

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,BENCH

OATA/RA/CP/MA/PT 172 of 20-90

.....Dr. S. T. Wade.....Applicant(S)

Versus

.....Dr. C. G. S. J. J. S......Respondent(S)

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Certified that the file is complete in all respects.

...............
 Signature of S.O.
 Signature of Deal. Hand

B - c - widely outB
14-8-72

Central Administrative Tribunal

Lucknow Bench

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Cause Title CA. 172 / 90 (L) of 1993

Name of the Parties Cr. S. Tewari Applicant

Uttaranchal ^{versus} Uttaranchal (Forest) Respondents.

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Central
Journal
17/5/90

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 172 of 1989 (C)

APPLICANT(S) G. S. Tewari

RESPONDENT(S) U.O.C.

Particulars to be examined

Endorsement as to result of examination

1.	Is the appeal competent ?	7/5
2.	a) Is the application in the prescribed form ?	7/5
	b) Is the application in paper book form ?	7/5
	c) Have six complete sets of the application been filed ?	7/5
3.	a) Is the appeal in time ?	7/5
	b) If not, by how many days it is beyond time ?	
	c) Has sufficient cause for not making the application in time, been filed ?	
4.	Has the document of authorisation / Vakalatnama been filed ?	7/5
5.	Is the application accompanied by B.D. / Postal Order for Rs. 50/-	7/5 (P.O. No. 02-40 0705) Rs 50/-
6.	Has the certified copy / copies of the order(s) against which the application is made been filed ?	7/5
7.	a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ?	7/5
	b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	7/5 (by Counsel)
	c) Are the documents referred to in (a) above neatly typed in double space ?	7/5
8.	Has the index of documents been filed and paging done properly ?	7/5
9.	Have the chronological details of representation made and the outcome of such representation been indicated in the application ?	7/5
10.	Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?	7/5

Particulars to be ExaminedEndorsement as to result of examination

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

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

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

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

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

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

17. Are the facts of the case mentioned in item no. 6 of the application ? *Y* (Item No. 4)

a) Concise ?
 b) Under distinct heads ?
 c) Numbered consecutively ?
 d) Typed in double space on one side of the paper ? *Y*

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

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

dinesh/

X3

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
CIRCUIT BENCH,
LUCKNOW.

Reg. No OA 172/1990 (L)

G.S. Tewari

Applicant

Vs.

Union of India & Others

Respondents

21.5.90

Present:

No one is present for the applicant. However, we have ~~prused~~ the file.

Admit. Issue notice to the respondents to file their counter affidavit within six weeks of the receipt of this order with a copy to the applicant who may file a rejoinder, if any, within two weeks thereafter. List on 27.8.90 for directions.

D.K. Agarwal
(D.K. Agarwal)
Member (A)

B.C. Mathur
(B.C. Mathur) 21.5.91
Vice-Chairman (A) OR

Notice issued
on
24.5.90

OR
Notices were issued
on 24.5.90 by Repd. Post.
Neither reply nor
any unopened Repd. cover
has been return back.
Submitted for order
L 25/8/90

27-8-90 Division Bench is not available

12/11/90

Seti to 29.10.90

10.90 No sitting day to 19.11.90. OR

16.9.91
D.R.

Both the parties
are present. Applicant
is directed to file Rejoinder

by 19/11/91.

19.11.91
D.R.

Applicant is present.

But he did not

file any Rejoinder
today. He is further
directed to file it,

by 24/11/92.

24.11.92
D.R.

counsel for O.P.
is present. C.R.A.
have been exchanged.
Hence, this case is to
be listed for final
hearing on 12/12/92
before the Hon'ble Bench.

12.12.92

No sitting adj. to 14.12.92

Applicant is present.

16.12.92 Case not reached
adj. to 28.12.92

Boe

or vew
exchage S.P.H
21/12/92

RS

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A. No. 172/1990

G.S. Tewari

Applicant

D.S. Chaubey

Counsel for Applicant

versus

Union of India & others

Respondents.

Dr. Dinesh Chandra

Counsel for Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

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

The applicant was a Postman and was chargesheeted by the Assistant Superintendent of Police Offices, West sub-division, Lucknow vide Memorandum dated 11.11.86 An enquiry officer was appointed to hold the enquiry against the applicant and one Shri Swami Dayal and a joint enquiry proceeded. The enquiry officer submitted his report holding that the charges against the applicant were proved. The charge against the applicant was leaving office unauthorisedly during the working hours and associating himself with Swami Dayal in a wrong and indiscipline act at another post office i.e.

Rajendranagar when Swami Dayal was beating Shri O.P. Bagga, Sub Post office, Rajendranagar, with chappal the applicant was also present at the spot as his colleague. Going through the enquiry report it is seen that the

W

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Disciplinary authority awarded the punishment to the applicant reducing the applicant by 5 stages from Rs 1070 to 970 in the time scale of pay of Rs 950-1400 for a period of five years with a further direction that the applicant will not earn increment of pay during the period of reduction and that on the expiry of this period the reduction will not have effect of the postponing of his future increments of pay. The applicant filed appeal before the Director, Postal Services which was rejected and the penalty was confirmed.

2. On behalf of the applicant it has been contended that the order of punishment was violative of principles of natural justice, unjust and no opportunity was given to the applicant. The respondents have admitted the position that the enquiry report was not furnished to the applicant before awarding the punishment

3. The copy of the enquiry report was not furnished to the applicant, and it is admitted fact by the respondents, the enquiry proceedings are vitiated on this ground alone. In the case of Union of India vs. Mohd. Ramzan Khan (AIR 1991 SC 471) it has been held that non furnishing of the report of enquiry to the delinquent itself vitiates the whole proceedings. Accordingly, this application is allowed and the appellate order dated 31.7.89 and the punishment order dated 30.12.88 are quashed. However, this will

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not preclude the respondents to initiate the enquiry ^{proceed with} beyond the stage of enquiry, giving the applicant a copy of the enquiry officer's report ^{by} ~~opportunity of hearing.~~

4. The application is disposed of with the above directions, with no order as to costs.

Shakeel

A.M.

L

V.C.

Shakeel/ Lucknow: Dated: 28-5-72

RA
Case No. 1715/90
Date of filing 17/5/90
Date of Recd. 17/5/90

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALLAHABAD
CIRCUIT BENCH, LUCKNOW.

Registration No. 172 of 1990(L).

Girja Shanker Tewari ... Applicant.

versus

Union of India and others Respondents.

---oo---

COMPILATION - A

COMPILATION - B

D.S. Chaudhary
Applicant.

D.S. Chaudhary
(D.S. Chaudhary)
Advocate,
Counsel for the applicant.

Dated: Lucknow,
May
Apr 16, 1990.

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D.S. Chaudhary

17/5/90
R
C
In the Hon'ble Central Administrative Tribunal,
Additional Bench Allahabad.

Circuit Bench, Lucknow.

Registration No. 172 of 1990 (L).

Application under Section 19 of Administrative
Tribunals Act, 1985.

Girja Shanker
Tewari. --- Applicant.

Versus.

Union of India
and others. --- Respondents.

COMPIRATION - A

Sl. No. Particulars Page No.

1. Application under Section 19 of the Central Administrative Tribunal Act.
2. Punishment order dated 30-12-1988 (Annexure-1).
3. Appellate order dated 31-7-1989 communicated on 15-12-1989 (Annexure-2).
4. Enquiry Report (Annexure-3).

Lucknow: Dated:

May 16, 1990.

[Signature]
Applicant.
[Signature]
Kumar

(S.K. Asthana)
(D.S. Chauhan)
Advocate.
Counsel for Applicant.

Central Enquiry Bureau
Circuit Bench, Lucknow
Date of Filing 17.5.90
Date of Receipt by Post 2

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH ALLAHABAD
CIRCUIT BENCH, LUCKNOW.

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Registration No. 172 of 1990(L).

PARTIES NAME

Girja Shanker Tewari, aged about 48 years,
son of late Sri Ganga Prasad Tewari,
Postman, Aminabad Park Post Office,
Lucknow.

... Applicant.

versus

1. Union of India through the Director,
Postal Services, Lucknow Region, Lucknow.

2. Senior Superintendent of Post Offices,
Lucknow Division, Lucknow.

3. Assistant Superintendent of Post Offices,
West Sub Division, Lucknow.

... Respondents.

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Opinion
Applicant.

D.S. Chaube

Advocate,
Counsel for the applicant.

Dated: Lucknow,
May 16, 1990.

Opinion

AO
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In the Hon'ble Central Administrative Tribunal.

Additional Bench, Allahabad.

Circuit Bench, Lucknow.

Registration No. 172 of 1990 (L).

Girja Shanker Tewari, aged about 48 years, Son of Late Shri Ganga Prasad Tewari, Postman, Aminabad Park Post Office, Lucknow.

Applicant.

Versus.

1. Union of India through the Director, Postal Services, Lucknow Region, Lucknow.
2. Senior Superintendent of Post Offices, Lucknow Division, Lucknow.
3. Assistant Superintendent of Post Offices, West Sub-division, Lucknow.

Respondents.

(1) Particulars of the order against which application is made.

The application is against the following orders.

- (1) Appellate order dated 31-7-1989
No.RDL/App.125/89/13.
- (2). Date: 31-7-1989 communicated on 16-12-1989
by letter dated 15-12-1989.
- (3). Passed by the Director, Postal Services Lucknow Region, Lucknow.
- (4). Subject in brief: By means of this order, the appeal filed by the applicant against the punishment order dated 30-12-1989 to reduce salary by five stages was rejected by the Director, Postal Services, Lko. Region, Lucknow.

D. D. Tewari

(2). Jurisdiction of the Tribunal.

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

(3). Limitation.

