dated 4.1.90 was passed.

3. It is admitted that before termination of the services of the applicant no opportunity to show-cause was given to him. A similar matter came up before us today in O.A. No. 6 of 1990, Dinesh Prasad Yadava v. Union of India & others. We have examined <sup>the</sup> question of necessity of giving an opportunity to show-cause. The views recorded by us in that case (O.A. No. 6 of 1990)

(AS)

-: 2 :-

are ~~equally~~ <sup>equally</sup> applicable to the present case and, therefore, for reasons recorded therein we hold that the order of termination of the services of the applicant must be quashed.

4. The learned counsel for the parties indicate that the applicant, while holding the post, proceeded on leave and placed his substitute in his place and that his substitute is still working. It is not necessary to go into the legal aspects of the effect of termination on substitutes, but since admittedly Bhagauti Singh, who was required to be appointed, has not been appointed, there should be no difficulty in the applicant resuming his duties on the post of ED BPM in question.

5. In view of above, the petition is allowed and the impugned order of termination dated 4.1.1990, contained in Annexure 'A-5', is quashed. The applicant shall be allowed to work on the post in question with effect from the date he reports for duty. It will be, however, open to the respondents to re-examine the question in accordance with law and rules after giving an opportunity to the applicant, if they so desire.

*(Signature)*

MEMBER (A)

*(Signature)*

VICE-CHAIRMAN.

Dated: January 29, 1990.

PG.

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 15 of 1990 (C)

Name of the parties \_\_\_\_\_

Niraj Kumar Shivasagar Applicant.

Versus.

Union of India Respondents.

Part A.B.C.

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Reconcil. Copy B1 - B28

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Central Administrative Tribunal  
Circuit Bench, Lucknow  
Date of Registration No. 15-1-90  
Date of Issue of Form

Registration No. 15 of 1989 (C.L.)

✓ Deputy Registrar (J)

APPLICANT(s) N. K. Srivastav

RESPONDENT(s) U.O.J.

Particulars to be examined

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

Endorsement as to result of examination

AC

Particulars to be ExaminedEndorsement as to result of examination

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

12. Are extra copies of the application with Annexures filed ? *Ys*

a) Identical with the Original ?

b) Defective ?

c) Wanting in Annexures.

Mrs. \_\_\_\_\_ pages No. \_\_\_\_\_ ?

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

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

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

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 ? *Ys*

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 ? *Ys*

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

dinesh/

1  
15/90 (L)

:: 2 ::

(P)

Serial  
number  
of  
order  
and dateBrief Order, Mentioning Reference  
if necessaryHow complied  
with and  
date of  
compliance

16/1/90

Hon. J. P. Sharma, J.MThe notices have been taken in  
V.K. Choudhary for admission & interim  
relief on 19.1.90L  
16/1J.P.S.  
J.M

19.1.90

Hon. J. P. Sharma, J.M

Dr. M. Duleep for mee

Opp. com. for respo. En  
Choudhary.

Let the reply be filed

by the respo. in 10 days

Arr for hearing on calendar

Prayer on 31.1.90

Held in the del. &amp; adjourned

to 29.2.90

J

New copy  
of order  
dt 29/1/90M. Duleep  
P.M.  
1/2/90

Dinesh

OR  
No reply filed.  
Case is not admitted.  
Case is submitted  
for admission  
leave withL  
1/2/90

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNAL ACT 1985

Central Administrative Tribunal  
Circuit Bench, Lucknow  
Date of Filing 15-1-90  
Date of Receipt by Post

Y *[Signature]*  
Deputy Registrar (J)

Nirdosh Kumar Srivastava

... Applicant

Versus

Union of India and others

... Respondents

I N D E X

S.No.	Description of documents relied upon	Pages
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COMPLIATION NO. 1

1.	Application	1 to 9
2.	Annexure 5, true copy of termination order dated 4.1.90	10
3.	Vakalatmama.	
4.	Postal order for Rs. 50/-.	

COMPLIATION NO. 2

5.	Annexure No. 1 Photo copy of appointment order dated 30.8.88.	11
6.	Annexure No. 2, Photo copy of the charge report dated 13.9.88.	12
7.	Annexure No. 3, Photo copy of the charge list dated 13.9.88.	13
8.	Annexure No. 4, Photo copy of the SP0s Sitapur inspection report dated 13.12.89	14 to 17

*[Signature]*  
Signature of applicant

For Use in Tribunal's Office

Date of Filing

Registration No.

Recd from the Respondent  
*[Signature]*  
(V.K. Chanchal)  
Addressing  
16.1.90

for Registrar

mentioned in  
the court

F.T.  
15/1/90  
16/1/90

Noted on 16/1/90

Registration No.

