

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~Lucknow~~ BENCH

OA/TA/RA/CP/MA/PT 06/90 of 20.....

D.P. Yadav.....Applicant(S)

..... Versus

INDEX SHEET

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Certified that the file is complete in all respects.

B.C. Fired welded & disengaged

Signature of S.O.

Signature of Deal. Hand

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(A.Y.)

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH AT LUCKNOW.

Registration (O.A.) No. 6 of 1990 (L)

Dinesh Prasad Yadava 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 21.12.1989 (Annexure '2') whereby the applicant's services as ED BPM, Paharpur Maheshpur, were terminated with immediate effect.

2. By the order dated 7.9.1988 (Annexure '1') the applicant was appointed as ED BPM after selection on certain candidates being sponsored by the Employment Exchange. The recital in para 2 of the counter affidavit indicates that the file of appointment was called for by the Director of Postal Services, Lucknow Region, Lucknow on 10.11.1989 and it was found that Shakti Ali, one of the candidates, was more deserving than the applicant, Dinesh Prasad Yadava, because the former had achieved 42.8% marks against the latter's only 40.16% marks in the High School examination. It is stated that other qualifications were equal. It is on this basis that the appointment of the applicant was ordered to be cancelled and in compliance thereof the Superintendent of Post Offices passed the impugned order (Annexure '2') terminating the services, probably under Rule 6 of the Post & Telegraphs Extra-Departmental Agents (Conduct & Service) Rules, 1964.



3. It is, however, admitted that no opportunity was given to the applicant before terminating his services. In view of the fact that the applicant had, admittedly, joined the post of ED BPM in consequence of the appointment order dated 7.9.1988, he had acquired enough interest in the appointment to entitle him to a show-cause notice before his services could be terminated only on the ground that some other person was more suitable in view of the latter's higher marks in the High School examination. It is noticeable that there is no allegation of any act of default by the applicant in the course of his employment. What is considered to be inappropriate ~~inconsist~~^{of} precedent academic history. Our attention has/been invited to any provision in the Rules that for the purpose of judging suitability, the marks obtained academically are the determinative factors. The power to terminate services without reasons or without an opportunity have to be exercised in a fair manner and where such termination is not on account of unsuitability for the post, an opportunity cannot be done away with. There is ~~the~~^a distinction between suitability for holding a post and suitability for selection to the post. We are of the opinion that fairness and justice demand that before the applicant's services could be terminated, an opportunity to show-cause should have been given to him.

4. In view of above, the petition is allowed. The impugned termination order dated 21.12.1989 (Annexure '2' to this petition) is quashed. The applicant shall be reinstated with effect from the date he reports for duty. It will be open to the competent authority to examine the

(pk)

-: 3 :-

question of the applicant's appointment in accordance with law and rules, after giving an opportunity to the applicant to show-cause against the proposed action.

MEMBER (A)

MEMBER (A).

Q

VICE-CHAIRMAN.

Dated: January 29, 1990.

PG.

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE C.A. 6 of 1990 (C)

Name of the parties

Dinesh Prasad Yadav

Applicant.

Versus.

Union of India

Respondents.

Part A.B.C.

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5-1-90

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 6 of 1990(L)

APPLICANT(s) D. P. Yadav

RESPONDENT(s) U.O.K.

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
1. Is the appeal competent ?	Ys
2. a) Is the application in the prescribed form ?	Ys
b) Is the application in paper book form ?	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 ?	
c) Has sufficient cause for not making the application in time, been filed ?	
4. Has the document of authorisation Vakalatnama been filed ?	Ys
5. Is the application accompanied by B.O./Postal Order for Rs.50/-	Ys
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?	Ys
7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ?	Ys
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Ys (Eq. cause)
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

(R)

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 ? *Y*

a) Identical with the Original ?

b) Defective ?

c) Wanting in Annexures

13. Have the file size envelopes bearing full addresses of the respondents been filed ? *Y*

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 ? *N/A*

17. Are the facts of the case mentioned in item no. 6 of the application ? *Y*

a) Concise ?

b) Under distinct heads ?

c) Numbered consecutively ?

c) Typed in double space on one side of the paper ?

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

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

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(P)

SA 6/90 (U)

19/1/90

Hon. J. P. Sharma, J.M

Sr. V. K. Chaudhary takes notice on behalf of the parties. List for admission on 19.1.90

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J.M

19.1.90

Hon. J. P. Sharma, J.M

Sr. P. H. Misra for the
Applicant.

Sr. Chaudhary for the respondent.

The parties you will 10
days from beginning for
filing reply in 10 days.

Out up for admission on

31.1.90

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Later on the parties will
agree that the matter be
taken for disposal of which
will be on 29.1.90

OR
No reply filed
Case is submitted
for admission

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28/1/90

Recd. by
order of 29/1/90
M. Dikshit
1/2/90

Recd. by
J. P. Sharma
6/1/90

Central Administrative Tribunals
Court of Enquiry, Lucknow
Date of filing 5-1-90
Date of hearing 5-1-90
X

V Deputy Registrar (J)

6A-6190 (L)

"FORM I"

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT, 1985

DINESH PRASAD YADAVA

... APPLICANT

VS.