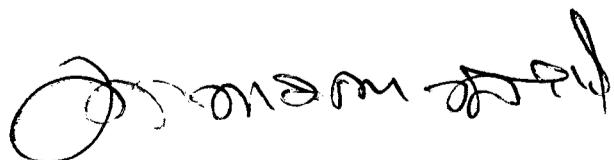
The applicant further declares that the applicant is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

(4). The facts of the case are given below:-

1. That the applicant is holding the post of Postman under the respondents. He was charge-sheeted by order of respondent No.3 contained in memorandum No.B/Gen/ Discp/86-87 dated 11-11-1986.

2. That the petitioner furnished his written statement and thereafter enquiry was conducted by Shri Ram Lal Prasad, Enquiry Officer who submitted his enquiry report on 1-12-1988.

3. That the enquiry report was not disclosed nor given to the applicant before the punishment order passed and a copy ~~is~~ thereof was given only by the letter dated 18-1-1989 on demand made by the applicant.



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3. That after submission of the enquiry report, the applicant was given punishment by the respondent No.2 vide order dated 30-12-1988 by means of which the salary of applicant was reduced by five stages from Rs.900/- to Rs.825/- in the time scale of pay of Rs.825-1200/- for a period of five years with effect from 1-2-1989 with the directions that he will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will have the effect of postponing future increments. A true copy of punishment order is enclosed as Annexure-1 to this application.

5. That the applicant filed appeal on 13-2-1989 against the order of punishment which was not properly considered and rejected on 31-7-1989 by the Director, of postal services and the rejection was communicated by the letter dated 15-12-1989 of Senior Superintendent of Post Office, Lucknow Division. A true copy of rejection order is enclosed as Annexure-2 to this application.

6. That the disciplinary proceeding against the applicant was initially instituted by the Senior Superintendent of Post Office, respondent No.2 vide his order contained in memorandum No.FX/Discp-24/86-27 dated 6-10-1986 but subsequently this power was exercised by the respondent No.3 vide his No.Gen/Discp/86-87 dated 3-6-1987. The enquiry report was also

Q: mentioned

directly submitted to the respondent No.2 who pass the punishment order in violation of Rule 14 (21)(a) and Rule 18 of Central Civil Services (Classification, Control and Appeal) Rules 1965.

7. That the applicant in his appeal dated 13-2-1989 furnished details to show his innocence and also a illegality committed in conducting disciplinary proceeding and imposition of punishment but no proper consideration was given. A true copy of appeal is enclosed as Annexure-3 to this application.

8. That the applicant has been held guilty on mere surmises and without proper evidence in the enquiry report which was accepted by the punishing authority in mechanical manner. Neither the enquiry report nor the comments furnished by respondent No.3 were disclosed to the applicant nor opportunity to defend his cause was given before imposition of punishment. A true copy of enquiry report is enclosed as Annexure-4 to this application.

9. That the charges have been deemed substantiated against the applicant with predetermined mind and without any proper evidence and the enquiry officer as well as punishing authority failed to take notice of this important

Om Prakash

material that the statement of witnesses are self contradictory.

(5) Grounds for relief with legal provisions.

(1) That the order of punishment is non-speaking in as much as the enquiry report was neither disclosed nor the same was made part of punishment order.

(2). That the order of punishment is violative to the principle of natural justice in as much as the applicant was not given opportunity to make representation against the enquiry report as well as the comments furnished by respondent No.3.

(3) That the order of punishment is without jurisdiction in as much as the respondent No.2 was not competent to exercise the power of disciplinary authority in a proceeding instituted by another disciplinary authority.

(4) That the applicant has been furnished on the basis of charge-sheet which itself is bad in law as no rule 62 as mentioned in the 2nd charge exist in P & T. Manual, Volume-II.

(5) That the findings are based of contradictory and unreliable statements of Shri O.P. Banga and Shri Kashi Ram.

Om Prakash

(6). That although, the appellate authority came to the conclusion that the applicant cannot be held guilty for leaving the office without permission, yet the punishment earlier imposed was upheld.

(7). That the finding of the appellate authority in respect of charges is also based on the concocted version and the same could not get proper appreciation.

(8). That the punishment of reduction in salary imposed with the direction that the applicant will not earn increments during the period of reduction and at the same time to direct that the reduction will have the effect of postponing future increments are contradictory and violative to the doctrine of double jeopardy.

(6). Details of remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the rules. He may appeal on 13-2-1989 contained in Annexure-3 of the application which was rejected by order dated 31-7-1989 communicated on 15-12-1989 contained in Annexure-2 to the application.

(O) *M. A. M. S. A. S.*

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

(8). Brief Sought:

In view of the facts mentioned in paragraph 5 and 6 above, the applicant prays for the following relief:-

to quash the impugned order of punishment dated 30-12-1988 contained in Annexure-1 and appellate order dated 31-7-1989 contained in Annexure-2 with consequential full benefits.

(9). Interim order prayer:

Pending final decision of the application, the applicant seeks issue of the following interim orders:-

to stay the operation of impugned order of punishment dated 30-12-1988 contained in Annexure-1 and appellate order dated 31-7-1989 contained in Annexure-2 to the application.

Omnam dptd

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-: 8 :-

(10). Not required.

(11). Particulars of Bank Draft/Postal Order in respect of the application fee.

(1). No. of postal order: 02-408705

(2). Name of Post Office: Aminabad Park, Lucknow.

(3). Date of issue of postal order. 27-3-1990.

(4). Post Office at which payable.

(12). List of Enclosures.

(1). Punishment order dated 30-12-1988.

(2). Appellate order dated 31-7-1989 served upon the application on 15-12-1989.

(3). Appeal.

(4) Enquiry report.

VERIFICATION

I, Girja Shanker Tewari, aged about 48 years, Son of Late Shri Ganga Prasad Tewari, Postman, Aminabad Park Post Office, Lucknow do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Lucknow: Dated:

May 16, 1990.


Signature of the applicant.

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

Application Registration No.

of 1990.

Girja Shanker Tewari

Petitioner

Versus

Director of Postal Services
Lucknow Region and others

Opp. Parties.

Annexure No. 1

Department of Posts.

Office of the Sr. Supdt. of Post Offices
Lucknow Division Lucknow.

Memo no. Rx/Misc.-24/Ch.II/86-87 dated at Lw. 30.12.1988.

Shri Girja Shanker Tewari, Postman was served with a charge sheet under Rule 14 of CCS (CCA) Rules 1965 under ASPOS (West) Lucknow memo no. B/Genl/Discpl./86-87 dated 11.11.86. The charges according to the said memo levelled against Shri Girja Shanker Tewari, Postman are as under:-

*With copy
Xerox*

1 श्री गिरजा शंकर तिवारी, पोस्टमैन, आवास विकास कालोनी उपडाक्टार रुक्षानगर के पद पर कार्य करते हुए दिनांक १६/१२/८६ को थपरान्ह ३४३० बजे रुसाड तीन बजे से साथ ५.३० बजे तक बिंदा उपडाक्टाल से जैवित आज्ञा प्राप्त किये अदिकृत रूप में अपने कार्यकाल में Working hours ही अपना कार्यालय छोड़कर श्री स्वामी द्वाल तिवारी पोस्टमैन, आवास विकास कालोनी का उपडाक्टार राजेन्द्रनगर जाकर गलत एवं अनुशासन हीन कार्य करने से साथ दिया एवं श्री ३०००० बांगा उपडाक्टाल राजेन्द्रनगर, जब

प्रमाणान्वयन

श्री रवानी द्याल तेवारी छारा चप्पल से मारे गए उस सम्बन्ध में उक्त श्री गिरजा शाकर तेवारी उनके सहयोगी के रूप दाटना स्थल पर उपस्थित रहे। अतः उन पर आरोप लगाया जाता है कि उन्होंने भाक्तार नियनाधनी छाण्ड-2 के नियम 62 का उल्लंघन किया और एक सरकारी कर्मचारी न होने देता (Unbecoming of a Govt. Servant) कार्य कर के केन्द्रीय साधन सेवा व्यावरण नियमावली 1964 (CCS (Conduct) Rules 1964) के नियम 341 (111) का उल्लंघन किया।

Shri Ram Lal Prasad was appointed as Enquiry Officer vide ASPOs (West), Lucknow memo no.B/Genl/Disc./86-87 dated 11.11.86 to hold enquiry against Shri Swami Dayal Tewari and Shri Girza Shanker Tewari in a common proceedings under Rule 18 of CCS (Con) Rules 1965. The enquiries were started on 27.2.1987 and were completed on 15.9.88. The accused officials changed their defence nominees applying delaying tactics in holding enquiry by enquiry officer as stated by L.L. in para 2 of page 2 of enquiry report. In the enquiry report at page 10 the enquiring officer has categorically stated that Shri Swami Dayal Tewari on receipt of punishment memo int. D-5 in the morning of 10.7.88 withheld his increment. He got annoyed and as a result he made a plan. Shri Swami Dayal Tewari, to humiliate Shri O.P. Dungre the then SP Rajendra Nagar he also claimed that Shri Girza Shanker Tewari was with him when he was at L.C.C.O. office. Shri Girza Shanker Tewari had also claimed that on 10.7.88 he accompanied with Shri Swami Dayal Tewari.

रामल प्रसाद

-5-

Tewari to be joined to PC on 9.7.85 and that he was present in the Chamber when some altercation took place between Shri Vengi and Shri Swami Dayal Tewari. Thus the charge against him that he left the office without permission of the Shri AV colony 16 in order to assist Shri Swami Dayal Tewari in his nefarious design which seems to him as a calculated move of Shri Girza Shanker Tewari not only to assist Shri Swami Dayal Tewari but also get Shri O.P. Dangre beaten by the latter. The heinous offence unbecoming of the Govt. servant and such things are allowed to continue checked. I am affirmed the administration can not be effectively run and work from the subordinate staff can not be taken.