Recd from the Respondent  
*[Signature]*  
(V.K. Chanchal)  
Addressing  
16.1.90

(A)

Central Administrative Tribunal  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CENTRAL BENCH  
LUCKNOW

Date of Filing 15-1-90  
Date of Receipt 15-1-90

Deputy Registrar

OTA 15 of 1990 (C)

Nirdosh Kumar Srivastava aged about 32 years s/o  
Shri Pyare Lal Srivastava, resident of Village &  
p. O. Serva Jalalpur, Distt. Sitapur, working as  
Extra-Departmental Branch Postmaster, Serva  
Jalalpur, Distt. Sitapur. ... Applicant

Versus

1. Union of India, through the Secretary to the  
Ministry of Communication, Government of India,  
Department (Post), New Delhi.
2. Director Postal Services, Lucknow Region, Lucknow.
3. Superintendent of Post Offices, Sitapur Division  
Sitapur. ... Respondents

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Details of application :

1. Particulars of the order against which the  
application is made :

Superintendent of Post Offices, Sitapur  
order no. H-174/E dated 4.1.90 (Annexure A-5).

2. Jurisdiction of the Tribunal :

The applicant declares that the subject  
matter of the order against which he wants redre-  
ssal is within the jurisdiction of the Tribunal.

3. Limitation :

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

15/1/90  
M. A. B. M.

4. Facts of the case :

i) That the applicant had got his name registered in the Employment Exchange, Sitapur with a view to get some employment to earn his living. His name was sponsored by the Employment Exchange alongwith others in responde to requisition made by the respondent no. 3 for appointment on the post of extra Departmental Branch Postmaster, herein after referred to as BPM at Surva Jalalpur, P.O. District Sitapur and the applicant having been adjudged to be the most suitable candidate amongst the applicants, was selected for the post and appointed to the post of ED BPM Surva Jalalpur by the respondent no. 2 vide his memo no. H-174 dated 30.8.88.

ii) That the applicant completed all the formalities including medical certificate of fitness and furnishing fidelity bond from the U.P. Postal Primary Co-operative Bank Ltd. Lucknow, income certificate from the Revenue Authority and certificate of his character and antecedents. His annual income was certified as to be Rs. 9600/-. The applicant was appointed against the vacant post on a regular basis. A photo copy of the order dated 30.8.88 is Annexure A-1.

Lare

iii) That Serva Jalalpur is a complete Village comprising of Serva and Jalalpur which though in two parts/contiguous with one Gram Sabha and including the hemlets of Sahnaiya, Shankarpur, Mahmadpur, Lokipur, Bhathaipur and Rampurwa etc. Even in the revenue records the Village is named as Serva Jalalpur and it has one Gram Sabha and one Pradhan and the applicant belongs to Jalalpur

*D. G. S. T. S. M.*

and the Post Office is located in his house.

iv) That the applicant in terms of the appointment order dated 30.8.88 took charge of the Post Office on 13.9.88. Photo copies of the charge report dated 13.9.88 and the charge list of the same date are Annexure A-2 and A-3 respectively.

v) That the applicant has passed High School and his date of birth is 20.1.1958 and ever since his appointment as ED BPM Serva Jalalpur, his work and conduct have been satisfactory without any complaint or adverse remark whatsoever.

vi) That the work of the applicant in the P.D. Serva Jalalpur has been inspected by the Sub-Divisional Inspector, Sitapur (Central), Sitapur on 16.12.88 and by the Superintendent of Post Offices, Sitapur on 6.12.89 with satisfactory result. A photo copy of the inspection report, made by the Supdt. of Post Offices, dated 13.12.89 is Annexure A-4. This report clearly shows that the applicant is a regularly appointed ED BPM.

vii) That the respondent no. 3, abruptly has passed an order dated 4.1.90 terminating the services of the applicant with immediate effect in pursuance of DPS Lucknow Region, Lucknow No. RDL/Staff/C-41/88/3 dated 22.12.89. This order has not been passed by the respondent no. 3 in bonafide exercise of his powers and the respondent no. 2 cannot legally pressurise the respondent no. 3 to pass the said order dated 4.1.90, a true copy of which is Annexure A-5.

viii) That the impugned order dated 4.1.90

*12/16/3011*

A10

(Annexure A-5) does not disclose the rule under which the respondent no. 3 has sought to terminate the services of the applicant. It also does not disclose the circumstances under which the respondent no. 2 has pressurised the respondent no. 3 to terminate applicant's services. The respondent no. 2 appears to have acted on some extraneous considerations wrongly & prejudicially has been instrumental in compelling the respondent no. 3 to dislodge the applicant from his post. It may be stated that the services of the applicant can be terminated under Rule 6 of the EDA (Service & Conduct) Rule 1964, which reads as under :-

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

The service can be terminated by the appointing authority and not by any one else, but in the instant case the orders have been passed at the instance and direction of the DPS Lucknow, who is not the appointing authority. Moreover, although the said Rule 6 empowers the appointing authority to terminate the services of an ED employee, who has not already rendered 3 years continuous service without notice, but this power cannot be exercised arbitrarily or capriciously. There is no arbitrariness known to the Constitution of India. The master has to be

17214 3/11

(All)

reasonable, just and fair to the servant. The services can be terminated under certain circumstances only, for instance on medical ground as laid down in DG P&T letter no. 43-23/80 Pen dated 20.2.80, on abolition of post vide DG P&T no. 18/165/Disc dated 3.9.1965 on coming back of the old incumbent or on the work of the employee being found unsatisfactory, but none of these conditions exist in the case of the applicant and the order of termination passed by the respondent no. 3 at at the instance of the respondent no. 2 is wholly unjust, arbitrary, unwarranted, malicious, illegal and null & void.

