

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH::
AT HYDERABAD

O.A.NO. 692 OF 1995

Between:

A.N.Mastan Rao .. Applicant

And

Government of India, represented
by the Addl. Secretary, DAE & others .. Respondents

REPLY AFFIDAVIT FILED ON BEHALF OF THE APPLICANT FOR THE
COUNTER AFFIDAVIT FILED BY THE RESPONDENTS 1 TO 9

I, A.N.Mastan Rao, S/o.A.Azarath, aged about 38 years, Employee, Residing at HWP(M) Colony, H.No.B/10/1/2(282), Aswapuram, Khammam District, having temporarily came down to Hyderabad, do hereby solemnly affirm and state on oath as follows:

1. I am the Applicant herein, hence I am fully acquainted with the facts of the case.
2. I humbly submit that I hereby once again reiterate the contents of the Application filed in O.A.No.692/95 are true and correct and nothing has been suppressed by me or I have stated any falsehood. All the contentions of the Respondents as made against me in their counter are not true and correct. It is humbly submitted that number of facts as stated in the counter are contrary to the Office Memorandums issued by the Government of India from time to time.
3. I humbly submit with regards to the averments of the Respondents that they have provided concessions and relaxations at the time of appointment of Driver-cum-Operator - A are not true and correct. The real facts are the Respondents herein have given Advertisement No.3/86, which was published in

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Andhra Prabha. The qualification and experience etc., required are must possess a valid heavy vehicle driving licence, three years experience, experience in a fire service organization or Defence service will be preferred, knowledge of English is desirable. I humbly submit as on the date of the above advertisement I have put not less than 4 years of experience as a Heavy Vehicle Driver, while I was working as a Grade-I Driver I have deputed to the work of driving of C.F.T AAH 4327. I also humbly submit ~~thatxxkxxthexxxaxxx~~ from the date of interview i.e., 21.6.1987 till the date of appointment i.e., 18.2.1988 I was on deputation for driving of C.F.T AAH 427. Hence, the contentions of the Respondents that I was appointed for the above post by giving relaxations etc are not true and correct and shall be devoid of truth. The Respondents at the time of appointing me instead of giving the payment of Rs.1150 (Basic pay) I was given the initial Basic Pay of Rs.1175/- (the documents are herewith filed as material papers).

4. I humbly submit with regards to the contentions of the Respondents that I was shown sympathy and given relaxations by way of charity nothing but devoid of truth and not sustainable. The real facts are the post of Sub-Officer was vacant which is reserved for S.C. Communities. The Respondents herein have not filled up. Hence in the circumstances, since I am eligible for being appointed as a Sub-Officer I have made representation to Chief Administrative Officer and Liaision Officer for SC, ST, Heavy Water Board, Bombay requesting them for being appointed

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Corrections
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me as Sub-Officer. The representation dated 23.6.1992 was addressed to the General Manager, Heavy Water Plant, Manugur. (the representation filed as material paper). I humbly submit that the employees of Heavy Water Plant, Manugur have gone on illegal strike during the year 1992. I have not participated in the illegal strike and I am the only man who have performed duty in Fire Services continuously for about 24 hours and I have worked for more than 70 hours overtime. Eventhough, I have worked overtime I have not claimed anything. I respectfully submit that it is not out of place to mention that even though number of warnings were given to me by extremists not to attend the office but still I have attended the office in order to safeguard the interest of the Heavy Water Plant, Manugur. I am dedicated for my duties and have been performing my duties sincerely, devotedly with dedication. I also humbly submit as per the Office Memorandums of Government of India dt. 17.10.1986, G.I.Dept. of Per.Trg., O.M.No.36011/8/84/Estt.(SCT), it was provided relaxations to the extent that when adequate number of SC, ST candidates are not available to fill up the regular vacancies, eligible for being appointed if minimum educational qualifications if otherwise unfit to hold the post. As per this Office Memorandum even educational qualifications are also relaxed to fill up the short fall of the vacancies. The Respondents herein have considered that I am not unfit to hold the post as per the Office Memorandum and therefore I was given adhoc promotion to the Sub-Officer on dated 1.9.1992. I also humbly submit that I am entitled for being sponsored to the training of the Sub-Officer's course to the Fire Service College, Nagpur as per the Government Memorandum and also which is evident from the letter dated 2.7.1992 of the Administrative Officer, Heavy Water Project, Manugur (copy herewith filed).