Although Shri Girza Shanker Tewari deserve sever punishment and deserve dismissal yet taking lenient view considering his past services and his dependent in such hard days it has been decided that Shri Girza Shanker Tewari should be reduced to a pay of Rs. 970/- for a period of 5 years w.e.f. 1.3.89.

With thanks
by X

It is therefore ordered that the pay of Shri Girza Shanker Tewari should be reduced by 5 stages from Rs. 1070/- to Rs. 970/- in the time scale of pay Rs. 950-20-1150-EB-25-1400/- for a period of 5 years w.e.f. 1.3.89. It is further directed that Shri Girza Shanker Tewari will not earn increments of pay during the period of reduction and that on the

Opposition

expiry of this period the reduction will not have effect of the postponing of his future increments of pay.

sd/-Sr. Supdt. of Post Offices,
Lucknow Dn., Lucknow-226003.

Copy To:-

1. The official concerned.
2. The P.M. of the official.
3. The C.M. file of the official.
4. Punishment register.
5. Vigilance statt.
6. The Sr. P.M. Chowk HO Lucknow with two spare copies.

Official copy
Thomas J. Advocate

Oppenheimer

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

Application Registration No.

01 1990.

Girja Shanker Rewari

Petitioner

Versus

Director of Postal Services
Lucknow Region & others

Opp. Parties.

Annexure No. 2

Office of the Director Postal Services
Lucknow Region: Lucknow.

Memo no. 144/4pp.-126/55/13 dated at Lucknow 31.7.89.

This is the appeal dated 13.2.89 of Shri Girja Shanker in case posted in Lucknow Park against penalty of deduction of 50% by 5 stages for a period of 5 years imposed while works Lucknow Memo no. 144/Misc.24/Ch II/36-87 dated 30.12.1986. When the appeal had been preferred in time, it has been forwarded by the ASPUS Lucknow on 1.8.1989.

*Attested copy
J. Thomas
1/10/89*
The appellant was charge sheeted under Rule 14 of the CCS (CA) Rules 1955 vide ASPUS (West) memo no. 3/Genl./Disc./36-87 dated 11.11.1986 alleging that the appellant while working as postman at colony P 0 on 2.7.86 unauthorisedly left the office at 15.30 hours and cooperated with Shri Stewart Postman in beating Shri O.P. Banga S.P.A. Rajendra Lager with chappals thereby contravened the provisions of rule 52 of P.C.R. Vol. II & 3(1) (iii).

Impounded

of the CCS (conduct) rules 1954. The D.O. after conducting oral enquiries as required in the rules held the charges as proved in his enquiry report dated 1.12.88. The disciplinary authority, SSPoS Lucknow empowered to impose major penalty, taking all aspects of the case into consideration awarded the aforesaid penalty vide memo dated 30.12.88 with lenient view compared to the gravity of the charge.

3. I have carefully gone through the contents of the appeal and have weighed the arguments with reference to the memo of charges, punishment order and the disciplinary file and have noticed as under:-

(i) The charge of unauthorised absence has been argued to be incomplete and therefore invalid as it has been supported by a non-existent rule 62 of ~~Part II~~.

Vol. II. The argument in the present form is not admissible as the rule originally belongs to old volume II. The entire chapter II containing discipline rules from 11 to 109 have been deleted from the new edition of Vol. II and incorporated in Vol. III. Therefore, it makes no difference so far as the concept of the charge is concerned. But I do not agree with the disciplinary authority that the postman had unauthorised left the office at 15.30 hrs. after he had finished his job

referred his day's account. He is not required to sit

Opposed

AM 16
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-3-

idly till close of the office after his delivery work is over. The appellant cannot therefore be charged for violation of rule 162 of P&P Man. Vol. II/Vol. III.

(ii) The appellant has misargued that the SSBOs while conducting himself as an appropriate disciplinary authority had violated the provisions of rule 14(2), 14(2)(a), 14(21) or 15 or 16 of the UGC (U.P.) Rules 1962. The SSBOs Lucknow was only an appropriate disciplinary authority empowered to impose major penalty. There had been no violation of any of the above referred rule, as is interpreted by the appellant.

(iii) The appellant's main argument is that his action by which cooperation in assaulting Sri Banga is alleged has not been specifically mentioned. The Article of C.R.P.C., the Criminal Inquiry Proceedings, Inquiry Report and the Criminal Order itself are very much clear in specifying his notorious design in cooperating with Swami Dayal Tewari in beating Sri Banga. He accompanied Shri Banga from Mrs. Vikas colony to Chandan Nagar..., witnessed beating of Sri Banga as a silent spectator and uttering "the work for which we had come was over" while taking Shri Swami Dayal Tewari out of the office go to prove beyond doubt his involvement as cooperator

*Exhibited before
Sri Kumar
Bhatia*

Opposed and

of Shri Swami Dayal Devwari in the assault.

4. I generally find the charge is established. I agree with the disciplinary authority that if indiscipline to such an extent is allowed to continue or let go unchecked and unnoticed it will be difficult to run the public work and administer effectively. Such types of conduct don't deserve any leniency and should be noticed with exemplary strictness. The conduct, thus, deserved more serious punishment. Since the disciplinary authority has already taken a lenient view, I don't wish to interfere in the penalty.

5. I, therefore, hereby reject the appeal of the appellant and confirm the penalty already imposed on him by SSP's Lucknow memo referred to above.

sd/- B.P.Singh
Director Postal Services,
Lucknow Region: Lucknow-226007.

With thanks
Copy To:

1. The official concerned.
2-4: SSP's Lucknow.
5-6. Office Copy and spare.

Departmental

19

-5-

Dpptt. of Posts.

From:

Sr. Supdt. of Post Office
Luknow Division.

To,

Sri Girja Shankar Tewari,
Post man, Aminabad Part
Lucknow.

No. Fx/Misc.24/Loose/86 87 dated 15.12.89.

Subject: Decision of Appeal of 13.2.89.

The D.P.S. Lucknow Region, Lucknow mmo no.

PD/APP-126/89/13 or 31.7.89 is sent h/w. Please
acknowledge the report of the same.

sd/-Sr. Supdt. of Post Office
Lucknow Division.

Opposed - 13.2.89

Attested Copy
S. Tewari
Postman

RJX

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALLAHABAD,
CIRCUIT BENCH, LUCKNOW.

Registration No. 172 of 1990(L).

Girja Shanker Tewari ... Applicant.

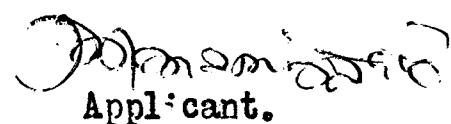
versus

Union of India and others Respondents.

---oo---

COMPILATION - B

S.No.	Particulars	Page No.	Annexure no.
1.	(Annexure 3) Appeal filed by the applicant against the punishment order.	1-7	3
2.	Enquiry report. (Annexure 4)	Q-19	4
3.	Vakalatnama.	20	


Girja Shanker Tewari
Applicant.


D.S. Chaube

Dated: Lucknow,
May 16,
April 1990.

(D.S. Chaube)
Advocate,
Counsel for the applicant.

X20 ①
26

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

Application Registration No. 172 of 1990.

Girja Shankar Tewari Petitioner

Versus

Director of Postal Services
Lucknow Region & others Opp. Parties.

Annexure No. 3

To,

The Director of Postal Services.
Lucknow Region, Lucknow.

(Through Proper Channel)

Subject: Appeal against punishment order- of
reduction in stage of pay vide SSPoS
Lucknow No. RA/Misc.-24/Ch-II/06-87
Dated 30.12.1988.

Respected Sir,

With thanks
The applicant begs to submit an appeal against the
aforesaid punishment and opes that justice will be done by
setting aside the above punishment on the grounds adduced by
the appellant in the following paras, for consideration.

1. The appellant was charge sheeted under rule 14 of
JCS (C & A) Rules 1965 by SSPoS (West) Lucknow vide his
No. B/Genl./Discpl./06-87 dated 11.11.1986. The enquiry

Opposed to

officer enquired into the charges and submitted the enquiry report not to the disciplinary authority but to the punishing authority, the SSPOs Lucknow directly violating the procedure contained in rule 14(2) and ignoring rule 14(2), (a) from the procedural provisions contained in rule 14 of CCS(USA) Rules, 1965. The appellant is afraid that the punishing authority the SSPOs Lucknow in his turn, assuming powers, not conferred by rule 14(21)(a) or rule 15 or 18 of CCS(USA) Rules 1965, passed the orders of penalty of reduction by 5 stages without opinion of the disciplinary authority required mandatorily under rule 14(21) (a) above, while the disciplinary authority had the powers.

2. The appellant begs to submit that a government servant, in essence, is at the pleasure of the appointing authority with bare cloak of procedure left for his protection in statute books and if that bare cloak is taken, the situation would be callous. If the procedure is violated the peril of bias exists and justice bereft of bias, as in this case, cannot be expected.

3. The charge sheet against the appellant is in Hindi as typed in the punishment order contained in SSPOs memo No. EX/Misc. 24/Ch-II/86-87 dated 30.12.1988. The

Opposed

enquiry report was received later on on an application dated 11.1.1980 by the appellant.

4. The charge is confined to the absence of the appellant from Avas Vikas P.C. between 5.30 and 5.50 AM. of 9.7.86 and presence of the appellant at the place of occurrence in Rajindra Nagar P.C., as cooperator and when Shri Swami Dayal Tewari allegedly beat Shri C.R. Banga SPB by Chappal, infringing Rule 62 of P & Manual Vol.II and 5(i) (iii) of CGS (Conduct) Rules, 1964. There is no mention of any action on the part of the appellant by which cooperation in alleged insubordination or beating could be elaborately clear to the appellant accused or on that matter evidence examined, cross examined and facts crystallised to weigh the offence alleged for proper punishment. There is no mention of any plan being hatched up at ... Colony ... and evidence therefor.