ix) That the said order of termination dated 4.1.90 has not yet been served on the applicant. The applicant has been ill and on leave on medical ground w.e.f. 6.1.90 after providing Shri Dinesh Kumar Srivastava as his substitute under the rules. It has been learnt from Shri Dinesh Kumar Srivastava that the Postal Overseer came with the termination order on 9.1.90 when the applicant had gone to his attending physician and asked him to hand over the charge and on his pleading that he is only a substitute and the charge can be demanded from the applicant only, he (the Postal Overseer) took his statement in writing went back threatening that the applicant shall suffer the consequences.

x) That the applicant still holds charge of the Post Office and continues on the post of ED BPM Serva Jalalpur, but he is threatened with dire consequences and shall suffer irreparable loss unless restrained by this Hon'ble Tribunal.

*Dinesh Kumar*

xii) That the applicant is a workman under the Industrial Dispute Act 1947 and entitled to the provisions made therein. The applicant has put in more than 15 months of continuous service as ED BPM Serva Jälalpur and he cannot be dislodged from his post without notice as provided under section 25F and 25N of the Industrial Dispute Act. The action of the respondents in terminating applicant's services without following the procedure of I.D. Act and other labour laws is arbitrary, malicious, illegal and null & void.

xiii) That in the circumstances, the applicant has no alternative except to approach this Hon'ble Tribunal and file this application for justice and redressal of his grievancē.

**5. Grounds for relief with legal provisions :**

a) Because the applicant was appointed to a vacant post on a regular basis after notification and selection.

b) Because all formalities were observed and the applicant was found to be the best candidate to be appointed to the post.

c) Because the work and conduct of the applicant have been satisfactory.

d) Because there is no contingency to dislodge the applicant from his post.

e) Because under the terms of appointment, there is no occasion to uproot the applicant.

f) Because the order of termination is unwarranted, arbitrary, malicious, prejudicial,

*Subrahmanyam*

malafide and null & void.

g) Because the applicant having already worked for more than 15 months continuously cannot be terminated without notice under section 25F and 25N of the I.D. Act 1947.

h) Because the appointing authority has not passed the order in the bonafide exercise of his power.

i) Because the impugned order has been passed on the pressure and initiation of the DPS Lucknow, which is incompetent besides being malicious.

**6. Details of the remedies exhausted :**

There is no departmental remedy against order of termination and as such the question of preferring departmental remedy does not arise.

The applicant has no alternative but to approach this Hon'ble Tribunal for justice.

**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 Court or any other authority or any other Bench of the ~~or the~~ Tribunal nor any such application, writ petition or suit is pending before any of them.

**8. Reliefs sought :**

In view of the facts mentioned in para 4 above, the applicant prays for following reliefs:

i) That the impugned order dated 4.1.90

*Sub. by M. A. S. M.*

(Annexure A-5) be declared as unjust, unwarranted and illegal and the same be quashed.

xx) That the cost of the case be allowed in favour of the applicant as against the respondents.

iii) That the cost of the case be allowed in favour of the applicant as against the respondents.

iii) Any other relief deemed just and proper in the circumstances of the case be allowed in favour of the applicant.

9. Interim order, if any, prayed for :

Pending final decision on the application, the applicant seeks the following interim relief:

The operation of the impugned order dated 4.1.90 (Annexure XX A-5) be stayed and the respondents be restrained to take charge of the Post Office from the applicant.

10. That the applicant shall be presented by the applicant through his Counsel personally.

11. Particulars of Postal Order filed in respect of the application fee.:

No. of postal order : B 02/424921

Name of P.O. of Issue : Lucknow GPO

Date of issue : 13.1.90

Amount : Rs. 50.00

Post Office where payable : Allahabad GPO

12. List of enclosures.:

Annexures A-1 to A-5 as detailed in the

Index.  
LUCKNOW

M. Dutta  
Adv.

15/1/90  
Applicant

Dated : 15.1.90

VERIFICATION :-

I, Nirdosh Kumar Srivastava s/o Shir Pyare Lal

Srivastava, aged about 32 years working as ED  
BPM, Serva Jalalpur, District Sitapur do hereby  
verify that the contents of paras 1 to 4, 6, 7  
and 10 to 12 are true to my personal knowledge and  
those of paras 5, 8 and 9 are believed to be true  
on legal advice and that no material facts have  
been concealed.

*Om Prakash*

Applicant

LUCKNOW

Dated : 15.1.90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CENTRAL BENCH  
LUCKNOW

(16)

AM

ANNEXURE - A5

Department of Posts

D/o The Supdt. of Post Offices, Sitapur DIN 261001

Memo No. H-174/E dated Sitapur the 4.1.90

Present orders of DPS Lucknow Regional Lucknow

No. RDL/Staff/C-41/88/3 dated 22.12.89. The

services of Sri Nirdosh Kumar ED BPM Sarva Jalalpur  
are hereby ordered to be terminated with immediate  
effect.