UNION OF INDIA AND OTHERS

... RESPONDENTS

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Lucknow, dated
5.1.1990.

Advocate
Counsel for the Applicant.

Notified After
2-2-90
On
5-1-90

Received
2-2-90
X

DISPENSED

Deputy Registrar(J)

In the Central Administrative Tribunal, Lucknow Bench,
Lucknow.

Case No. 6

of 1990 14

District Sitapur

Dinesh Prasad Yadava, aged about 25 years, son of
Sri Jagan Nath Prasad Yadava, resident of village
Maheshpur, Post Paharpur Maheshpur, distt. Sitapur.

... Applicant

Versus

1. Union of India, through Director of Post Offices,
Lucknow Range, Lucknow-7

2. Superintendent of Post Offices, Sitapur-261001

... Respondents

Details of Application:

1. Particulars of the order - Letter no. Memo No. H-130/E dated 21.12.1989 passed by the opp. party no. 2.

2. Jurisdiction of the Tribunal:

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

3. Limitation :

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

4. Facts of the case:

(1) That the applicant was appointed as ED BPM Paharpur-Maheshpur under the orders of opp. party no. 2 vide his order no. H-130/E dated 7.9.88. A true photostat copy of the said appointment order is annexed as Annexure no.1 to this application.

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(2) That ever since the applicant joined his duties, his work and conduct was found to be excellent. There was no complaint either from his senior officers or from the general public. The applicant's work was appreciated by his senior officers of the department.

(3) That according to the terms of the appointment order, the applicant's conduct and service shall be governed by the Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964, as amended from time to time.

(4) That suddenly without any rhyme or reason the opposite party no.2 issued office order dated 21.12.1989 by means of which the services of the applicant were terminated with immediate effect. A true photostat copy of the impugned termination order dated 21.12.1989 is annexed herewith as Annexure no.2.

(5) That from the perusal of the impugned order, it will be evident that the said termination orders have been passed on the basis of some orders dated 11.12.1989 passed by D.P.S. Lucknow Region, Lucknow and in pursuance thereto the opposite party no.2 had passed the termination orders of the applicant.

(6) That in the impugned order of termination no reasons for sudden termination have been assigned and as such the termination order is innocuously worded. It appears that certain interested persons have approached to D.P.S. Lucknow Region, Lucknow for appointment in place of the applicant and under duress and pressure of ~~pxix~~ political persons, the D.P.S. Lucknow Region, Lucknow had ordered for termination of the services of the applicant without any rhyme or reasons.

(7) That the applicant had put in more than one years service regularly and without any complaint. While serving as such, annual inspection was carried out by the opp. party no.2 personally on 12.12.1989 at 9.30 hrs of

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the Post Office where the applicant was serving as ED Branch Post Master. After the inspection, the opp. party no.2 sent his remarks in writing for compliance. He has observed in his report at page 4 at paragraph 35 "The work of the BO is quite satisfactory and the BPM is taking keen interest in the work." It was also observed at para 37 "The quality of last inspection is also good." A true photostat copy of the report dated 22.12.89 is annexed herewith as Annexure no.3.

- (8) That from the aforesaid observations of the opposite party no.2 who is the appointing and punishing authority of the applicant, it is quite evident that the work and conduct of the applicant was assessed satisfactory but for the reasons best known to D.P.S.Lucknow Region, Lucknow he had passed the termination orders of the applicant without any basis.
- (9) That the services of ED BPM could not be terminated at the sweet will of the officers without affording a reasonable opportunity to him in case any irregularity in his work and conduct is found. The principles of natural justice also demand that a person should not be punished without affording him reasonable opportunity. In the instant case of the applicant, no reasonable opportunity was afforded to him before passing the impugned termination orders.
- (10) That it is highly surprising that on 12.12.1989 when the inspection took place, the work and conduct of the applicant was found to be satisfactory but within a span of span of nine days, sudden reduction has taken place which has led the authorities to pass the termination orders. This clearly establishes that the impugned orders of termination have been passed in a capricious and malafide manner.
- (11) That the post of ED BPM Paharpur Maheshpur Post Office is still existing and it has not

Not in
Date 21/12/89

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been abolished for which the services of the applicant could be dispensed with immediately without affording him any opportunity.

(12) That many of the junior persons than the applicant are still working in the district of Sitapur and in case such an urgency was there to reduce the staff, the justice demands that the services of a junior person ought to have been dispensed with.

(13) That there was no other ED BPM in the Paharpur-Maheshpur Sub Post Office but the applicant and one Satti Din were employed, as would be seen from the perusal of inspection report (Ann.3 above).