There is no illustration of any fact in the charge sheet which impugns or casts doubt on the authority to name the Appellee as cooperator in the alleged offence. The Appellee is not alleged to have visited the alleged spot of offence or based with the alleged offiicer Shri C.R. Banga or participated in an altercation, beating or any form of inordinate. The Appellee is also not alleged to have been sent on duty to serve the respected

Organization

SP. Rajendra Lajur or rendered to help. The charge refer to only absence under rule 62 of R.T. manual Vol. III But rule 62 does not exist in Vol. III. In fact chapter on discipline has been removed from Vol. III long ago. It is submitted that as the charge has been supported by rule 62 of Vol. II while it does not exist there and exists in R.T. manual III, the charge itself is invalid. Besides, had there been an intention to secure any punishment for any thing except absence, the disciplinary authority would have based those charges on appropriate provision with the conduct rule 3(1) (iii) and not only on rule 62 of R.T. manual Vol. II, which in fact does not exist in Vol. III, but Vol. (iii). As the rule as referred to does not exist in Vol. III, it cannot be a basis of punishment for the in absence of or on failure of the codified rule the charge cannot stand on the mere strength of conduct rule to be used to support the violation of the codified rule.

5. Yet the non-application of mind on the part of the learned enquiry authority to find out what is the real, charge is and whether it can be sustained or not in view of above submissions as well as miserable failure on the part of learned punishing authority on the above

*Exhibit 11
Examination
of Service*

Opposite side

subject, resulted in grave injustice to the appellant by way of such a grave penalty.

6. So far as evidence adduced to support the above invalid charge is concerned, although irrelevant on issue of absence, the letters of Shri O.P. Banga, the SPM Rajendra Nagar himself dated 10.7.86 to P.R., dated 15.7.86 to the SSPOs (Est.2) statement dated 8.8.86 may be compared to find out whether there is reliable consistency.

In the 1st. one appellant's name is not there, in misbehaving, in the second the appellant is stated to have been standing at door step, while in the statement the appellant has been stated as taking out Sri Swami Dayal saying that the work is done. Such evidence is not admissible to base a punishment.

7. Yet the act of taking Swami Dayal by hand and uttering the alleged words do not find a mention in the charge sheet and hence these facts are irrelevant for the facts mentioned in the charge sheet, are to be established with cogent, concrete, alike and definite independent evidence as not the facts mentioned in the evidence of the complainant himself who gave three different accounts in respect of one incident to which he was a party but not a single on issue of absence.

*After strict恪守
Shri
General*

8. The appellant is afraid to submit that although

Opposed to

the above alleged act and utterance was not available in the charge sheet, it has been accepted and taken as ~~xx~~ a charge by the learned enquiry officer ,although none of the witnesses so proposed for corroboration. It was also accepted on the sole narration of the complainant without agitating his mind as to whether the statement could be a charge sought to be proved and whether an account of incident went with frailties of memory devoid of independencies. and corroboration was acceptable for a definite finding on the conduct of the appellant whose very breed was at stake.

10. The appellant hopes that your honour may never accept such an enquiry report to arrive at such an inferential conclusion based on surmises and inadmissible statement not connected to the actual charge.

11. Thus your honour may kindly agree that the charge sheet is invalid in view of para 4 above and evidence inadmissible as irrelevant, findings of the enquiry not based on facts and evidence for the charge.

Moreover, submission of the enquiry report to the punishing authority contravenes procedural rule as submitted in para 1 above. The findings of the learned punishment authority who accepted the enquiry report directly contravenes procedure as submitted in para 1 above

Opposed

contain the findings, not on the real charge. The charge is simple and plain that the appellant was absent from duty between 3.30 and 5.30 A.M. on 9.7.89 contravening rule 32 of R.C.P. Manual Vol. II and rule 3(1)(iii) of CCS (Conduct) Rule 1954. Nothing ~~more~~ more can be imported into it or pressed with irrelevant and inadmissible evidence. And as the charge itself is invalid for the reason that rule 32 exists in Vol. III and not in Vol. II the punishment is invalid and procedure irregular as suggested in para 1 above.

Therefore, the appellant begs your honour to set aside the punishment with justice due.

Yours faithfully,

Dated 13.2.1989. sd/-Girja Shankar Tewari,
Postman, A-Park, Lucknow.

*Witnessed by
Girija Shankar Tewari
Postman
A-Park, Lucknow*

*Opposed by
Opposition*

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सम्बन्ध: इन १८ लानरेलिल सॉन्ट्रल एडमिस्ट्रेटिव ट्रिब्यूनल, इलाहाबाद
लरेलिट बैन्च, लखनऊ

अपलोड्डान रजिस्ट्रेशन नं०:

१९९०-

गिरजा शाकर तिवारी

याची

ज्ञाम

यूनियन लाप इण्डिया तथा अन्य

प्रतिवादीगण

एने क्लर नं०: ४

भारतीय भाषा विभाग

प्रेषा,

राम लाल प्रसाद,
जांच अधिकारी,

सेवा भै,

प्रवर भाषा अधारका,
लखनऊ अफल,
लखनऊ।

ज्ञापन लघुया/वजाय नैयन १४/८८-८९ दिनांक १०.१२.१९८८.

विषय: श्री ख्वाजी दयाल तिवारी व श्री गिरजा शाकर तिवारी
पोस्ट मैल लानरेलिल लखनऊ के विरुद्धनियम १४-
के अन्तर्गत जांच की जांच लघुया।

xx

लापका ज्ञापन लघुया-व-सान्त्य-डीजा ईएस/८६-८७

SS Pos No. Fx-Misc.24-88-89.

महोदय,

सहायक भाषा अधारका लखनऊ पाइलमी के ज्ञापन लघुया
B/ General Dis./86-87 दिनांक ११.११.८६ द्वारा मुख्य सर्कारी
ख्वाजी दयाल तिवारी व गिरजा शाकर तिवारी पोस्ट मैल के विरुद्ध
लगाए गए लारोपो की जांच करने के लिए जांच अधिकारी नियुक्त
किया गया था। श्री ख्वाजी दयाल तिवारी पर निम्न लारोप
लगाये गये थे:

प्रथम आरोप :

श्री स्वामी द्याल तिथारी, पोस्ट नैम आवास विकास कालोनी लघानऊ के पद पर लाय करते हुए दिनांक 9-7-86 को राजेन्द्रनगर उपचालकार मैलाकर कार्यालय 4-50 बजे लाय श्री ओ०पी० बांगा उपचालकाल राजेन्द्रनगर के प्रति आइष्ट भाषा का उच्चारण करते हुए उन पर अपने चाप्पल ले पुहार किया। ऐसा करते हुए उन्होंने अनुशासन भींग किया। अतएव उन पर लारोप लगाया जाता है कि उन्होंने एक लरकारी कर्मचारी न होने जैसा Unbecomings of a Government servants श्री कार्य करते C.C.S. (Conduct) Rule, 64 के नियन 3१। ४१। ४२। ४३। ४४। ४५। का उल्लंघन किया।

आरोप द्वया-२ :

श्री स्वामी द्याल तिथारी दिनांक 9-7-86 को अपरान्ह 3½ बजे से 5-30 बाद तक अपने कार्यालय आवास विकास कालोनी भाक्कर से जिना फिरोजाबाद लाला प्राप्त किए अपने कार्यालय Working Hours के अनुष्ठानकृत रूप से अनुपोस्थित है। अतः उन पर लारोप लगाया जाता है कि उन्होंने भाक्कर नियनावकी छाप्पल-२१ Part. Manual Vol. II के नियन 62 का उल्लंघन किया।

श्री गिरजा राक्षर तिथारी पर निम्न आरोप लगाये जाये थे :

श्री गिरजा राक्षर तिथारी पोस्टनैम आवास विकास कालोनी लघानऊ के पद पर कार्य करते हुए दिनांक 9-7-86 को अपरान्ह 3-30 बजे से साद 5-30 बजे तक जिना उपचालकाल से जिनाकार्यालय ले कार्यकाल में Working Hours ही अपना कार्यालय छोड़कर श्री स्वामी द्याल तिथारी पोस्टनैम, बा०विकास कालोनी का उपचालकार राजेन्द्रनगर जाकर गलत एवं अनुशासन हीन कार्य करने में लाठा दिया एवं श्री ओ०पी० बांगा उपचालकाल राजेन्द्रनगर जब श्री स्वामी द्याल तिथारी छारा चाप्पल से नारे गए उस समय में उक्त श्री गिरजा राक्षर तिथारी उनके स्वयंगी के रूप में दातारास्थल पर उपोस्थित है। अतः उन पर लारोप लगाया जाता है कि उन्होंने

डाक्तार नियन्त्रित छाण्ड-॥ १ पोर्ट एण्ड टेलीग्राफ्स नेतृत्व वालम-॥
के नियन्त्रित 62 का उल्लंघन विया और एक रसनारात्र कर्मचारी न होने जैता-
२ Unbecoming of Government servants. ३ कार्य करके केन्द्रीय
नियन्त्रित सेवा नुसारत-४ नियन्त्रित 864 के नियन्त्रित ३५ ५ १११२ का
उल्लंघन विया ६

2. जांच दिनांक 27.2.87 से प्रारम्भ होकर दिनांक 13.9.85
को समाप्त हुआ। अभियोगित नियन्त्रित द्वारा बार बार बचाव प्रति-
निधि के बदलते एवं अत्यधिक रवैया के कारण तथा जांच अधिकारी
में अधिकार प्रकट करने के फलस्वरूप जांच में आदर्श्यमें विलम्ब हुआ।
जांच अधिकारी के बदलते होने के बावेदन पत्र पर भाक निदेशक लानजा
के बावेदा के फलस्वरूप जांच तर्ह नहीं हो जाद पूः प्रारम्भ परने के कारण
जांच में देरा हुयी। इस स्वरूप पत्र देने के बाद ही बारोंपरत
कर्मचारी का बचाव सोक्षमत 15.11.88 को इस कार्यक्षम में प्राप्त हुआ
जबकि अभियोगित अधिकारी ने अपना सोक्षमतार उनको 24.9.88
को ही दे दिया था। इस प्रकार विलम्ब बारोंपरत कर्मचारी के
कारण हुया।

3. अभियोगित पक्ष की ओर से बारोंपरत की सिद्ध करने के तह-
त निम्नलिखित कागजात प्रस्तुत किए गए:-

१. दाता की जांच हेतु बावेदा दिनांक 9.7.86 २ ईएस-पी-१

२. उपर्युक्त पक्ष राजन्द्रिनगर का पत्र बा। ईसपीएस 15.7.86
३ ईएस-पी २

३. व्यान श्री लोपालकांगा दिनांक 8.8.86 ४ ईएस-पी-३

४. व्यान श्री राम प्राद दिनांक 11.7.86

५. व्यान श्री एस०एस०लाल दिनांक 8.8.86

६. व्यान श्री काशी राम दिनांक 11.7.86

७. व्यान श्री राजकरन श्रीदास्तव दिनांक 11.7.86

८. व्यान श्री राजकरन श्रीदास्तव दिनांक 11.7.86

९. व्यान श्री हरद्वारी लाल दिनांक 12.7.86.