Sd. R.S. Gupta

Supdt. of Post Offices

Sitapur

Copy to :

1. Sri Nirdosh Kumar Srivastava, ED BPM  
Sarva Jalalpur.

2. The SDIP Central Sub DN Sitapur in duplicate  
for delivering one copy under receipt to  
Sri Nirdosh Kumar Srivastava EDBPM Sarva Jalalpur  
and getting him relieved by engaging Overseer  
at once. He may return one receipted copy  
with his compliance report.

3. The Postmaster Sitapur.

4. 50/C & spare :

R.S.G.  
19/2/89

Mr. Dabir  
M. Dabir  
AM

बादालत श्रीमान्

[बादी अपीलान्ट]

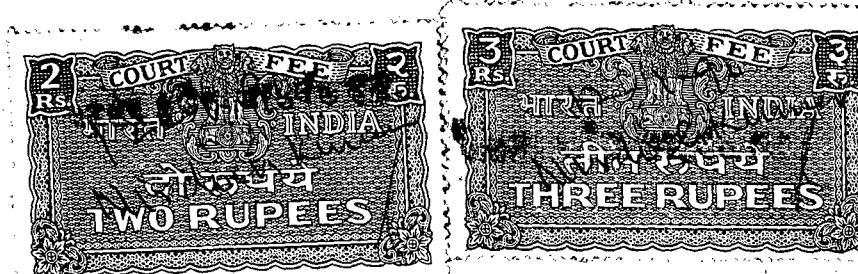
प्रतिवादी [रेस्पाडेन्ट]

CAT, Circuit Bench, Lucknow

महोदय

Mirdosh Kumar Givastam

का वकालतनामा



(अपीलान्ट)

Nirdosh Kumar Givastam दनाम 409 क्लू प्रतिवादी (रेस्पाडेन्ट)

नॉ मुकद्दमा

सन्

पेशी की ता०

११ ई०

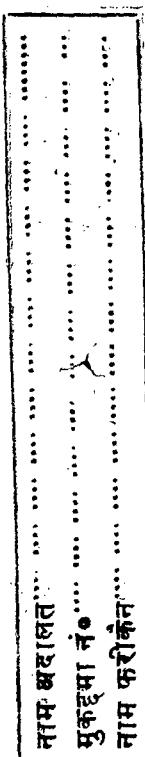
ऊपर लिखे मुकद्दमा में अपनी ओर से श्री *B. Solomon, Advocate*

*M. Duley, Advocate*

वकील

महोदय

एडवोकेट



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 जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रूपया लूप्त 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 रूपया ब्रेस करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कायंवाहो हमको सर्वथा स्वीकार है और होवा मैं यह भी स्वीकार करता हूँ कि 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 ।

हस्ताक्षर *महोदय*

साक्षी (गवाह) ... ... ... ... ... ... ... ... ... ... ... ... ... ... ...

दिवांक ... ... ... ... ... ... ... ... ... ... महीना — — — सन् १९०१०

स्वीकृत *B. Solomon, Advocate*

② *M. Duley, Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW  
O.A. No. of 1990

(A18)

Nirdosh Kumar Srivastava vs. Union of India & Others

ANNEXURE A-1

DEPARTMENT OF POSTS.

OFFICE OF THE SUPT. OF POST OFFICES, SITAPUR DN. 261001

Memo No. H-1741E

Dated at STP the, 30.8.90

Shri. Nirdosh Kumar Srivastava <sup>son of Sri. Jayne Lal Srivastava</sup>  
is hereby appointed as ED. B.P.M. So. with Jalalpur  
immediate effect or noon/afternoon. He shall be paid  
such allowances as are admissible from time to time.

2- Shri. Nirdosh Kumar Srivastava should clearly understand  
that his employment as ED.B.P.M. ~~so~~ <sup>shall be in the nature of</sup> Jalalpur  
a contract liable to be terminated by him or by the undersigned  
by notifying the other in writing and that his conduct and  
service shall also be governed by the Posts and Telegraphs  
Extra Departmental Agents (Conduct and Service) Rules, 1964,  
as amended from time to time.

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

Supt. Post Office,  
S. No. 144 Dn. 261001

Copy to:-

1- Sub Divisional Inspector (P.O.) Sitapur for information. The charge may be given to Sri. . . . . after observing usual formalities as fitness cft., F.I. n and DPDC under information to this office.

2- Sri. Nirdosh Kumar Srivastava <sup>son of Sri. Jayne Lal Srivastava</sup>  
3- P.M. Sitapur for information and n/a.

4- D/C.