(14) That Section II of EDA Conduct and Service Rules deals with the method of recruitment of personnel. Section 20 deals with termination of services of EDAs on abolition or upgradation of posts. In the instant case of the applicant no such eventuality was existing. The post of ED BPM Paharpur-Maheshpur is still existing. It has not been abolished nor it has been upgraded and as such the applicant's services were not liable to have been terminated with immediate effect.

(15) That the applicant had fulfilled all the formalities as envisaged in the rules for appointment and after completion of the said formalities the opp. party no.2 had offered him the appointment.

(16) That there were no irregularities in the appointment of the applicant nor there was any complaint from any quarter by the general public and hence the opposite parties were not justified at all to terminate the services of the applicant at their sweet will and power.

(17) That the powers vested with the opposite parties have been exercised in colourable manner while terminating the services of the applicant and as such the impugned order is ab-initio void and illegal.

जनरा प्रसाद

Madam

(P)

(18) That while terminating the services of the applicant, the opp. party no. 2 had ordered for handing over the charge to one Shri Ram Swaroop who is none else but a newly appointed person in place of the applicant. This clearly goes to establish that the post of BPM has not been abolished or upgraded for which the services of the applicant have been terminated suo-motu manner without affording him any opportunity whatsoever before adopting such a recourse.

(19) That the applicant had served the department for more than a year without any complaint against his work and conduct and as such he had got a lien of regular employee of the department. He is liable to be deemed as regular employee unless he attains the age of 65 years.

5. GROUNDS for relief with legal provisions:

1. Because the impugned termination orders have been passed on the advise and pressure of D.P.S. Lucknow Region, Lucknow who is not the appointing authority of the applicant and as such the impugned orders of termination are ab-initio void and illegal. D.P.S. Lucknow Region, Lucknow had not authority or power vested with him to issue termination orders of the petitioner unless there is cogent reasons for the same.
2. Because no reasons have been assigned in the impugned termination orders and as such the same are inoccuously worded and are not sustainable in the eye of law.
3. Because the opp. party no. 2 had not applied his mind while issuing the termination orders. He had passed the termination orders in pursuance of order of D.P.S. Lucknow Region, Lucknow who is not the appointing authority of the applicant.
4. Because the powers exercised by the opposite parties are colourable manner as they have intended to appoint another person in place of applicant.
5. Because the termination of service of ED BPM

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are unwarranted and uncalled for and the petitioner has seriously been prejudiced because his termination has been ordered in an arbitrarily and malafide manner.

6. Because no reasonable opportunity was afforded to the petitioner and as such the impugned order is against the principles of natural justice.

7. Because termination of service of ED BPM is to be made only on two contingencies as is envisaged under Rule 20 of EIA Conduct & Service Rules. But in the instant case of the applicant, said eventualities are absent and as such the applicants' services could not be terminated.

8. Because sudden termination of services tantamounts to stigma on the career of the applicant and as such the impugned order is stigmatic.

6. DETAILS of the remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

The applicant had approached to the Union authorities about his sudden termination and the case was taken up with higher authorities by the Union Authorities but no fruitful result has been achieved.

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. Relief's sought:

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

- (a) to quash the impugned orders dated 21.12.89 as contained in Annexure no.2 to the application and treat the applicant into service without any break;
- (b) to direct the opposite parties to pay the salary dues to the applicant as usual;
- (c) to direct the opposite parties to award consequential benefits like seniority, annual increment, promotion etc.
- (d) Any other relief as may be deemed just and proper under the circumstances of the case;
- (e) to award costs of this application.

9. Interim order, if any prayed for:

It is respectfully prayed that during the pendency of the application, the operation of the impugned termination order dated 21.12.89 as contained in Annexure no.2 may kindly be stayed.

10. The case shall be argued by the counsel.

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

12. List of enclosures:

1. Copy of app'tt order (Ann.1)
2. copy of impugned order of termination (Ann.2)
3. copy of inspection report (Ann.3)
4. copy of charge-memo (Ann.4)

Verification:- I, Dinesh Prasad Yadava, son of Sri Jagan Nath Prasad Yadava, aged about 25 years, working as ED BPM Paharpur-Maheshpur distt. Sitapur, resident of village Maheshpur Post Paharpur Maheshpur distt. Sitapur, do hereby verify that the contents of paras 1 to 4~~12~~ are true to my personal knowledge while para 5 are believed by me to be true on legal advise, and I have not suppressed any material fact.

I identify the signatures of Sri D.P. Yadava
who has signed before me. Mad

Dated: 5.1.1990.

Adw

Before Central Administrative Tribunal Lucknow

Dinesh Prasad
Chow. of India

Case No

31990

Religious

Opp. Party

Ann : 2

(AS)

DEPARTMENT OF POSTS.
O/O THE SUPERINTENDENT OF POST OFFICES, SITAPUR DN.261001.
Memo No. H-130/E

Dated at STP the, 21.12.89

In pursuance of D.P.S. Lucknow Region, Lucknow letter No. RDL/Inv/M-41/89/16 dated 11.12.1989 the services of Sri Dinesh Prasad Yadav ED BPM Paharpur Maheshpur are hereby ordered to be terminated with immediate effect.