१०. अभियोगित पक्ष की ओर से बारोंपरत की सिद्ध करने के तह-
त निम्नलिखित गवाह प्रस्तुत किए गये:

अधिकारी

११४ भारतीय बोरोडो लोकल पत्र सेचा दूनियन 85-86-4
दिनांक 18.3.86.

१२५ प्रधर भाक अधिकाक पत्र सेचा ए.००८६ दिनांक फरवरा, ८६

१३६ प्रधर डॉ०८० लोकल पत्र सेचा ए.००८६ यूनियन ई-बी०८०८०८०
ईचीवारपत्र/८६ दिनांक २०.३.८६/३१.३.८६.

१४७ SPM Rajendra Nagar G/Dalivery dt. 4.4.86(D4)

१५८ SPM Rajendra Nagar G/Delevrey RNo. dt. 7.7.86 Ed 5)

१६९ SSPD Lu No.B8/2/ISDasel dt.20.10.86 ED6

१७० बोरोडो लोकल पत्र ४/२१८/८० दिनांक २६/३-८०

१८१ SSPD Lko No.L/MM/86 dt. 21.1.86 (D8)

६० बिहार पदा की तरफ से निम्न गवाए प्रस्तुत किए गए:

१११ श्री मनोहर लाल, भाक सदायक

११२ श्री गुलाम राज, पोर्टलैन

११३ श्री कमला, भाक सदायक

११४ श्री आनन्द चूमार, पोर्टलैन

११७ भारतीय बारोपित कर्मवारी सर्वश्री स्वामी द्वाल तिवारी एवं गिरजा राजकर तिवारी ने उपना जीवित ज्ञान न देकर स्वयं जीव जीवित ज्ञान के सम्बन्ध ज्ञान दिए जिनका प्रतिपराक्षण अभियोजन पक्षा चारा लेया गया।

जीव आम्हा श्री स्वामी द्वाल तिवारी

बारोप नम्बर एः

श्री बोरोडो बागा ने बताए रोप दिनांक ९.७.८६ को लाभता १६.४० पर श्री स्वामी द्वाल तिवारी एवं गिरजा राजकर तिवारी राजेन्द्रनगर भाक्षार लाए। वा स्वामी द्वाल तिवारी थोड़ी देर बाद उनके वेम्बर में छाले एवं एक रोज़बूरी का लिफाफा दिलाया और पूछा कि क्या लाफो इसे भेजा है। उसने वह राक्षारा रोज़बूरी के लक्षण के अन्दर से यह लिफाल कर देखा और कहा रोप में वह भेजा है इस बीच गिरजा राजकर तिवारी उनके वेम्बर व छिलेवरी ब्रान्व के दोष स्थित दरवाजे पर छाड़े रहे। श्री स्वामी द्वाल तिवारी

ने पृथा एक तुमों कुओं क्यों दण्ड दिया है इस पर श्री बांगा ने बताया एक संबोधित पाइल देखाने से ऐसी क्षता लक्षित है। इस पर श्री स्वामी द्वयात् उत्तैरिजित हो गये तथा चम्पल से पीठे लगे। इसे भै श्री गिरजा रांकर तिथारी जो दरवाजे पर हो छाड़े थे बन्दर जाकर स्वामी द्वयात् तिथारी जो पक्षुकर क्षता एक वैम्बर से बाहर जाने जिस कान के लिए इस लोग थाए थे वह पूरा हो गया। इस दीव काशी राम पैकर भैरे वैम्बर में जाकर नेहीं रक्षा की तथा स्वामी द्वयात् को वैम्बर से बाहर लिया तथा उसके पीछे श्री गिरजा रांकर तिथारी भी चले गए श्री बौ०पा० बांगा बवाब सहायकों के उथात् प्रयात् ऐ बाद भी उपने पिछले ब्यान से छें ले कर नहीं हुए जबकि बवाब सहायकों ने उनके जावद्यक एवं अपनान उनक प्रह्ल पृथक उत्तैरिजित करने का भी सफल प्रयात् किया। वह सत्य पर लट्टे रहे।

श्री काशी राम पैकर राजेन्द्रनगर ने भी उपने द्वयान भै पिछले ब्यान दिनांक 11.7.86 की पूछिट की जिसमें उसने लहा था एक शाम लाभाग 4.50 पर श्री स्वामी द्वया तिथारी एवं गिरजा रांकर तिथारी पौर्स्टमैन पौर्स्टनास्टर लाल्हे को नार रहे थे जैसे जाकर पक्षुकर स्वामी द्वया.. को कमरे से थार लिया। स्वामी द्वयात् गुस्से में लड़का रहे थे। स्वामी द्वयात् का चम्पल जो कमरे में छृट रहा था भै पैर से लमरे से बाहर आया " श्री काशी राम ने उनके प्रति परोक्षण में उसा द्वयान द्वी पूछिट की तथा क्षता एक बर्बाद द्वी गिरजा रांकर तिथारी एवं स्वामी द्वया.. तिथारी मौजूद थे। श्री गिरजा रांकर तिथारी, स्वामी द्वयात् तिथारी को बाहर ले जा रहे थे।

*Attested by
Shri K. K. Munshi
Associate*

इस प्रकार श्री बौ०पा० बांगा के उथान की पूर्णरूपेण पूछिट द्वी काशी राम के ब्यान से हो जाती है। यह गवाह भी उपने प्रतिपरोक्षण में लट्टे रहा उसके छाटना की पूछिट हो जाती है। इसके ब्यान का नृव्याक्त बवाब पक्षा यह कहकर कि वह श्री बांगा का नातहत है स्वसम नहीं है और न ही निष्पक्षा " कम करने का अनुकूल प्रयात् किया है।

श्री बैराब प्राद भाक सहायक ने उपने ब्यान दिनांक 4.5.88 को पिछले ब्यान दिनांक 11.7.86 पूर्वीका पा-4७ द्वी पूछिट करने उप

प्रतिपराक्षण में कहा था कि 5 बजे के बातचास कोई मेल जाती जाती नहीं है वै बृन्दावनी सोसाइट पर छाती बैठा था । स्वामी द्वाल व गिरजा शाक्षर मेरी सीट से गुजरे थे व छापने तक नहीं थे । आगे उन्होंने स्पष्ट किया कि स्वामी द्वाल हाथे उठाए थे । जो सच्चाई थी वही लिखा है तथा यह भां स्पष्ट किया कि गुस्से में बात चीत पोस्ट मास्टर से कर रहे थे । कारां राम ने पछकर बाहर किया ।

श्री स्वामी द्वाल तिकारी आरोपित कर्मिकारी ने अपने उपर लगाए गए आरोपों को निराधार एवं झूठ बताया है तथा कहा कि बांगा ने मूल पर गलत कहा लगाया है एवं कारांरान तथा शिव प्रकाश झूठी गवाही किए हैं । उसने आगे बताया कि वह राजेन्द्रनगर भाक्षार दिनांक 9-7-86 को बा बांगा से 6 बजे के बाद निलगे थे । श्री क्षोहर लाल धारिया व दुलचंद शान्ति के साथ । श्री बांगा ने उन्हें ना बहन की भाद्रदो गांधी दी उत्तीर्णी रिपोर्ट थाने में नहीं लिभाई गई । बांगा की रियों को भा फैलाया था परन्तु जोई प्रमाण नहीं दे सके श्री स्वामी द्वाल तिकारी के इन ज्यानों का उनके गवाहो छारा पूर्णित नहीं की गई । बा क्षोहर लाल धारिया एवं मूल चन्द्र शान्ति दोनों ने ही उनके दाथ बांगा के निलगे को बात को नकारा है तथा गाली की भा गुर्जिट नहीं की । इस प्रकार श्री बांगा पर स्वामी द्वाल का लगाया आरोप झूठा एवं निराधार है । श्री गिरजा शाक्षर तिकारी जो उनके दाथ साथ रहे उन्होंने भी श्री बांगा पर स्वामी द्वाल का लगाया आरोप झूठा एवं निराधार है । श्री गिरजा शाक्षर तिकारी की बात को गुर्जिट नहीं की । इस प्रकार यह सब सो जाता है कि श्री स्वामी द्वाल ने श्री बांगा पर झूठा आरोप लगाने का अकेला प्रयास किया है ताकि उनके अन्तर लगाए आरोपों की गम्भीरता कम हो जाय ।