Attested

Time: 11 AM

M. Dinesh  
Advocate

R.B./-12588

27/8/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW  
O.A. No. of 1990

Nirdosh Kumar Srivastava vs. Union of India & Others

ANNEXURE A-2

एसी.जी.-61) भारतीय डाक-तार विभाग

A.C.G.-61 INDIAN POSTS AND TELEGRAPHS  
DEPARTMENT

(दसिए नियम 267. डाक-तार वित्त पुस्तका खण्ड 1)

(द्वितीय संस्करण)

(See Rule 267, Posts and Telegraphs Financial Handbook  
Volume-II (Second Edition))

चार्ज की वृद्धि (पैसे) चार्ज रिपोर्ट और नकदी और मोहरों  
की रसीद

Charge Report and Receipt for cash and stamps on transfer  
of charge

प्रमाणित किया जाता है कि

Certified that the charge of the office of

उत्तर प्रदेश गोपनीय डाक विभाग (जामू) की 13 P.M. 8.1.88  
was made over by (name)

(नाम) की (मुद्रा) स्थान (स्थान) (place)

तारीख 13/9/88 को पूर्वी दिन में  
अपराह्न

on the (date)..... fore noon in accordance with  
after

सं. 179/E तारीख 30/8/88 के अनुसार दे दिया

No. Date from

भारमुक्त विभाग एकायनी अधिकारी

Relieved Officer Receiving Officer (all in)  
21 अगस्त 1988 13 SEP (गोपनीय गृह उल्लिख)

13-9-88

13-9-88 (P.M. 8.1.88) 13-9-88

Witnessed

True copy  
M. Duleep  
D.W.

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW  
C.A. No. of 1990

Nirdosh Kumar Srivastava vs. Union of India & Others

ANNEXURE A-3

सिताराम परसरण लॉल ट्रॉप (गोदाम) सोनारपुर रोड शहर

- ✓ 1 लॉल गोदाम EXPTL P.O. P 10260 सिताराम 1 ✓
- ✓ 2 सोनारपुर " " 1 ✓
- ✓ 3 लॉल गोदाम 1 ✓
- ✓ 4 लॉल गोदाम 1 ✓
- ✓ 5 लॉल गोदाम 1 ✓
- ✓ 6 लॉल गोदाम 1 ✓
- ✓ 7 लॉल गोदाम 1 ✓
- ✓ 8 लॉल F 3 1 ✓
- ✓ 9 लॉल गोदाम - लॉल गोदाम 1 ✓
- ✓ 10 बोर्ड नं 26/3/88 सितारा 13/9/1990 1 ✓
- ✓ 11 बोर्ड नं " 13/9/1990 1 ✓
- ✓ 12 R.D. लॉल गोदाम 1 26/3/90 1 ✓
- ✓ 13 सब परसरण लॉल 26/3/90 1 ✓
- ✓ 14 लॉल गोदाम 1 ✓
- ✓ 15 लॉल गोदाम 1 ✓
- ✓ 16 सब 26-1 लॉल 2250 सितारा 1 ✓
- ✓ 17 सब 28 1250 सितारा 1 ✓
- ✓ 18 नेशनल सोनारपुर सितारा 1 ✓
- ✓ 19 M/R 1 21/100 सितारा 1 ✓
- ✓ 20 R/L/R 2 200 सितारा 1 ✓
- ✓ 21 बोर्ड नं 26/3/88 सितारा 13/9/1990 1 ✓

EXPTL.P.O.  
13 SEP 88

U.P. - 1087

15/9/90

Received

Mr. M. Duleep

M. Duleep  
Advocate

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW  
O.A. No. of 1990

Nirdosh Kumar Srivastava vs. Union of Indian & Others

ANNEXURE A-4

Visited EDBO Sarwa Jalalpur in account with Bhandia SO under Sita pur HO on 6.12.89 at 9.30 and stayed there upto 17.30 for carrying out its annual inspection. Its last inspection was carried out by Sri Tanveer Ahmad SDI(C) on 16.12.88. During this period Sri Nirdosh Kumar Srivastava worked as BPM. Sri Nirdosh Kumar Srivastava is a regularly appointed BPM vide SPO's Sitapur no.H-147/E dt. 30.8.88 and he has furnished secty. and is having income of Rs.9600/- approximately vide Tehsildar Sidhauli letter no.Nil dt.5.4.89 which is considered to be adequate. The BO is functioning in the Jalalpur village which is the PO village. The PO is opened on 26.3.88.

2. The sanctioned establishment of this BO with the name of the incumbents as under;

S.No.	Designation	Allowance	Name	D/B	Date of appointment
1.	BPM	397/-	Sri Nirdosh Kumar Srivastava	20.1.58	30.8.88
2.	EDBOP	363/-	Sri Rajendra Pd. Srivastava	25.1.60	7.7.89

3. Verified cash and stamp balance of the BO with satisfactory result.

a) The BPM is keeping sufficient stock of postage stamps and has kept it properly.

b) Examined the contents of BO bag received today. The articles received in bag are shown in Annexure II.

c) The traffic of unregistered mail was compared with the ER and VR with satisfactory result.

4. There is nothing in deposit today.

5. Checked the balance of BO account for one day selected at random in each quarter since last inspection with reference to balance including P/S due on unpaid articles noted by the AO on BO slips with satisfactory result.

8.2.89, 13.5.89, 4.8.89, 6.11.89

6. Examined the BO account for one day in each month since last inspection to see that the BPM has not retained excess cash unjustifiably. The result was satisfactory. Although there were liabilities of MO payment on 23.2.89 and cash was retained for it but the liabilities were not entered in the remark column of BO account. BPM was instructed to avoid irregularity. Similar mistakes were found on 17.3.89, 23.11.89, 23.10.89.