Charge report should be submitted to all concerned.

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

Copy to:-

1. Sri Dinesh Prasad Yadav ED BPM Paharpur Maheshpur (Sitapur).

One Prostal-Copy
Nal
PM

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C.A.T. in el corso Bench
वकालत श्रीमान for Petitioners **महोदय**

वादी (मुद्र्द्दि)
 मुद्र्द्दि (मुद्रालेह)



नं० मुद्रमा

सन पेशी की ता०

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ऊपर लिखे मुकद्दमा में अपनी ओर से श्री दिलीप कुमार कुमार

वकील

दिलीप कुमार कुमार एडवोकेट महोदय

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

अर्थात्
 नं० मुकद्दमा फरीक्षा
 नं० नं०

दिनेश असावा
 हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

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Accepted
H.S.

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In the Central Admin. Tribunal
Lucknow Bench, Lucknow

of 1990

Case no.

Dinesh Prasad Yadava

— Applicant

Union of India & an

— Respondent

Annexures

1. Copy of App. Order
2. Copy of impugned order
3. Copy of inspection Report
4. Copy of charge memo.

Not

Lucknow, dt.

5/1/90.

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Council of applicant

Before Central Administrative Tribunal, Lucknow
Case No. 31990

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Résumé

Opp. flavimaculata

Anu : |

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DEPARTMENT OF POSTS.

OFFICE OF THE SUPT. OF POST OFFICES, SITAPUR DN. 261001
Memo No. 11-12-15

Memo No. H-1301E

Dated at STP the, 29-8-88

Shri. Brijesh Prasad

son of Sri Jagannath

is hereby appointed as E.I.C. with a
P.M. ~~Palasipur-Maheshpur~~ from
• • • • • forenoon/afternoon. He shall be p

such allowances as are admissible from time to time.

2- Shri Dinesh Prasad should clearly understand that his employment as ED. B.M. shall be in the nature of 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 Services) 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.

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~~Copy to:-~~

Dept. of Post Offices,
S. D. No. 261001

- Sub Divisional Inspector(P.O.) Sitapur. for information. The charge may be given to Sri. ... ~~Div. Supt. P.D.C.~~ after observing usual formalities as fitness cft., F.Bon. and DPDC under information to this office.

2- Sri. Dinesh Prasad. N. Patnaik

3 - P.M. Sitapur for information and n/a.

4 - 8/C.

R.B. / -12588

Some photos sent 6/17

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दिल्ली द्वारा प्रसाद

Before Central Administrative Tribunal Lucknow

Dinesh Prasad
Univ. of India

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Opp. Party

Ann : 2

Adv

DEPARTMENT OF POSTS.

O/O THE SUPT. OF POST OFFICES, SITAPUR DN.261001.

Memo No. H-130/E

Dated at STP the, 21.12.89

• • •

In pursuance of D.P.S. Lucknow Region, Lucknow letter No. RDL/Inv/M-41/89/16 dated 11.12.1989 the services of Sri Dinesh Prasad Yadav ED BPM Paharpur Maheshpur are hereby ordered to be terminated with immediate effect.

Charge report should be submitted to all concerned.

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

Copy to:-

1. Sri Dinesh Prasad Yadav ED BPM Paharpur Maheshpur (Sitapur).

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Adv.

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Before Central Administrative Tribunal, Lucknow

Dinesh Prasad
Univ. of India

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Opp. Party

Ann : 3

RTA

Visited Paharpur Maheshpur BO in account with Khairabad SO under Sitapur HO on 12.12.89 at 9:30 hrs and stayed there upto 17:00 for carrying out its annual inspection. The last inspection was carried out by Sri S.D.Gupta C.I. on 15.12.88. During the period Sri Dinesh Prasad Yadeo worked as BPM. Sri Dinesh Pd.Yadeo is a regularly appointed BPM vide SPO's Sitapur no.H-130/E dt.7.9.88 and has deposited installment of Secty. having an income of Rs.7000/- approximately from Agriculture which is considered as adequate. The BO is functioning in village Maheshpur.

2. The sanctioned establishment of the BO is as under:

S.No.	Designation	Allowance	Name of incumbent	D/B	Date of appointment
1.	BPM	Rs 397-	Sri Dinesh Prasad Yadeo	12.2.65	10.9.88
2.	EDMP	363-	Sri Satti Deen	-	1969

b) It was represented by Sri Satti Deen EDMP that he was irregularly transferred by Sri B.P.Singh SDI first to Ashrafpur then to Paharpur Maheshpur. He also stated that he is permanent resident of Salhabad Village PO Parsada and one post of EDR is vacant at Parsada which was filled by some one. My office will put up the file to me for further examination and action.

3. Cash and stamps were verified with the following observations:

i) Env. and PC and various types of stamps at all not available. SPM Khairabad should send postage stamps of Rs.500/-.

ii) The stamp balance is raised to Rs.500/- and Revenue Rs.64/-.

iii) One Iron safe should be supplied alongwith one order book.