Third Page
Corrections.
Attestor.

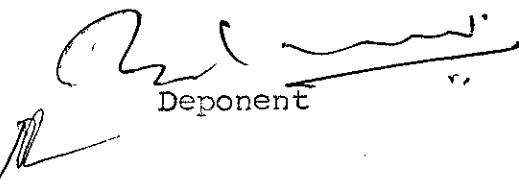

Deponent

Hence, in the circumstances, the contentions of the Respondents that they have given relaxations against Rules and Regulations ~~xxs~~ or Office Memorandums shall not sustain and therefore the same is liable to be rejected. I was given adhoc promotion on 1.9.1992 as Sub-Officer since I am eligible to hold the post and they have sponsored me for the training since I am having required qualifications. All the Office Memorandums of Government of India shall have to be scrupulously followed by the Respondents herein and since relaxations were provided therein I was appointed as Sub-Officer A and as well as I was sponsored for training course.

5. I humbly submit that the services of the Driver-cum-Operator or the post of Sub-Officer is not a class III & IV Non-Technical and Quasi Technical posts. These posts are Technical i.e., Group-C. Hence, the Annexure-RI is not relevant for the purpose of appointment of S.C.Candidates in Technical posts. (the copy of Office Order dt.4.7.1989 is herewith filed as materialpaper).

6. I humbly submit that the contentions of the Respondents that they have made special efforts to get me nominated and accepted by the National Fire Service College, Nagpur for training in Sub-Officer course is not true and correct. I humbly submit that I have made an application to the General Manager, Heavy Water Plant, Manugur for getting me sponsored to the 65th Batch to National Fire Service College, Nagpur for the training programme of Sub-Officer A. The above application has been forwarded to Heavy Water Board, Bombay. At that time I have not received any communication with regard to the admission for the above course and therefore I have made a representation dated 7.6.1992 to Chairman, National Commission for SC&ST,

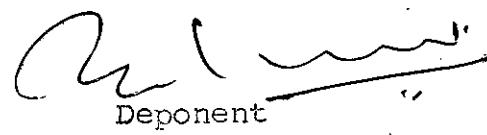
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New Delhi and also another representation dt.18.6.1992. In the above representations I requested to consider my case for admission into the National Fire Service College, Nagpur. Later on National Commission for SC&ST, Ministry of Welfare, New Delhi, vide their letter dated 13.7.1992 informed me that the matter has been takenup with the National Fire Service College, Nagpur and the result will be informed to me in due course. The Director, National Fire Service College, Nagpur vide their letter dt.22.7.1992 addressed to the Dy.Secretary, Government of India, National Commission for SC&ST, New Delhi, copy marked to me, stated the relaxations provided to SC& ST candidates. Since the Director, National Fire Service College, Nagpur had made allegations against me, I have suitable replied vide my letter 8.9.1992. On dated 11.9.1992 I have made representation to the Director, National Fire Service College, Nagpur requesting to provide seat atleast in the 66th Batch of Sub-Officer course commencing from January, 1993. A reply was given tox me by the above College dated 15.9.92 that no guarantee will be given for the 66th Batch. Hence, in the above circumstances, the President for Schedule Caste Rights Protection Society have made an application dated 7.12.1992 to the Director in the event admission is not provided to me appropriate legal action will be initiated. I humbly submit that I have made an application to the General Manager, Heavy Water Plant, Mangur for sponsoring my name for 66th Sub-Officers course for the above College. In view of the above stated facts and circumstances and lot of correspondence and persuasion with best efforts I got admission in the 66th Batch of the Sub-Officer's course. The Respondents herein have not moved their little finger even though the Liaision Officer is bound under law to protect the rights of SC & ST persons. In view of the above stated facts

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the contentions of the Respondents that they have taken pains as contended by them in the counter affidavit shall false to the ground. It is not out of place to mention that in the event the Respondents provides and extends cooperation and etc., as contended by them, they might have taken steps for getting me admitted in the above College for the above course in the 65th batch itself.