7. Checked the arrangement of mail, cash with Account office with satisfactory result.

.....2

*[Signature]*

8. Checked BO receipt book with the following observations;

- i) receipt no.3 dt.3.1.89 for Rs.250/- to receipt no.12 dt.29.8.89 for Rs.41.60 were issued, no.13 to 100 blank. The extract of this para was forwarded to AO for verification and return.
- ii) There is cutting in receipt no.8 and corrections have been made. This is not proper. BPB was instructed for future.
- b) No VP has been received in this BO since last inspection.

9. Efforts were made to collect the MO receipt from the remitter but no receipt could be obtained.

10. The BO bag was received in sound condition. The mail arrangement should be examined by the SDI and change the timings of receipt and dispatch of mails and hours of business of the office.

11. Checked SB-26 receipt book with the following observations;

- i) From book no.171522 receipt no.24 dt. 5.1.89 for 900/- to 50 dt.1.4.89 for Rs.600/-, from book no.179521 receipt no.01 dt.8.4.89 for 1000/- to 32 dt.1.12.89 for 350/- were issued. receipt no.33 to 50 are blank. The extract of this para was forwarded to AO for verification and return.
- ii) Receipt no.01 dt.8.4.89 PB has been delivered to the depositor after obtaining thumb impression but no identification has been taken. Similarly in respect of receipt no.24 dt.4.9.89 the PB has been delivered on thumb impression but no identifications has been obtained. BPM has been instructed. He should obtain identification on thumb impressions of the depositor.
- iii) In some cases date of delivery of PB has not been noted by the depositors. BPM should ensure that the date should be noted on each receipt.

12. Examined specimen signature book of different type of accounts with the following observations;

- i) The BPM is not noting account no. in the SS, he has also not noted account numbers of the account opened on 25.9.89 and 7.10.89.

- ✓ 13. Examined SB-28 receipt book. Book no. 69640 is in use, receipt no.01 dt.16.1.89 to 28 dt.1.12.89 has been issued, 29 to 50 are blank.
- i) Receipt no.19 dt.10.8.89, the PB has been delivered to the depositor on 23.8.89 on thumb impression without obtaining identification. Similar is the case with receipt no.16,9. BPM should obtain identification on thumb impressions

*Shrikant*

14. Checked the totals of transaction of 4 dates as under with satisfactory result. An extract of this para was forwarded to A.O. for verification and return.

Date	SB		RD		TD	
	D	W	D	W	D	W
13.2.89	450-	-	40.20	-	-	-
15.5.89	500-	100-	-	-	-	-
5.8.89	-	-	30-	-	150-	-
29.11.89	-	239-	40.20	-	-	-

15. Obtained the following PBs from the depositors and verified their balances with journal with the following results. An extract of this para be forwarded to PM Sitapur for verification and return and result should be put up to me.

A/C No.	DLT	D.	W/D	Balance
1405964	27.10.89	-	100-	220-
1405944	29.11.89	-	139-	20-90
1405764	31.10.89	400-	-	619-70
1405813	26.10.89	1320-	-	1370-

b) Following TD/RD PBs were obtained from depositor and verified balances. An extract of this para be forwarded to PM for verification and return.

7162070 RD	30.11.89	150-	-	500-
290021 TD	1.12.89	350-	-	350-

16. The BO has not been authorised for NSC work independently. The BO is using NC-4(a), book no.84371 in use. Receipt no.01 for 100/- dt. 28.2.89 to 03 dt.5.10.89 were issued. receipt no. 4 to 50 are blank.

✓ b) The BPM is not sending original receipt after deliver of NSC to A.O. Receipt no.01 and 02 is lying in the receipt book. BPM should send these receipts to A.O.. In future BPM should send original and duplicate to AO.

i) In respect of receipt no.02 the BPM has delivered the KVP after obtaining thump impression No identification has been obtained by the BPM. He should obtain identification in future.

17. Examined the stock register. The following articles should be supplied to this BO. Record Box-1, Working hours board 9.30 to 10.00 and 12.30 to 15 hrs., NSC guard file-2, Letter Boxes-3 alongwith locks, Order book, One set of weight.

18. The error book has been maintained in the prescribed form but it was observed that the extract of errors has not been forwarded to SDI. BPM was instructed for future.

.....4

19/11/89

19. The complaint and suggestion book was found blank.

20. Compliance of last IR has been made by the BPM.

21. The quality of previous inspection done by the SDI is satisfactory.

22. Compliance of the above remarks should be submitted within 15 days to SDI(C).

( R.S.Gupta )  
Supdt.of Post Offices  
Sitapur Dn.261001.

No.IR/Sarwa Jalalpur/SP/89 dt. 13.12.89

Copy to: 1. The BPM Sarwa Jalalpur (Bhandia)  
2. The SDI(C) Sitapur.  
3. O/C  
4. Spare

Revised  
true copy

Mr. Duran  
Advocate

APN  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A No. 15/90(L)

Nirdosh Kumar Srivastava .. Applicant

-vs-

Union of India and others .. Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS 1, 2&3

I, R.S. Gupta, aged about 51 years, son of late Shri K.D. Gupta at present posted as Supdt. of Post offices, Sitapur Division, Sitapur do hereby solemnly affirm and state as under:-

1. That the deponent is Respondent No.3 in the above noted case and as such he is well conversant with the facts of the case and he has been authorised to file this counter affidavit on behalf of all the Respondents.