4. The contents of the BO bag received were examined as per Annexure II.

b) The traffic of the BO is less. BPM was instructed to increase the revenue.

5. There was no article in deposit.

6. The balance of the BO account for one day each quarter selected at random was examined with the following observations;

i) 20/21.2.89, 12/13.4.89, 4/5.7.89, 10/11.11.89

MO No.2471,203 for 136/- each were received on 21.1.89 and paid on 25.1.89 and 31.1.89. The BPM was instructed to avoid in delay of payment.

ii) AO Khairabad is preparing BO slips on Regd. lists. SPM should use proper form after obtaining from PSD.

.....2

लिखेश बसाद

Some photographs
will be
Adv.

7. The BO account for one day each month was examined for retention of cash unjustifiably alongwith delay in payment due to non availability of funds with the following observations;

i) Cash was retained in excess of the maximum on 17.8.89 with showing the liabilities in the remark column of BO account. BPM was instructed to note the liabilities in the remark column of BO account.

8. The arrangement for exchange of mail is satisfactory.

9. No BOR has been issued since last inspection. Receipt no. 9 to 99 are blank and 100 cancelled as it was having only one copy. The extract of this para be forwarded to A.O. for verification and return.

10. VP articles received for 4 dates since last inspection one day each quarter were examined with the following observations;

10/11.3.89, 13.5.89, 20.7.89, 23.10.89

i) It was observed that calculation of commission was left by AO Rs.4/-, then credited by BPM on 11.3.89 from pocket. This commission should be recovered from SPM K.Bd as it was due to fault of the Account Office.

11. The working hours of the BO are from 11.00 to 14.00 hrs, receipt at 11. hrs, dispatch at 14.00 hrs, delivery at 11.15 hrs. Working hours has not been supplied by the SDI. SDI will do it.

12. No re-adjustment is required for delivery jurisdiction of the BO.

13. There are 3 LBs one at Paharpur, one at Maheshpur and other at Barabbari with 4 Gram Sabha villages serving 17 including hamlets.

i) There is no lock in the LBs. Locks should be supplied by the SDI at once.

14. The EDM P Sri Satti Deen here is illiterate, he was attached on transfer from the post of EDR Sitapur-Parsada line to Ashrafpur by Sri B.P.Singh SDI (S), then to Paharpur Maheshpur. He is not able to write. SDI (S) will try to adjust him in an neighbouring place on the post of EDMC or ED Packer whether writing work is not required.

15. Stamp advance was not available with the EDM P. Postage Stamps of Rs.25/- should be advanced to him.

16. The contents of the BO bag dispatched were examined as per Annexure II.

17. The following SB-26 receipts were issued since last inspection; receipt no. 1187/01 dt. 12.7.89 for 25/- to 14 dt 25.10.89 for Rs.25/-, 15 to 50 are blank. An extract of this para was forwarded to AO for verification and return.

.....3

Some proposals by BPM
W.C.
Adv.

टिक्के शाप्तां

i) By mistake SB deposit of Sri Ram Kishna for ~~Rs.260/-~~ Rs.260/- against PR4 was entered in the RD journal. It was got credited and was got entered in the SB journal.

ii) NC-4(a) book no.101436 receipt 01 to 50 are blank.

18. SB-28 receipt book no.69347 receipt no.01 to 50 are blank.

19. The totals of transactions made in respect of RD/SB/TD since last inspection for one day each quarter was compared with journal and BO account with satisfactory result, extract was forwarded to A.O. for verification and return.

Date	SB		RD		TD	
	D	W	D	W	D	W
19.1.89	-	-	-	-	-	-
24.4.89	-	-	-	-	-	-
13.7.89	260-	-	40-	-	-	-
26.10.89	250-	-	35-	-	-	-

20. No Passbook is found in deposit.

21. Balance of 4 SB a/cs selected at random were compared with the journal with satisfactory result. Extract of this para was forwarded to PM Sitapur for verification and return. My office will keep watch.

A/C No.	DLT	D	W	Balance
248700	30.10.89	50-	-	100-
248636	13.10.89	40-	-	345-
248693	10.11.89	1000-	-	1750-
248692	21.9.89	20-	-	20-

b) Balance of 2 RD A/Cs were compared with the journal with satisfactory result. Extract of this para was forwarded to P M HO for verification and return.

7063431	25.11.89	10-	-	30-
7053384	15.7.89	20-	-	20-

22. The BO is not authorised independently for NSC work.

23. There is no pay roll scheme.

24. The BPM is found taking interest in the work.

25. No LIC work is done here.

26. No pension work is done here.

27. It is not a combined office.

28. The work load of the BO though less, there is no possibility of combining the duties of EUMP/BPM.

29. The mail D/S has paid quarterly visit.

.....4.