7. ~~Therefore~~ I humbly submit that the Respondents have given the post of Sub-Officer 'A' since I am having every right to get the post and the Respondents shall have to give promotion. It is not the charity of the Respondents for promoting me to the above post. The Respondents shall have to follow the commands of Law and protection as provided under Constitution of India. I humbly submit that I need not say on many terms that the Respondents have given the appointment and as well as promotion since I am eligible for the same as per the Office Memorandums of the Government of India. The Respondents to gain sympathy from this Hon'ble Tribunal have made cock and bull stories by making so many exaggerated statements that I was shown special considerations and favours but it is not so. It can be seen that the Respondents statements shall be false when the post was reserved for S.Cs the same was given to Respondent No.10 inspite of the specific directions and Memorandums of the Government of India stating that on and from 1.4.1989 no department is authorised to fill up the posts which are reserved for SC, ST and therefore it can clearly be seen the statement of the Respondents how far they have shown favour to me as stated by them. In the counter affidavit of the Respondents no reply is found with regards to specific statement made by me in the application that the posts reserved for S.Cs cannot be filled

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up by O.C candidates on and from 1.4.1989. In the event the SC, ST candidates are not available the posts shall have to be kept vacant till the candidates are available and the question of appointment in the reserved posts by O.C. candidates does not arise at all unless specific proposals are there for dereservation. The question of carry forward or otherwise does not arise. The Respondents conveniently have filed the Proceedings dated 4.6.1975, Annexure R.V which are having no force today.

8. I humbly submit that the Respondents are not entitled to fill up the posts of Station OfficerA without making de-reservation. The entire counter affidavit does not show or reveal that the Respondents have followed the procedure for dereservation. The vacancies reserved for SC, ST etc., shall have to be kept and shall be filled as backlogs and the question of filling up of the same either the same recruitting year or any other year since the orders of the Government of India came into force on and from 1.4.1989 banning filling up the posts kept for reserved categories and therefore the question of filling up the posts by whatever means shall be void and cannot sustain in view of the above. I also humbly submit that the procedure is prescribed under various Office Memorandums to fill up the posts kept for reserved categories. In this case except making advertisements by the Respondents to fill up the above posts no other or special efforts were made by them and therefore the Respondents cannot contend and defend their illegal and untenable and void actions., while appointing the Respondent No.10 herein for the above post. Even the advertisements which were given by them are not in accordance with the instructions of the Government of India. Every advertisement shall clearly show the

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Deponent

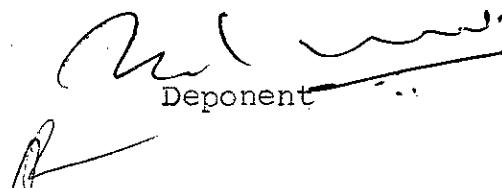
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relaxations provided for reserved category candidates, but all the advertisements given by the Respondents does not contain the same.

9. I humbly submit that the contentions of the Respondents herein that they cannot wait for filling up the post of Station Officer - A since safety of the Plant has to be taken care of. These averments cannot sustain in view of the facts hereby submitted. I humbly submit that one Sri. S.K. Gupta have resigned for the post of Station Officer-A. After the resignation, the Respondents have entrusted the duties of Station Officer-A to Sri. A.S. Reddy, Sub-Officer and as well as the Respondent No. 10 herein and given the charge of Station Officer-A. The above said two persons are only Sub-Officers without having any training of Station Officers course and the same arrangement was continued till the Sri. S.D. Barma taken charge as Dy. Chief Fire Officer. As per the Station administration of National Fire Service College a Sub-Officer to be second in command to a Station Officer. (the copies are herewith filed as material papers). Hence, the view as taken by the Respondents in their counter affidavit cannot and shall not be tenable since the Sub-Officers who is second in command in a Fire Station can manage the duties of Station Officer-A. Hence, the contentions of the Respondents that I am not eligible for being appointed as Station Officer-A cannot be a valid ground and denying me the opportunity of getting the above post can be presumed for all purposes to the extent of malafideness of the concerned officers.