2. That before giving the parawise comments it is necessary to give brief history of the case as detailed below:

(a) That intimation regarding ~~selection for~~ opening of an Extra Departmental Branch Post office, Sarwa Jalapur was received from the Director of Postal Services, Lucknow Region, Lucknow vide his letter No. RDL/PLG/E-747/81/4 dated 21.4.84.

It was intimated in this letter that EDBPO Sarwa -

28/90

Dwarka

Jabalpur has been selected for opening during the financial year 1984-85 and it was also instructed in this letter that the formalities regarding appointment of EDBPM etc. should be got completed so that the post office can be opened during the financial year. In response to this a general notice was issued vide letter No. HP/Sarwa Jalpur dated 19.5.84 inviting applications from eligible candidates for appointment as EDBPM Sarwa Jalalpur.

Copy of this notice was given to Employment officer Sitapur and Pradhan Gram Sabha Sarwa Jalalpur etc. In response to this Employment officer vide his letter No. 114/88/5605 dated 16.6.84 sent the names of three candidates viz. Sri Subhkaran Singh, R/o. Sarwa Jalalpur, Sri Shir Ram Yadav, R/o. Sahnaiya and Sri Bhagauti Singh R/o. Sarwa Jalapur. As per rules the bonafide of residence and availability of suitable safe accommodation for post office provided by each candidate was got verified by the S.D.I. concerned. To complete the formalities regarding appointment District Magistrate and Supdt Police were addressed to verify financial position and character etc. on 8.8.84. Sri Bhagauti Singh was also

Arun

addressed to send his original certificates for verification on 8.8.84. These formalities were completed and before appointment of EDBPM was made and Post office was opened, information was received that the Post office should not be opened. Therefore, no appointment was made and post office was not opened. Nothing done from 1984 till Feb. 88. In March 88, sanction for opening of ~~B~~ Office Sarwa Jalalpur was received. Employment officer Sitapur was addressed to send the names of eligible candidates for consideration of appointment as EDBPM. In response to this employment officer S Sitapur vide his letter No.115/Dockpal/88/2964 dated 11.4.88 sent the names of Sri Bhagauti Singh R/o. Sarwa Jalalpur and Sri Nirdosh Kumar R/o. Sri Sarwa Jalalpur. Since at least three applications are needed to make an appointment as per rules a general notice was issued on 15.4.1988, calling for application from General public for appointment as EDBPM. In response to this applications of Sri Subhkaran Singh R/o. Jalapur Sahraiya, Sir Nirdosh Kumar Srivastava R/o. Jalalpur and Sri Bhagauti Singh R/o. Sarwa were received. Necessary formalities regarding character etc. were made and appointment of Sri Nirdosh Kumar- Srivastava, r/o. Jalalpur was made on the basis of rules on the subject on 30.8.1988 and appointment

*Desh*

PPG

was issued. Sri Nirdosh Kumar ~~took~~ charge as BPM on 13.9.88. Since then he was continued as BPM. A complaint was lodged by Sri Bhagauti Singh to the Director of Postal Service, Lucknow Region, Lucknow and his complaint was investigated and Director of Postal Service Lucknow Region, Lucknow vide his letter No. Nidal/Staff/C-41/88/3 dated 22.12.1989 ordered cancellation of appointment of Sri Nirdosh Kumar Srivastav and appointment of Sri Bhagauti Singh as EDBPM Sarva Jalalpur. In pursuance of these orders the services of Sri Nirdosh Kumar were ordered to be terminated vide letter No. H.174/E dated 4.1.90. After receiving the termination letter, Sri Nirdosh Kumar Srivastav gave charge to one Sri Dinesh Singh.

3. That the contents of para 1 to 3 of the application are formal and as such needs no comment.

4. That the contents of para 4(i) of the application needs no comment except that he was appointed as EDBPM.

5. That the contents of para 4(ii) to 4(vi) of the application needs no comment from the answering Respondent. *except that Sarva and Jalalpur are separately located one km away from each other and are not contiguous.*

6. That in reply to the contents of para 4(vii) of the application it is submitted that the termination order was passed in pursuance of Director of Postal

Dinesh

A25

Service, Lucknow Region, Lucknow No.RDL/Staff/C-41/88/3 dated 22.12.89.

7. That in reply to the contents of para 4(viii) of the application it is submitted that there is no need to disclose the rule in the order but the services were terminated under rule 6 of E.D.As(Conduct & R. Service) Rules 1964 by SPOs who is competent authority. The Director of Postal Services has powers to ~~exercize~~ review and cancel appointment made by the answering Respondent vide DG P&T No. 43782/Baglan dated 17.11.80. A copy of the said letter is being filed herewith as ~~Qxx~~ Annexure C-1 to this counter affidavit. Under the said letter the Director, Postal Services can direct the SPOs regarding all matters of appointment of EDBPM and review his work and it is the duty of the SPOs to follow the instructions of the Director of Postal Services and as such the contention of the applicant is not admitted, being false.