Done photostat CPM
Mal
PCW

A22

30. Physical verification of articles of stock was carried out with satisfactory result. The following articles will be supplied.
Locks - 6 (F-1 = 2, F-4 = 4)
Letter Boxes-2
BO Iron chest- 1
Order book - 1

31. The schedule of records was verified and old records were dispatched to A.O.

32. The register and books as per list were examined with satisfactory result.

33. Necessary forms for use in BO are not available. SPM Khairabab will supply.

34. The compliance of para 18 of last IR is still pending. Parcel and letter scale alongwith weighing should be indented by the SDI and supplied.

35. The work of the BO is quite satisfactory and the BPM is taking keen interest in the work.

36. The BO is not required to be placed in the jurisdiction of other Sub division.

37. The quality of last inspection is also good.

38. Compliance of the above remarks should be submitted to SDI within a month.

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

No.IR/Paharpur Maheshpur/SP/89 dt. 22.12.89

Copy to: 1. The BPM Paharpur Maheshpur (Khatibabad)
2. The S.D.I.(S) Sitapur.
3. O/C
4. Spare.

Resd

One photograph copy
Mail
for

Before Central Administrative Tribunal Lucknow
(Dinesh Prasad) — Case No of 1990
Chinu of India — Plaintiff
Opp. Party

Ann: 11

Attested
5/19/88

ए. सी. ग. - 61

भारतीय डाक-तार विभाग

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

(देविए नियम 267, डाक-तार वित्तीय नियम पुस्तिका, वृंदावन | द्वितीय संस्करण)

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

चार्ज की बदली पर चार्ज रिपोर्ट और नकदी तथा टिकटों 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 मुख्य प्रकाश

पटना अध्यक्ष

चार्ज (नाम) ने

was made over by (name) मुख्य प्रकाश

श्री राम कल्पना

(नाम) को मुख्य प्रकाश स्थान
to (name) पटना अध्यक्ष at (place) पटना अध्यक्ष

तारीख को पूर्वाह्न में
अपराह्न

on the (date) 9.9.88 fore noon in accordance with
after

सं० तारीख के अनुसार दे दिया ।
No. Dated from सं० 130/८८/७५.८८ सं० १३०/८८/७५.८८

8 PM

दिनांक १३०/८८/७५.८८

मारमुक्त अधिकारी

मारमुक्त अधिकारी

Relieved Officer

Relieving Officer

पटना अध्यक्ष

9.9.88

१३०/८८/७५.८८

(कृ० प० उ०/P. T. O.)

Some protest copy

Mal
act

दिल्ली प्रसाद

422

*प्रमाणित किया जाता है कि आज के दिन इम कापीलिय की अनेक गुहाओं के बकाया (स्टॉक पुस्तक और रजिस्टरों समेत) और लेखाओं की जांच की और उहूँ शीक पाया।

*Certified that the balances of this date of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित बकाया मुझे भारमुक्त अधिकारी ने सौंप दिए और मैं इनके लिए जिम्मेदार हूँ।

*Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

	रु.	पै.
(अ) नकदी/Cash	73.15	
(ब) अग्रदाय टिकट/Stamp Imprest	177.75	
	250	49.20

जिसमें ये शामिल हैं—
Made up of:—

(1) टिकट/Stamp
(2) नकदी/Cash
रुपये का बट्टा
भीम
भीम

300.10

रामरत्न वरुण B.P.M.

भारमुक्त अधिकारी
Relieved Officer

पटाखा तुरंग हाथी
तारीख 1988
Dated the 9-9-88

दिलेश प्रसाद B.P.M.

भारमुक्त अधिकारी
Relieving Officer

पटाखा तुरंग हाथी
9-9-88

(Forwarded to: *Sir Dinesh Prasad*)

*जब प्रमाण पत्र की आवश्यकता न हो तो उसे काट दिया जाए।
*The certificate when not actually required may be scored through.

MGIPAh.—58 P. & T./83—18.7.83—20,00,000.

[28-50/68-MI]

True Photo & Seal
Dinesh Prasad
9-9-88

दिलेश प्रसाद

A 26

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO. 6 of 1989 (L)

Dinesh Prasad Yadava - Applicant

-vs-

Union of India and others , Respondents

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS.

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 an EDBO named Baharpur was sanctioned
in March 1988. Its name was subsequently changed

A29

-2-

to Paharpur - Maheshpur vide Director of
Postal Service, Lucknow No. RDL/Feg/E-1197/84
dated 23.6.88 - Employment Office Sitarpur
was addressed to send names of eligible candidates
for appointment as EDBPM vide letter No. H.130-
E dated 11./14.3.1988. The employment office
vide his letter No. 115/Daakpal/88/2967 dated
11.4.88 ~~instead of~~ the month was wrongly
shown as March instead of April (11.3.88 instead
of 11.4.88) sent a list of eight candidates for
considerations. In the list candidate at sl.
No. 7 Sri Sultan Ali had sent application for the
~~and was sent by Employment~~
post of EDDA and was sent by the Employment
~~Exchange~~ wrongly. Therefore it was returned
to employment exchange. After necessary
formalities regarding appointment in respect
of Shri Din ~~esh~~ Prasad s/o. Sri Jagnatha Prasad
R/o. Paharpur was appointed as EDBPM vide
letter No. H.130/11/88 N.
Subsequently, the concerning file of appointment
was called for by the DPS Lucknow Region,
Lucknow on 10.11.1989 for revision and it was