मेरी भायोजन पक्ष ने इस तर्फ से पूर्ण सहमत है कि स्वामी द्वाल तिकारी श्री बांगा से पूर्वाग्रहित थे । श्री स्वामी द्वाल ने अपने ज्यान में बताया है कि उसे ब्रह्म 12-7-85 को एक पार्सल के कान्थात पतरणा का मान्या अनुसंधान 85 में प्रकाश में आया था तिलमे श्री बांगा ने उनकी बांजीक बड़ी तर्रा रोकने का दण्डादेह किया ।

था। इस देश में बाद दो दी जांगा के विश्व क्षेयका देव ने का आइटम जाला गया था जो ईएस डी-३ दिनांक 27.10.86 को प्रवर आक जहा निकाल से जाला जाता है। इससे श्री स्वामी दयाल तिवारी का जांगा से पूर्णांगत जैना स्पष्ट हो जाता है।

श्री स्वामी दयाल तिवारी ने बागे क्षेत्र के दिनांक 9.7.86 को प्रातः दी जांगा जारा तरित दण्डादेश प्रा त हुआ जिसमें उनकी बाल्डक छूत्तरा रोकी गयी थी। इस पर श्री स्वामी दयाल का ब्रोडात होना स्वाभाविक है। इसी कारण उन्होंने श्री जांगा को अपना नित घरने की जिजा बनायी। उसी दिन दोनों बादली बालकों के पश्चात राजेन्द्रनगर डाक्षार गए और अद्वितीय श्री स्वामी दयाल तिवारी ने श्री जांगा को चम्पल से पीटकर एवं अराडट भाड़ा का प्रयोग करके उन्हें अपना नित किया।

बाबू पक्षा ने यह इच्छा कि "ओमायोजन पक्षा ने बाल्कीदार को गवाही में पेश नहीं किया। वास्तव में वही प्रत्यक्षा दर्शी गवाह हो सकता था या वास्तव में जोई छाटना छाटी नहीं थी इसीलिए बाल्कीदार को पेश नहीं किया" अपने कार्य की इतिहासी सन्दर्भों। उन्हें बाल्कीदार को गवाह बनाने से किसने रोका। बाबू पक्षा ने उसे क्यों नहीं गवाही हेतु प्रस्तुत किया। बाबू पक्षा के गवाहों एवं आरोपित दोनों कर्मवारयों ने भी दिनांक 9.7.86 को श्री बामा एवं श्री स्वामी दया के बीच गर्म वाद विवाद के तथ्य को स्वीकारा है। अतः बाबू पक्षा के इस तर्क में जोई दम नहीं कि छाटना छाटी ही नहीं।

आरोप नो: 2

दिनांक 9.7.86 की छाटना का छाटित होना सिद्ध हो जाता है जहां तक सम्भव का प्रश्न है। श्री स्वामी दयाल तिवारी एवं श्री गिरजा शाल तिवारी दोनों आरोपित कर्मवारयों एनके गवाही ने राजेन्द्रनगर डाक्षार लगभग 6 बजे बाना बताया है जबोक अभियोजन पक्षा ने सम्य साय 4.50 कहा है। बाबू पक्षा का यह ज्ञाना कि दोनों कर्मवारी अपनी बासी 5.30 देने के पश्चात ही अस्त

बाबास विकास कालोनी भाल्डार छोड़" तथा जैंडा कतर बापसा ९ १/२ बो के आस पास ही देते थे तथ्यपरक नहीं प्रतीत होता क्योंकि बाबास विकास कालोनी भाल्डार ५.३० बजे बन्द हो जाता है और इसी समय बापसी देना तर्द ज़रूरत एवं सत्यता है परे है। अभियोजन पक्षा ने गवाह श्री एस०एस० नानू, उपडार पाल, बाबास विकास कालोनी भाल्डार ने बापसी का सम्बन्ध ३ ½ बो बताया है जो तभी एवं तर्कसंगत प्रतीत होता है। उन्होंने बताया १क ३.३० बजे बाजी देने के पश्चात दिनांक ९.७.८६ को दोनों पोर्टफैस बैलेन्स बोर्ड गए थे तथा लाडे पांच लक डाल्डार बापस उन्होंने उनीं देखा था।

श्री मारोहर लाल छारिया बाबाव गवाह ने अपने ब्यान में कहा था स्नानी द्वारा एवं अन्य लोग भाल्डार आये। वे अपना अब्स्ट्रैक्ट वेक कराने वाला नहा एवं अपना अब्स्ट्रैक्ट वेक करा रहा था। श्री गिरजा शाह रिवारी ने कहा है कि वह मूल बन्द राजी बबाव गवाह तरफ लगा रहे थे। मैं श्री आर०ए०सिंह हूं अपनी बैलेन्स सॉट ऐसु बात करने लगा। छारिया बाबू बबाव गवाह राज० इम्पोर्ट ब्रान्च में बैले गए और अपने राथ में दूसरे लेकर बापस आसे दिखाया। ऐ और वही कागज लेकर बापस पूः बैले गए। इसी स्पष्ट है कि भाल्डार राजेन्द्र नगर कार्ड बल रहा था लाल छारिया कर्मवारी कार्यालय में कार्यरत थे उनकी छ्यूटी सनाप्त नहीं हुयी था। उत्तरः कर्मवारीरेयों का यह कथन है:- श्री बांगा से ६ बजे के बाद बैले थे सत्य नहीं प्रतीत होता। उपरोक्त विवेकन से यह स्पष्ट होता है कि बाला लगभग ५ के लाल लाल ही है जिसे अभियोजन पक्षा का सम्बन्ध हो जाता है। उत्तरः यह त्रिं दो जाता है कि दोनों लालोंपैस कर्मवारी ३.३० से ५.३० तक अपने कार्यालय से उपरोक्त रूप से अनुपार्थता रहे। इसका दोनों कर्मवारीरेयों ने अपने उपडाल्डार पाल से बाका प्राप्त नहीं किया था जैसा कि श्री एस०लाल उपडाल्डार के ब्यान से स्पष्ट हो जाता है। बबाव पक्षा भी जैंडा लाल दो उपडाल्डार का बार०८० का भाल्डार लाल जाव के साथ पुस्तर नहीं कर सका। इस उपडार दिनों के

१०७०८६ से $3\frac{1}{2}$ से $5\frac{1}{2}$ तक ताये तक अपने कार्यालय से बिना लिखित लाता प्राप्त किए जाने कार्यालय में अपोर्थत रहने का आरोप रख दो लाता है।

इस प्रदार की स्थानी द्यावं गोदारों पर ज्ञाए गए
दोनों गोदारों के निम्न दो गोदारों हैं।

80 / 1.12.88.

राम लाल प्रसाद जीव खोहा कारी

Attestee copy
S. Hamm
C. Schleser

श्री गिरजा रामरत्न तिवारी, पोर्टलैन में विलेज गांव गए आरोपों को लांच की जांच जाचुदा।

श्री स्वामी द्वान तिवारी ने कहा कि दिनांक 9.7.86 को श्री गिरजा रामरत्न तिवारी द्वारा पारलैन लैंडलैरी ईएस-डी-5 प्राप्त हुआ था जिसमें उनकी दार्ढी के बड़े तरी रोकी गई थी। इस पर श्री स्वामी द्वान तिवारी का छोड़ा गया होना स्वाभाविक है। इसी कारण उन्होंने बांगा को अपनानंत छोड़ने की विज्ञाना बनायी। इसी दिन वह श्री गिरजा रामरत्न के साथ वापसी देने के बाद राजेन्द्र नगर आकार गए, लगभग 6 बजे गए थे। उसने स्वामी की छाटा के सम्बन्ध में गिरजा रामरत्न उनके साथ थे।

श्री गिरजा रामरत्न तिवारी भी अपनी पराक्रमा में बताया कि वह दिनांक 9.7.86 को श्री स्वामी द्वान के साथ उपलैन लैंडलैरी राजेन्द्र नगर अपनी छट्टी सभा से करके लगभग 6 बजे गए थे। उन्होंने वह भी स्वामी का द्वान तिवारी को देकर बाहर किया। उस सम्युक्त उपास्थित थे।

श्री जोर्ध्वा जाना ने उन्हें छान में कहा कि दिनांक 9.7.86 को लगभग 16.40 पर दोनों आरोपित कर्मवारी भाक्तार आए श्री स्वामी द्वान तिवारी थोड़ी देर बाद उनके बैम्बर में छुपे एवं एक सरलतारी रखरदी का लेनापा छिपाया । श्री गिरजा रामरत्न तिवारी उनके बैम्बर व डेलीपरी ब्रान्च के बीच हिथाल दरवाजे पर भाड़े रहे। बातांलाप के दौरान स्वामी द्वान तिवारी उत्तेजित हो गए तांत्रिक प्रयत्न से पीछे लगे। इसके बाद गिरजा रामरत्न तिवारी जो दरवाजे पर भाड़े थे अन्दर आकर स्वामी द्वान को पकड़कर कहा कि बैम्बर से बाहर जाओ जिस जाम के लिए आए थे वह पूरा हो गए। इससे उनका यानीं गिरजा रामरत्न तिवारी का उपत बुकूल्य है स्वामी द्वान तिवारी को पूरा

सह्योग दिया जाना लेड्ड हो जाता है। यदि श्री गिरजा शंकर तिवारी जो छात्नास्थाले के करोब ही छाड़े थे बाहरी तो यह छात्ना टल सकती थी। परन्तु उन्होंने नी स्वारी द्याल द्वारा जाँगा को चप्पल से नारने के बाद ही अन्दर गए और स्वारी द्याल को बाहर जाने के लिए ले लिया। इस प्रकार वह एक सह्योगी की तरह छात्नास्थाल पर उपस्थित रहे तथा 3.30 से 5.30 तक उपर्युक्त पाले के लिए उद्देश्य प्राप्त किए जिन ज्ञानादाकृत रूप से अनुपार्श्वत रहे यह आरोप भी पूर्णरूपेण सिख दी जाता है।

इस पुकार दोनों कर्मियाँ तर्यों पर लगाए गए आरोप सिद्ध पाये गये ।

६०/ १०१२०८८ •

राम लाल प्रसाद

- Johnson ~~Admitted~~
- Jones ~~Admitted~~
- Johnson ~~Admitted~~
- Adwoa Abo

M/S 19
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-12-

Department of Posts.