10. I humbly submit that it is not true and correct that I have regularised as a Sub-Officer A on 18.2.1994 but not on 18.12.1994.

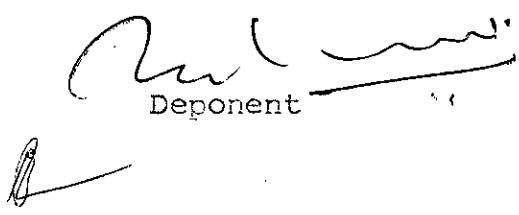
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11. I humbly submit it is not true and correct to state that there is no rule, regulation, law or instructions by any authority that a candidate should possess 3 years of experience as Sub-Officer after completion of training of Sub-Officers course and as such the contentions of the Respondents shall not sustain and liable to be rejected. I humbly submit that the Respondents have not filed any document to that effect before this Hon'ble Tribunal. I humbly submit it may be true for getting sponsored for the training course of Station Officer and Instructor a candidate should have 3 years experience as Sub-Officer and etc. I humbly submit that the acts of malafideness on the part of the Respondents is clearly evident that the Respondent No.10 herein eventhough not having 3 years of experience as Sub-Officer ~~after~~ sponsored him for the training course of Station Officer & Instructor. Actually at the time of sponsoring him the Respondent No.10 is having only two years of experience as Sub-Officer. When a O.C. candidate was sponsored who is having only two years of experience as Sub-Officer denying me the opportunity of having training course as stated above shall be deemed to be presumed that the Respondents have intentionally and wantonly and deliberately denied the opportunity. I humbly submit unless I was eligible for the above training course there is no reason why the Respondent No.4 states in his letter dated 14/16.3.1995 to the Chief Co-Ordinator, All India Atomic Energy SC,ST Employees, Thane informing him that the application of mine will be forwarded for the Station-Officer's course and when received (material paper Page No.29). In my letter dated 15.4.1995 (material paper Page 37) addressed to Respondent No.4 I have categorically stated at Para No.4 with regards to sponsoring the candidate for Station Officer course training. I humbly submit after filing the above

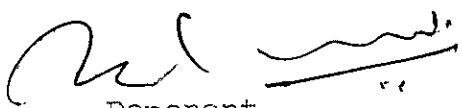
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O.A.No.692/95, the Respondent No.4 herein have sent a reply dated 27.6.1995, which was filed as material paper by the Respondents herein, have not specifically denied the facts and contentions as stated in Para No.4 of my representation dated 15.4.1995. The Respondents 1 to 9 herein have not chosen to reply for my representations till filing of the above case and for record sake the Respondent No.4 herein have replied for the notice, so it can be safely concluded that they do want to give reply for my contentions before filing the above case. In this connection, I humbly submit that there are number of instructions by Government of India with regards to providing training to the reserved candidates. All these instructions have not at all followed by the Respondents 1 to 9 herein. I also humbly submit there are number of Office Memorandums issued by Government of India the functions and duties of the Liaison Officer, the Respondents 2,4 and 9 herein. If the above Respondents have followed the instructions I might not have approached this Hon'ble Tribunal by way of filing this case. Eventhough the Government of India extended number of relaxations as is found in number of Office Memorandums the above Respondents herein have not discharged their duties in prospective way in extending the benefits to the reserved category candidates which are their rights guaranteed under Constitution of India. I humbly submit even otherwise as of now entitled for getting sponsored to the training course of Station Officer and Instructors course to the National Fire Service College, Nagpur as per the counter affidavit since I have been working as Sub-Officer on and from 1.9.92. I also humbly submit that all the training programmes at the above Fire Service College will be commenced every year only from the month of January and therefore unless I am sponsored my career will be affected.