found by DPS that Shri Shakti Ali was most deserving candidate than Sri Dinesh Prasad Yadav the applicant as he was having 42.85 marks in High School. Sri Dinesh Prasad was having only 40.16% marks other qualifications being equal. Shri Bhakti Ali was to be appointed but was ignored at the time of appointment and therefore DPS, Lucknow Region, Lucknow vide his letter No. Midal/Janch/M-41/89/16 dated 11.1.89 ordered cancellation of the appointment of applicant on the grounds of non-following of departmental rules on the subject for appointment of most suitable candidate by the then SPOs. The services of the applicant were therefore terminated vide SPO's letter dated 21.12.89. The applicant handed over charge to Sri Naresh Prasad on 27.12.89 after receipt of termination order which has been attached with the application as has been admitted by applicant.

190
2/10

3. That the contents of para 1 to 3 are formal as such no comments are required.

4. That the contents of para 4(1) of the application are admitted.

5. That the contents of para 4(2) of the

Dinesh Prasad

-4-

application needs no comment.

6. That the contents of para 4(3) of the application are not disputed.

7. That in reply to the contents of para 4(4) of the application it is submitted that the SIOs are empowered to terminate the services of an E.D. Agent without any notice or assigning any reason under Rule 6 of the EDAS (Conuduct & Service) Rules 1964. Therefore the action of the SIO is correct and it can not be challenged.

8. That in reply to the contents of para 4(5) of the application it is submitted that the DPS Lucknow is fully competent to review and order cancellation of wrong appointments made by subordinates officers in the Department, ~~SIO Sitapur is subordinate officer in the~~ ~~Department, The SIO Sitapur is subordinate to DPS Lucknow~~ ~~in the instant case, vide DG P&T No. 41327/80/Gen/~~ dated 17.4.80 and DG Post No. 41-467/87 PEII dated 14.12.87 (Photostat copies are being enclosed as Annexure C-1 & C2).

[Signature]

9. That in reply to the contents of para 4(6) of the application it is submitted that the SPO has ordered termination of services is fully empowered for termination of the services of an E.D. Agent under Rule 6 of EDAs (Conduct and Services) Rules 1964 without assigning any reason. There is no prescribed proforma for termination of services of EDAs in the Department.

10. That the contents of para 4(7) of the application are not disputed.

11. That the contents of para 4(8) of the application needs no comment.

12. That in reply to the contents of para 4(9) of the application it is submitted that under Rule 6 of EDAs (Conduct & Services) Rules 1964 the SPO is fully empowered to terminate the services of an ED Agent any time without any notice and without assigning any reason. There the arguments that services were terminated without providing reasonable opportunity has no ground to stand and is not supported by rule of the Department.

Quinton

20/1/90

13. That the contents of para 4(10) of the application are incorrect as stated hence denied.

14. That the contents of para 4(11) of the application are incorrect as stated, hence denied and in reply it is submitted that the applicant is not the most suitable candidate for BPPM-ship.

15. That in reply to the contents of para 4(12) of the application it is submitted the EDBPM are recruited and appointed for a particular village and they are not transferrable. The contention of applicants is therefore not tenable.

16. That in reply to the contents of para 4(13) of the application it is submitted that the applicant was not the most suitable candidate. Sri Shaquer Ali was the best among all and superior to him in all respects.

17. That in reply to the contents of para 4(14) of the application it is submitted that under Section 2 of EDAS(Conduct and Services) Rules deals with the method of recruitment of personnel. Section 20 deals with termination of services of EDAs but it is not on the abolition of posts. The rule is not applicable in the instant case as his services were terminated under rule 6 of EDAs(Conduct & Service) Rule 1964 before three years.

Rajah

18. That the contents of para 4(15) of the application are incorrect as stated, hence denied and in reply it is submitted that shri Shakir Ali was better and also completed all formalities.

19. That the contents of para 4(16) of the application are incorrect as stated, hence denied and in reply it is submitted that there were irregularities in his appointment as he was not most suitable than Sri Shakir Ali.

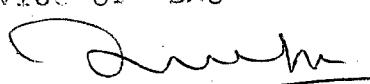
20. That in reply to the contents of para 4(17) of the application it is stated that orders have been issued as per provisions in the rules.

21. That the contents of para 4(18) of the application are incorrect as stated hence denied.

22. That the contents of para 4(19) of the application are incorrect as stated, hence denied.

24. That in reply to the contents of para 5(1) of the application it is submitted that all higher authorities of the Department are competent to issue directions over irregularities committed by subordinates. The termination order had been issued by SPO who is competent authority for the same.