From,

Senior Supdt. of Post Office,
Lucknow Division.

To,

Sri Girja Shankar Tewari,
Post man Aminabad,
Lucknow.

(2) Swami Dayal Tewari,
Postman Aminabad,
Lucknow.

No. Camp./Misc. 24/CHO/LKO. dt. 18.1.89.

Subject: Supply of copy of enquiry report.

Ref: Your Application dt. 11.1.89.

As desired a photostat copy of enquiry report submitted by Sri Ram Lal Prasad E.O. in (ii) eleven pages is sent to you.

sd/- Senior Supdt. of Post Office
Lucknow Division.

Attested copy
S. K. Tewari
Postman

ब अदालत श्रीमान के कुप्रिय प्रशासन कर्त्तव्य के लिए महोदय
माना जाएगा

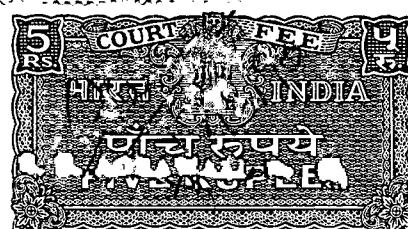
[वादी] अपीलान्ट

प्रतिवादी [रेस्पान्डेन्ट]

गिरिजा शंकर लाल वकालतनामा

राम

मुकदमा नं०



अपीलान्ट)

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

वकील की टाक्का

वकील

महोदय
एडवोकेट

अदालत
नाम
मुकदमा नं० नाम
फरीदन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई 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 हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (इस्तखती) रसीद लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वशा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फँसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर जाम आवे ।

Accepted
Shambhu
साक्षी (गवाह)

हस्ताक्षर ~~मन्मथन के बड़ी~~
(प्रजाशंकर तिवारी)

साक्षी (गवाह)

Accepted Adm
Kumar
Advocate

दिनांक

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महीना

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD,

CIRCUIT BENCH, LUCKNOW.

MISC.APPLICATION NO. 428

OF 1991. (2)

On behalf Respondents.

In

Case No. O.A.No.172 of 1990 (L)

Girja Shanker TiwariApplicant.

Various

Union of India & othersRespondents.

500000

APPLICATION FOR CONDONATION OF DELAY

The respondents respectfully beg to submit as under :-

1. That the Counter-affidavit on behalf of the respondents could not be filed within the time allotted by the Hon'ble Tribunal on account of the fact that after receipt of the paravise comments from the respondents, the draft reply was sent to the department for vetting.

That the approved Counter-affidavit has been received and is being filed without any further loss of time.

That the delay in filing the Counter-affidavit is bonafide and not deliberate and is liable to be condoned.

WHEREFORE, it is prayed that the delay in filing the Counter-affidavit may be condoned and the same may be brought on record for which the respondents shall ever remain grateful as in duty bound.

Lucknow.

Dated; 26-7-91

D. Chandra

(Dr.Dinesh Chandra)

Counsel for the Respondents.

RMS
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

CIRCUIT BENCH LUCKNOW

COUNTER AFFIDAVIT ON BEHALF OF ALL THE

RESPONDENTS

In

O.A. No 172 of 1990(L)

Girja Shankar Tiwari..... Applicant

Versus

Union of India and Others..... Respondents

I,..... *Jitwan Dhir* aged about 54 years

Son of..... *Sri Narayan*

Senior Superintendent of Post Offices Lucknow do hereby solemnly affirm and state as under :-

1. That the deponent has read the application filed by Shri Girija Shankar Tiwari and has understood the contents thereof.

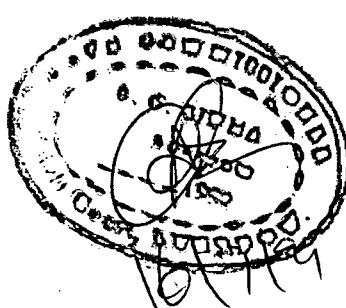
2. That the deponent is well conversant with the facts of the case deposed hereinafter and is filing this counter-affidavit on behalf of all the respondents.

3. That it will be worth-while to give the brief history of the case as under :-

BRIEF HISTORY OF THE CASE

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Dhir
मेरा अधीक्षक, डाकघर, लखनऊ
Senior Supdt. of Post Offices
Lucknow Division-226001



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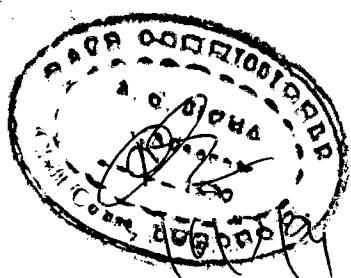
: 2 :

BRIEF HISTORY OF THE CASE

The applicant Shri Girija Shankar, Tiwari, Postman was served with a charge-sheet under Rule 14 of the CCS (CC&A) Rules, 1965. The charges levelled against the applicant are contained in Annexure R-1. Shri Ram Lal Prasad was appointed as inquiry officer to hold inquiry against Shri Swami Dayal Tiwari and the applicant in common proceedings under Rule 18 of CCS (CC&A) Rules, 1965. The inquiry was completed on 13.9.1988 in which the charges against the applicant were found proved. After perusal of the inquiry report and other connected records the applicant was awarded the punishment of reduction of 5 stages from Rs 1070/- to Rs 970/- in the time scale of Rs 950-20-1150-EB-25-1400 for a period of 5 years w.e.f 1.3.1989 with further directions

that applicant will not earn increments of pay during the period of reduction and that on expiry of this period the reduction will not have effect of postponing his future increments of pay. Aggrieved by the punishment order the applicant preferred an appeal to the Director of Postal Services Lucknow Region, Lucknow which was rejected and the penalty imposed on him was confirmed. The applicant has now filed the present application before this Hon'ble Tribunal for quashing the impugned order of punishment


प्रयोग अधीक्षक, डाकघर, लखनऊ
Senior S.p.t., of Post Offices
Lucknow Division-226007

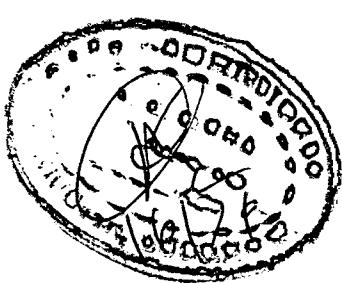


dated 30.12.1988 and appellate order dated 31.7.1989.

PARAWISE COMMENTS

4. That the contents of paras 1 to 3 need no comments.
5. That the contents of paras 4.1 and 4.2 are admitted.
6. That the contents of para 4.3 are admitted. However, it is informed that there were no instructions at that time to supply a copy of inquiry report to the delinquent official before awarding punishment.
7. That the contents of para 4.4 are admitted.
8. That in reply to para 4.5 it is stated that the orders of punishment were passed after taking into consideration the inquiry report and the relevant documents. The appellate authority viz Director of Postal Services rejected the appeal filed by the applicant against the order of punishment.
9. That the contents of para 4.6 need no comments. It is, however, submitted that the Senior Superintendent of Post Offices passed the order of punishment in exercise of powers conferred upon him under CCS (CC&A) Rules, 1965, vide Memo No FX/MISC-24/86-87 dated 3/6-10-86. Senior Superintendent of Post Offices, Lucknow Division, who is the respondent No 2 in the present petition was mentioned to be the disciplinary authority in common proceedings under the provisions of Rule 18 of CCS (CC&A) Rules, 1965. The Asstt Supdt of Post Offices vide his Memo No B/Genl/discy/86-87 initiated the disciplinary proceedings against the applicant.

Atta
प्रदर्शनकारी, डाकघर लखनऊ
Senior Supdt, of Post Offices
Lucknow Division-226007



initiated the disciplinary proceedings against the applicant under Rule 14 of the CCS (CC&A) Rules, 1965 being the competent authority and he submitted the inquiry report to the Senior Superintendent of Post Offices, Lucknow for taking disciplinary action. There is nothing irregular or in violation of the provisions of CCS(CC&A) Rules, 1965.

13. That comments on "Ground for relief" as indicated in various sub-paras of para 5 are furnished below in seriatim:-

5.1 and - Contents denied. The punishment was based
5.2

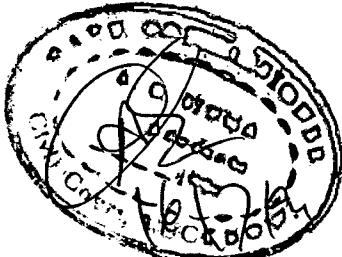
~~Exhibit~~ on the inquiry report and all the related documents.

A copy of the inquiry report was not furnished to the applicant before awarding the punishment till that date as there were no instructions from the department for supplying a copy of the inquiry report to the delinquent employee.

5.3 - Contents denied. The punishment order was passed by the competent authority. The post of Senior Superintendent of Post Offices is higher than that of the Asstt Superintendent of Post Offices.

5.4 - In the charge-sheet Rule 62 Volume II of P & T Manual was inadvertently mentioned instead of Rule 62 Volume III. It was typographical mistake and does not change the nature of the Rule applicable to the present case.

[Signature]
प्रबं अधीक्षक, डाकघर, लखनऊ
Senior Supdt, of Post Offices
Lucknow Division-220004



My

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5(5) - Contents denied. Findings of the inquiry report are based on the entire evidence - documentary as well as oral - produced before the inquiry ~~ing~~ officer.

5(6) - Need no comments.

5(7) - The decision of the appellate authority was based on the contents of the inquiry report and the documents connected with the disciplinary proceedings.