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Corrections.
Attestor.


Deponent

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12. I humbly submit the averments as made in Para No.6.2 are correct. The Respondent No.10 cannot be eligible for sponsoring to the above training programmes because the Respondent No.10 has completed Station Officer & Instructor course training in the month of June, 1991 according to Lr.No.FC/73-4/90 dated 4.12.1990. According to the averments the Respondent No.10 may be eligible for being appointed as Station Officer-A only in the month of June, 1996. I humbly submit that the acts of the Respondents herein shall clearly evident and reveals that favouratism has been shown in favour of Respondent No.10. As per the averments of the Respondents the Respondent No.10 is ineligible for being appointed as Station Officer-A before June, 1996 and therefore as per the admissions made by the Respondents, the appointment of Respondent No.10 shall be liable to be quashed.

13. I humbly submit as per Office Memorandum dated 1.6.1983 of Government of India, Department of Per.&Trg., O.M.No.36022 /4/93 Estt(SCT) the reservation policy shall have to be applied for the adhoc appointment more than 45 days. In this connection, I humbly submit that the Respondent No10 was given adhoc appointment as Station Officer-A from 20.5.1992 till his regular appointment November, 1994. Hence, in the circumstances, giving the adhoc appointment to Respondent No.10 is clearly violative of Office Memorandum No.11013/10/93-Estt.(A), Government of India, Ministry of Personnel, Public Grievances & Pensions (Dept. of Per.Training), issued by Dy.Secretary to the Government of India. Therefore, as per the above Office Memorandum the concerned Officers are responsible and liable for disciplinary action for violation of Rule 3 of C.C.S(Conduct Rules, 1964)(the copy is filed as material paper).

Eleventh Page
Corrections.
Attestor.


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14. I humbly submit the Respondents 1 to 9 ought to have taken steps in appointing me as Station Officer-A by giving adhoc appointment as was done in the case of appointing me as Sub-Officer since the post of Station-Officer A is reserved for S.C.Candidates.

15. I humbly submit that the Respondent No.10 herein was selected for the Station Officer-A post at Rare Materials Plant, D.A.E, Mysore. The Respondent No.10 herein was appointed under direct recruitment quota post which was reserved for S.C.candidate in Heavy Water Plant, Manugur. The Respondents cannot and shall not make the Respondent No.10 herein appointed in the above post which was reserved for S.C.candidate and the same is contrary to the Office Memorandum dated 7.6.1993, Government of India, Department of Per.&Trg., O.M.No.41015/9/93-Estt(SCT) (copy is filed herewith as material paper). As per the above Office Memorandum the appointment of Respondent No.10 is illegal and the concerned officers are liable for disciplinary action as per the above stated Office Memorandum.

16. I humbly submit as per Office Memorandum dated 17.10.86 of Government of India, Dept.Per.Tr. O.M.No.36011/8/84-Estt(SCT) (copy filed as material paper): However, if adequate number of SC candidates who satisfy the minimum standard are not available to fill the reserved vacancy then SC & ST candidates may be selected to the x extent of shortfall in vacancies by relaxing the minimum standard provided they are not considered to hold to post". The Respondents ought to have selected me and have given adhoc appointment to the Station Officer-A post since the post was reserved for S.C.Candidates.

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Corrections.
Attestor.


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19. I humbly submit all the contentions and allegations as made in the Annexure R6 i.e., reply of the Respondent No.4 herein for my representation are not true and correct and hence I hereby deny in toto and the Respondents are put to strict proof of the same.