25. That in reply to the contents of para 5(2) of the application it is submitted that under Rule 6 no ~~xxxxxx~~ reason for termination of service of EDAs



ASG

having less than 3 years service are to be recorded in the order.

26. That in reply to the contents of para 5(3)

of the application it is submitted that the orders

✓ vide DG PTT 43-82/80-Pend/1
are perfectly well. The DPS and all higher authorities
✓ and DG Post-no 41-467/87 PE II dt 14-12-87 (C-1 P.C-2)
✓ are fully competent to issue directions to lower authorities for irregular appointment made against rules.

27. That in reply to the contents of para 5(4)

of the application it is submitted that the contention

is not admitted. Here it may be stated that he himself

is not the most suitable candidate for the post of EDBPM

✓ Pakarpur Maheshpur.

28. That the contents of para 5(5) of the

application are incorrect as stated.

29. That in reply to the contents of para 5(6)

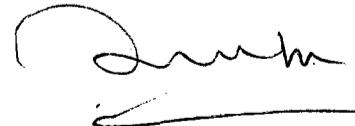
of the application it is submitted that under rule 6 of

EDA(Conduct & Services) Rules the services can be

terminated any time without showing any reason.

30. That the contents of para 5(7) of the

application are incorrect as stated, hence denied.



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31. That the contents of para 6 of the application are incorrect as stated, hence denied.

32. That the contents of para 7 of the application needs no comment. One petition has been submitted by the applicant to the CEMG UP Lucknow.

33. That ~~xx~~ in reply to the contents of para 8 & 9 of the application it is submitted that the ~~reliefs sought by the applicant~~ is not entitled to get any relief in view of the facts explained in the foregoing paragraphs.

34. That the contents of para 10, 11 and 12 need no comments.

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


Deponent

Lucknow,
Dated: 28 th January, 1990.

Verification.

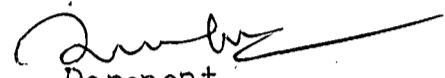
I, the above deponent named above do hereby verify that the contents of paragraphs ~~1 to~~ are true to my personal knowledge and those of paragraphs ~~2 to 34~~ are believed to be true on the basis of persusal of office records as well as information gathered and those of paras ~~to 35~~ are believed to be true on the



(A25)

-10.

the basis of perusal of office records as well as information gathered and those of paras to are believed to be true on the basis of legal advice. Nothing material fact has been concealed and no part of it is false.


Deponent.

Lucknow,

Dated 28th January 1990.

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


(VK Chaudhari)
Advocate, High Court Lucknow Bench
(Counsel for the respondents)

Lucknow,

Dated: 28 January. 1990.

28-1-90

Mr. S
DATE
28-1-90

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.]

28/11/90

Annexure C-2

P.S. RAGAVACHARI
SECRETARY

MINISTRY OF COMMUNICATIONS
Department of Posts
Dak Bhavan
Parliament Street
NEW DELHI-110001.

D.O.No.41-467/87-PE.II

Dated, the 14 Dec 1987.

My dear

Of late quite a few complaints are being received regarding malpractices in the appointments of ED staff in the rural areas, especially ED Branch Postmasters. A Parliament Question on the subject has also been tabled recently.

2. Complaints received by the Regional Directors or by you in this regard should be looked into carefully. If the appointing authority is found to have made a mistake, he should be taken to task. If there are allegations of corrupt practices in making such appointments, these should be carefully looked into and suitable action taken. Cases of corrupt practices in making such appointments should be reported to Directorate indicating what action you are taking within your own powers, or what action you would recommend to Directorate, in respect of gazetted officers.

3. Your attention is invited to Question No.21(c) in the latest Inspection Questionnaire for inspection of Divisional Offices. This relates to the scrutiny of 10% of appointments of EDBPMs and EDSPMs by the inspecting officers. There is a similar question to be attended to in the inspections of Sub-Divisional Offices by the Divisional Superintendents. You may please ensure that this check of appointments of ED staff in the Divisional and Sub Divisional Offices is meticulously carried out. The inspecting officer should bring to the notice of the next higher authority any serious irregularities noticed during this scrutiny. The inspecting officers should also ensure urgent remedial action in respect of any irregularities within their own powers.

4. You may please direct your Director(Vig.)/Vigilance Officer to carry out special checks in Divisional or Sub Divisional units where frequent complaints arise. In one Circle a special procedure was adopted by the PMG to insist upon ratification of ED appointments by the authority next higher to the appointing authority, because of frequent irregularities. You may consider such a step in your Circle in respect of units from where frequent complaints of a serious nature arise.

5. An acknowledgement may please be sent to Shri R.S. Natrajmurti, Director(Estt.).

With best wishes,

Yours sincerely,

Attested in *person*
(P.S. Ragavachari)

Shri
Postmaster General,

राजपत्र भवन, लखनऊ-7
भारतीय डाक सेवा
भारतीय डाक सेवा
भारतीय डाक सेवा
भारतीय डाक सेवा

Ragh

28/11/90