5(8) - The doctrine of double jeopardy is not applicable to the punishment awarded to the applicant.

14. That the contents of para 6 and 7 need no comments.

15. That in view of the submissions made in the above paragraphs the relief sought for in para 8 and the interim order prayed for in para 9 are not admissible. The application lacks merit and is liable to be dismissed with costs.

16. That the contents of paras 10 to 12 need no comments.

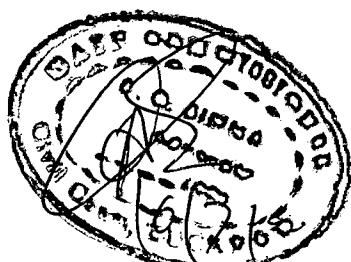
प्रबन्ध अधिकारी, डाकघर, लखनऊ
Senior Supdt. of Post Offices
Lucknow Division-226007

Luck now

Dated: 16/7/91



प्रबंर अधीक्षक, डाकघर, लखनऊ
Senior Supdt, of Post Offices
Lucknow Division-226007



2004-6

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VERIFICATION

I, the above named deponent do hereby verify that the contents of para ~~1&2~~ of this affidavit are true to my personal knowledge and those of paras 3 to 16 are believed by me to be true based on records and as per legal advise of my counsel. That nothing material facts has been concealed and no part of it is false, so help me God.

Signed and verified this the 16th day of July 1999
within the court compound at Lucknow.

Lucknow

Dated: 6/7/91

June

~~(Dependant)~~

प्रबं अधीक्षक, डाकघर, लखनऊ
Senior Supdt, of Post Offices
Lucknow Division-226007

I, identify the deponent who
has signed before me.

J. (J. A. S.)
Advocate

I have no objection to the continuation of the investigation by the FBI. I do, however, oppose that the FBI be granted the authority to conduct wiretaps in this office. I have been informed that the FBI has been granted this authority by the FBI Director. I have been informed that the FBI has been granted this authority by the FBI Director. I have been informed that the FBI has been granted this authority by the FBI Director.

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

Rejoinder-affidavit to the counter
affidavit filed on behalf of the
reponents.

in re:

Original Application No. 172 of 1990(L).

Fixed for 24/11/1992
24/11/92

Girja Shanker Tewari ... Applicant.

versus

Union of India and others

Opposite-parties

---oo---

REJOINDER-AFFIDAVIT.

Opposition

I, Girja Shanker Tewari, aged about 50 years, son of late Sri Ganga Prasad Tewari, Postman, Aminabad Park Post Office, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent above named is the applicant himself in the aforesaid Original Application and, as such, he is fully conversant with the facts of the case deposed to hereunder.
2. That the deponent has gone through the counter-affidavit filed on behalf of the opposite parties and has understood the contents thereof, parwaise reply whereof is being furnished hereunder.
3. That the contents of paragraphs 1 and 2 of the counter-affidavit need no reply.
4. That the contents of paragraph 3 of the counter-affidavit are not admitted as stated. The charge-sheet on the basis of which the deponent was punished is bad in the eyes of law and the findings are based on contradictory and unreliable statements. The order of punishment is non-speaking inasmuch



as the enquiry report was neither disclosed nor the same was made part of the punishment order. ~~The order of punishment order~~. The order of punishment is also violative to the principle of natural justice besides having been been passed by incompetent authority.

5. That the contents of paragraph 4 of the counter affidavit do not dispute the averments made in paragraphs 1 to 3 of the application, hence require no reply.

6. That the contents of paragraph 5 of the counter affidavit admit the averments made in the corresponding paragraphs 4.1 and 4.2 of the application and thus need no reply.

7. That the contents of paragraph 6 of the counter affidavit admit the averments made in the corresponding paragraph 4.3 of the application. It also admits that copy of the enquiry report was not ~~not~~ supplied to the applicant before awarding punishment. The punishment order passed in the case of Shri S.D. Tewari, who was also involved in this very case and who had also filed application numbered as OA No. 171/90 (L) has already been quashed by the judgement/order dated 16-9-1991 of this Hon'ble Tribunal, a true copy ~~not~~ thereof enclosed as Annexure E-1 to this rejoinder affidavit.

8. That the contents of paragraph 7 of the counter affidavit do not dispute the averments made in paragraph 4a of the application, hence need no reply.

9. That the contents of paragraph 8

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of the counter-affidavit are not admitted as stated and in reply thereto the averments made in paragraph 4.5 of the Application are reiterated to be correct.

10. That the contents of paragraph 9 of the counter-affidavit are not admitted as stated and in reply thereto the averments made in the corresponding paragraph 4.6 of the Application are reiterated.

11. That the averments made in paragraphs 4.7, 4.8 and 4.9 of the Application have not been replied and hence they are reiterated.

12. That the contents of paragraph 13 of the counter-affidavit are not admitted as stated and in reply thereto the averments made in paragraph 5 of the Application are re-affirmed as correct.

13. That the contents of paragraph 14 of the counter-affidavit need no reply.

14. That in reply to the contents of paragraph 15 of the counter-affidavit it is submitted that the application is

John M. O'Neil

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full of merit and deserves to be allowed with costs. The applicant is also entitled to the reliefs claimed.

15. That the contents of paragraph 16 of the counter-affidavit do not call for any reply.

Opponent
Deponent.

Dated: Lucknow,
~~November~~
September 19, 1991.

Verification:

I, the deponent above named, do hereby verify that the contents of paragraphs 1 to 3, 13 and 15 of this rejoinder-affidavit are true to my own knowledge; those of paragraphs 4 to 12 and 14 are true to my knowledge derived from the record and those of paragraphs are based on the legal advice sought and are believed by me to be true. No part of it is false and nothing material has been concealed. So help me God.

Opponent
Dated: Lucknow.
~~November~~
September 19, 1991.

Opponent
Deponent.

6.

I identify the deponent who has signed before me
He is personally known to me

D.S.Chaube

(D.S. Chaube)
Advocate,
Counsel for the applicant.

Dated: Lucknow,
^{November}
~~September~~ 19, 1991.

Solemnly affirmed before me on
at a.m./p.m., by Sri Girja Shanker Tewari
the deponent who is identified by
Sri D.S. Chaube, Advocate, High Court,
Lucknow.

I have satisfied myself by examining
the deponent that he understands
the contents of this ~~re~~joinder-affidavit
which have been read over and explained
to him by me.

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

Original Application No. 172 of 1990 (L).

Girja Shanker Tewari Applicant

Versus

Annexure No. R-1

Central Administrative Tribunal, Allahabad
Circuit Bench, Lucknow.

O.A. No. 171/90(L)

S.D. Tewari Applicant.

Vs.

Union of India & others Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

The applicant who was dismissed from service, was chargesheeted and the departmental enquiry proceeded.

The applicant, after the submission of the enquiry officer's report reduced to five stages from Rs. 900/- to Rs. 825/- vide order dated 30.12.88. The applicant filed appeal and the appeal was dismissed on 31.7.89. Then he approached the Tribunal.

There appears to be no delay but the appeal was decided. The preliminary objection is that of limitation. The enquiry officer's report was not given by the respondents before the punishment order was passed. The enquiry officer must give the report in time but the enquiry report was given to the applicant at the later stage. The

non-giving the enquiry report, this deprives the applicant from making representation which is violative of principles of natural justice. This question was decided in Union of India Versus Mohd. Ramzan Khan (1991) Supreme Court Cases (L&S) 612 wherein it has been held that non-furnishing of the report to the delinquent would be violative of principles of natural justice rendering the final order invalid. The application deserves to be allowed and accordingly, it is allowed. The punishment order dated 30.12.88 and the appellate order dated 31.7.89 communicated to the applicant by the letter dated 15.12.89 are quashed. It will not preclude the disciplinary authority to proceed from the stage of enquiry. The applicant will be deemed to be in service. No order as to costs.

sd/-

A. M.

sd /

W.G.

Lucknow : Dt. 16.9.91.

True Copy

sd/-

Section Officer
Central Administrative Tribunal
Circuit Bench
Lucknow.

15.5.91

Abd

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M.P. 293/91

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

CIRCUIT BENCH LUCKNOW.

CIVIL MISC APPLICATION NO. 1991

Girja Shankar Tewari, aged about 49 years, Son of Late Sri Ganga Prasad Tewari, Postman Aminabad Park Post Office Lucknow. Applicant

In Re.

O.A. No. 172/1990 (L)

Girja Shankar Tewari

Applicant

Vs.

Union of India and
others.

Opp. Parties.

APPLICATION FOR FIXING THE CASE FOR EXPARIE

FINAL HEARING.

The applicant respectfully begs to submit as ~~xxx~~
under:-

27.5.91
Applicant did not
mention fix date
27.5.91
That the applicant filed the above application

on 17.5.1990 against the punishment order dated

30.5.1988 to reduce salary by five stages passed

27.5.91
by the Director, Postal Services Lucknow, Region
Lucknow.

2. That on 18.4.1991 a date i.e. 2.7.1991 after
three months for filing counter affidavit has
again been fixed.

Moneni

(AB)

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3. That the opposite parties have been allowed as many as eight ~~opposite~~ opportunities to file counter affidavit but they have failed to avail of that opportunity.
4. That the inaction of the opposite parties is causing un-necessary delay in the disposal of the case, which further causes recurring financial hardship to the applicant.
5. That it would be expedient and necessary in the interest of justice that the case is directed to proceed ex parte and the same is finally heard and decided on 2.7.1991.

P R A Y E R

It is, therefore humbly prayed that this Hon'ble Tribunal may graciously be pleased to order the case to be heard finally ~~as~~ ex parte on the date fixed i.e. 2.7.1991.

LUCKNOW: DATED :
MAY 15, 1991

APPLICANT

D.S. Chauhan
Advocate
Counsel for Applicant

D.S. Chauhan