8. That in reply to the contents of para 4(ix) of the application it is submitted that the applicant received the order of termination himself and handed over charge of EDBPM Sarwa Jalalpur to Sri Dinesh Kumar when he knew about termination of his services. He is not

Dinesh

ABC

Holding the post of EDBPM.

9. That in reply to the contents of para 4(x) of the application it is submitted that the applicant does not hold the charge of the office because he has handed over the charge and one Sri Dinesh Kumar is holding ~~the~~ charge.

10. That in reply to the contents of para 4(xi) of the application it is submitted that it is incorrect, as per EDAs (Conduct & Service) Rules 1964 Services of an EDBPM can be terminated at any time without any notice or reason under rule 6 of the E.D.As (Conduct and Services) Rules 1964. Rule 6 of the E.D.As (Conduct & Services) Rules 1964 reads as follows:-

"The services of an employee who has not already rendered more than three years continuous services from the date of his appointment shall be liable to termination by the appointing authority at any time without notice." and in compliance to this rule services were terminated.

11. That the contents of para 4(xii) of the application needs no comment. Further it is stated that the applicant has not exhausted all departmental channels,

Dinesh

12. That the contents of para 5(a) to 5(c) of the application needs no comment.

13. That in reply to the contents of para 5(d) of the application it is submitted that the services of the applicant were terminated on receipt of a complaint regarding irregular appointment of the applicant.

14. That the contents of para 5(e) and (f) of the application needs no comment.

15. That in reply to the contents of para 5(g) of the application it is submitted that the services of the applicant were terminated under the provisions of rule 6 of EDAs(Conduct & Services) Rules, 1964, wherein ~~maxxam~~ the appointing authority has the power to terminate the services of an ED Agent if without notice and without assigning any reason, the services of the applicant is less than three years.

16. That ~~xx~~ in reply to the contents of para 6 of the application it is stated that the applicant has not exhausted all the channels of the department before filing this application in the Hon'ble CAT.

Durba

17. That the contents of para 7 of the application needs no comment.

18. That the relief sought by the applicant para-B of the application, it is submitted that he in this para, is not entitled to get any interim relief or other reliefs as the action taken by the answering Respondent is rightly done in pursuance of the existing rules/instructions, as stated in the foregoing paragraphs.

19. That in reply to the contents of para 9 of the application it is submitted that the answering Respondent is the appointing authority of the EDBFM including the applicant and he is also empowered to terminate the services of EDBFM(ED Agents) without notice and without assigning any reason if the services of the ED Agent is less than three years under Rule 6 of EDAs(Conduct & Services) Rules 1964.

20. That the contents of para 10 of the ~~application~~ application needs no comment.

21. That the contents of para 11 of the application needs no comment.

22. That the contents of para 12 of the application needs no comment.

Dwarka

23. That in view of the facts and circumstances stated above, the application filed by the applicant is liable to be dismissed with costs against the applicant.

Daulat  
Deponent.

Lucknow,

Dated: 28<sup>th</sup> January, 1990.

Verification.

I, the above deponent named above do hereby verify that the contents of paragraphs 1 to are true to my personal knowledge and those of paragraphs 2 to 22 are believed to be true on the basis of perusal of office records as well as information gathered and those of paras

to 23 are believed to be true on the basis of legal advise. Nothing material fact has been concealed and no part of it is false.

Daulat  
(Rajendra)  
Deponent.

Lucknow

Dated 28<sup>th</sup> January, 1990.

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

Chaudhary  
(VK Chaudhary)

Advocate, High Court Lucknow Bench  
Addl Standing Counsel for Central Govt  
(Counsel for the Respondents)

Lucknow,

Dated: 28.1.90

M. Chaudhary  
28.1.90

Annexure - C  
AP

**DIRECTOR-GENERAL'S INSTRUCTIONS**

(1) Reference is invited to the Directorate's Letter No. 43-82/80-Pen., dated 23-4-80, containing instructions regarding making selection of EDAs by the Regional Director, Postal Services. The position has been reviewed. It has been decided, in supersession of the instructions contained in para.1 of the Letter, dated 23-4-80, to restore the *status quo ante*. The selection of EDAs will, henceforth, be made by the respective appointing authorities enumerated in the P. & T. Extra-Departmental Agents (Conduct & Service) Rules, 1964.

It has, however, been decided that the Regional Directors should carry out a scrutiny of 10% of appointments made to ED posts at the time of inspection. They will also have to ensure that 10% of the appointments made in respect of each Sub-Division are scrutinised.

[ D.G., P. & T., ND. No. 43-82/80-Pen., dated 4-11-80. ]

(2) The amendment under reference (*vide* Notification, dated 3rd September, 1983) has been made consequent upon the upgradation of five posts of SPOs/SSPs in the States of Nagaland, Manipur, Tripura and Union Territories of Mizoram and Arunachal Pradesh into Director, Postal Services, because the Director, Postal Services, has been asked to function as the Head of the Division as well.

[ D.G., P. & T., Letter No. 1073/83-Vig. III, dated the 17th April, 1984. ]

TC Admitted  
Bhul

Quibus  
28-1-90

( V. K. Chatterjee )  
Adv. Cen. Govt. Standing Counsel  
High Court, Lucknow Bench