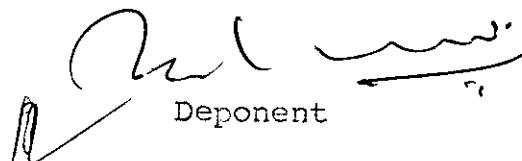
20. I humbly submit since the acts, deeds and things of the Respondents 1 to 9 herein are arbitrary, illegal, malafide in denying me forbeing sponsored to the ~~Subofficer~~ Station Officer & Instructors course training eventhough number of Office Memorandums shows number of relaxations to the SC & ST candidates and as well as for not giving me the appointment of Station Officer -A. I also humbly submit that the Respondents 1 to 9 herein have filed false affidavit before this Hon'ble Tribunal on baseless and frivolous allegations without any substance and therefore the acts of the Respondents 1 to 9 herein shall squarely comes under the provisions of SC & ST (Prevention of Atrocities Act, 1989) and accordingly the persons who have caused wrongful loss and mental agony and as well as disentitling me to hold the above post and as well as for the above training programmes., and appointing Respondent No.10 in the post which was reserved for S.C.candidate.

21. I humbly submit that since the Respondents 1 to 9 herein have not acted upon on my representations I was forced to and not having any other alternative remedy, approached this Hon'ble Tribunal for appropriate reliefs and for which I have sustained huge loss by way of applying leaves for the preparation of this case and as well as incurring heavy expenditure for transport and lodging etc., and as well as for mental agony, hardship, inconvenience the Respondents 1 to 9 shall be liable for reimbursement and this Hon'ble Tribunal may be pleased to consider these aspects

17. I humbly submit in the counter affidavit filed by the Respondents 1 to 9 herein have not specifically stated how many Plants are there under the control of Heavy Water Board, Bombay and how many Fire Stations are there in the Plant and how many posts are there and how many Station Officers have appointed in the reserved quota by direct recruitment or by promotion. In this connection, I humbly submit that I have filed additional affidavit dated 16.6.1995 stating that there are number of posts of Station Officer-A approximately 7 or 8 in all the States spread over throughout the country under the Heavy Water Board, Bombay. The Station Officer-A post is a Gazetted Officer post and the appointment will be made by Heavy Water Board only. As per the terms of the appointment the employees of Station Officer-A are liable to be transferred throughout the country and therefore the single vacancy or otherwise does not apply and Annexure-R5 shall not be applicable to the present case. All the contentions as raised in para No.18 of the counter affidavit shall be liable to be false to the ground. The Respondents cannot blow hot and cold at a time and the averments as stated in para No.19 are contrary to the averments made in para No.18.

18. I humbly submit that it is a fact and evident by way of documentary evidence i.e., Daily Occurrence Book maintained by Heavy Water Plant, Mangalore, wherein every act and work of the employees of the Fire Station will be entered into. I humbly submit that I have categorically stated in my application in Para No.6-H that I have performed even the duties of higher ups. If my averments are false or not correct the Respondents herein might have specifically denied the same in their counter affidavit. Hence, in the circumstances, since I have performed even the duties of higher ups and therefore I am not disentitled to hold the post of Station Officer-A as per Office Memorandums.

Thirteenth Page
Corrections.
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Deponent

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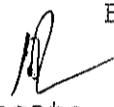
and award exemplary costs to me in the interest of justice, equity and good conscience, I being a Schedule Caste community members shall put to unimaginable hardship.

22. I humbly submit the facts as stated above that the appointment of Respondent No.10 shall be liable to be quashed and this Hon'ble Tribunal may be pleased to allow O.A.No.692 of 1995 as prayed for in the interest of justice, otherwise, I shall be subjected to grave, inexplicable hardship and injury.

SWORN and signed before me
on this the 05th day of
September, 1995.

 05/9/1995
Deponent.

Fifteenth & last
page corrections.

 Before me
Advocate :: Hyderabad.
(B.JAGAT REDDY)

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL: HYDERABAD BENCH:HYD.

O.A.NO. 692 OF 1995

Between:

A.N.Mastan Rao .. Applicant

And

Govt.of India,
represented by
the Addl.Secretary
DAE & others .. Respondents

(Rejinder)

REPLY AFFIDAVIT FILED ON BEHALF
OF THE APPLICANT FOR THE COUNTER
AFFIDAVIT FILED BY THE RESPONDENTS
1 TO 9

FILED ON: -09.1995.



may be filed
at
13/9/95

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